

THE
ACTS AND PROCLAMATIONS
OF
COCHIN

**THE
ACTS AND PROCLAMATIONS
OF
COCHIN**

VOLUME VII
(1114 M. E.)
(1938)

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THE
ACTS AND PROCLAMATIONS
 OF
COCHIN
 VOLUME VII
 (1114)
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ACTS AND PROCLAMATIONS

VOLUME VII.

PART I MAIN ACTS AND PROCLAMATIONS

PROCLAMATION.

(I of 1114.)

*Promulgated by His Highness Sir Sree Rama Varma, G. C. I. E.,
Maharaja of Cochin,
on the 17th day of Chingam 1114, corresponding to the
2nd day of September 1938.*

WHEREAS deeds of surrender (Documents Nos. 627 of 1113 of the Enammavu District Registry Office, 123 of the Sreemoolanagaram District Registry Office and 312 of the Narakkal District Registry Office) have been executed to OUR Diwan for and on behalf of OUR Government by all the members of the families of Chazhur Thekkepatt Kovilagam, Vellarappilli Vadakke Kovilagam and the Elankunnapuzha Nadakkal Kovilagam respectively,

And Whereas difficulties and confusion have of late arisen in connection with the management of the affairs of the respective Kovilagams,

And Whereas it is deemed necessary for the proper and efficient management of the aforesaid Kovilagams that OUR Government should assume the management of the affairs of the said Kovilagams,

WE are pleased to command as follows :—

1. That the management of the aforesaid Kovilagams and the Devaswams appertaining thereto now being attended to by the respective Karanavans (hereinafter referred to as the Estate of the respective Kovilagam) shall be assumed forthwith by OUR Government and that such management by OUR Government shall be continued until such time as OUR Government may deem fit.

2. That during the period of such management of the Estates OUR Government shall have plenary powers with regard to alienation of properties belonging to each Estate, with regard to composition with tenants in respect of arrears of rent, michavaram and kindred dues accruing and accrued due and with regard to the rights of management in general and to do all that OUR Government consider necessary for the efficient administration and management of the Estates.

3. OUR Government may, by notification published in the Cochin Government Gazette, appoint a person or persons to manage the affairs of the aforesaid Estates and OUR Government may delegate, by notification published in the Cochin Government Gazette, to the person or persons so appointed or to such other person or persons they may nominate in this behalf all or any of the powers conferred upon them by clauses 1 and 2 above.

4. OUR Government may frame such rules, as may, from time to time, be deemed necessary for managing the affairs of the aforesaid Estates. Such rules, when framed and published in the Cochin Government Gazette, shall be deemed to be part of this Proclamation and their validity shall not be questioned in a court of law on the ground that they are *ultra vires* or on any other grounds.

5. All suits on behalf of or against the aforesaid Estates shall, during the period of management of the Estates by OUR Government, be brought in the name of OUR Government or in the name of any officer or persons as OUR Government may, generally or specially, by rules framed under this Proclamation, appoint.

6. All acts done by OUR Government or by their nominee or nominees in pursuance of the powers conferred by this Proclamation and during the period of management by OUR Government shall be accepted without question by the members of the aforesaid Kovilagams and all accounts of management maintained by OUR Government or their nominees and all items of expenditure incurred

by them for and on behalf of the aforesaid Kovilagams during such period shall also be accepted without question by the members of the aforesaid Kovilagams.

7. For the recovery of dues already accrued due, or accruing due in future, to the aforesaid Estates, during the period of their management by OUR Government, the provisions of the Revenue Recovery Act, IV of 1083, shall apply in the case of the Chazhur Thekkepatt Kovilagam Estate and the provisions of the Devaswam Rent Recovery Rules shall apply in the case of the Vellarappilli Vadakke Kovilagam Estate and the Elankunnapuzha Nadakkal Kovilagam Estate.

PROCLAMATION.

(II of 1114.)

*Promulgated by His Highness Sir Sree Rama Varma, G. C. I. E.,
Maharaja of Cochin,
on the 27th day of Kanni 1114, corresponding to the
13th day of October 1938.*

WHEREAS by a deed of surrender dated 28th Edavam 1113, document No. 885/13 of the Trichur Registry Office, His Holiness Parameswara Bharathikal alias Kannannoor Thekkedath Swamiyar, Trustee of the Naduvil Madhom, Trichur, has surrendered management of the properties belonging to the Madhom under certain terms and conditions to Our Government and Whereas for the better management of those properties it is expedient that the provisions of the Cochin Revenue Recovery Act, IV of 1083, should be made applicable for the collection of dues that have accrued due and which may accrue due hereafter to the Madhom, We are hereby pleased to command that the provisions of the said Act, as amended up-to-date, shall, during the period of management of the properties belonging to the said Madhom by Our Government, apply for the recovery of dues owing to the Madhom of whatever nature, whether already accrued due or accruing due in future.

THE COCHIN LOCAL AUTHORITIES ENTERTAINMENTS
TAX ACT, VIII OF 1114.

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THE COCHIN LOCAL AUTHORITIES ENTERTAINMENTS
TAX ACT.

(VIII OF 1114.)

*Passed by His Highness the Maharaja of Cochin
on the 10th day of February 1939, corresponding
to the 28th day of Makaram 1114.*

Preamble. WHEREAS it is expedient to give power to local authorities to impose a tax on amusements and other entertainments; It is hereby enacted as follows:—

**Short title,
extent and
commence-
ment.**

1. (1) This Act may be called the Cochin Local Authorities Entertainments Tax Act, VIII of 1114.

(2) It extends to all towns in Cochin State which have been or may hereafter be declared to be municipalities under the Cochin Municipal Act, 1113, or any other enactment for the time being in force and the Government may, from time to time, by notification in the Cochin Government Gazette, extend it either permanently or for a time or for special occasions and from such date as may be specified in the notification to any other local area in Cochin State and may cancel or modify any such notification.

XVIII of 1113.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) 'Admission' includes admission as a spectator or as one of an audience and admission for the purpose of amusement by taking part in an entertainment ;

(2) 'Admission to an entertainment' includes admission to any place in which the entertainment is held ;

(3) 'Agriculture' includes horticulture and breeding of animals of every description ;

(4) 'Entertainment' includes any exhibition, performance, amusements, game or sport to which persons are admitted for payment ;

(5) 'Gazette' means the Cochin Government Gazette ;

(6) 'Local authority' means a municipal council or a local board constituted under any enactment for the time being in force ;

(7) 'Payment for admission' includes any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required ; and any payment for seats or other accommodation in a place of entertainment ;

(8) 'Proprietor' in relation to any entertainment includes any person responsible for the management thereof ; and

(9) 'Society' includes a company, institution, club or other association of persons by whatever name called.

3. (1) Any local authority in whose local area this Act is in force may levy a tax (hereinafter referred to as the entertainments tax) at a rate not less than ten per cent nor exceeding twenty-five per cent on all payments for admission to any entertainment.

Definitions

General provisions regarding the levy of the tax and the rate of the tax

6 *Local Authorities Entertainments Tax* [1114 Act. VIII.]

(2) The entertainments tax shall not be leviable where the payment for admission is not more than three annas.

(3) The rate of the entertainments tax in the case of payments for admission to any theatre, cinematograph, exhibition or circus or any other class of entertainments to which Government may apply this sub-section, shall not exceed the following scale:—

Where the payment excluding the amount of the tax—	
(i) is not more than two <i>two annas</i>	<i>Three two</i>
(ii) is (more than three <i>two</i> annas) but is less than six annas	.. Half an anna.
(iii) is six annas or more but is less than twelve annas	.. One anna.
(iv) is twelve annas or more but is less than one rupee eight annas	.. Two annas.
(v) is one rupee eight annas or more but is less than two rupees eight annas	.. Four annas.
(vi) is two rupees eight annas or more but is less than three rupees eight annas	.. Eight annas.
(vii) is three rupees eight annas or more but is less than four rupees eight annas	.. Twelve annas.
(viii) is four rupees eight annas or more but is less than six rupees eight annas	.. One rupee.
(ix) is six rupees eight annas or more but is less than nine rupees eight annas	.. One rupee eight annas.
(x) is nine rupees eight annas or more but is less than ten rupees	.. Two rupees.
(xi) is ten rupees or more—for the first ten rupees and for every ten rupees and part of ten rupees over ten rupees	.. Two rupees.

(4) On the application of the proprietor of any entertainment, the local authority may, subject to such general rules as may be framed in this behalf, compound the tax payable in respect of such entertainment for a consolidated payment.

(5) Where the place of entertainment is situated in the local area of one local authority but within five miles of the local area of another local authority where this Act is

in force, Government may, on the application of the latter authority and if satisfied that a substantial portion of the income is derived or is likely to be derived from its local area, direct that the entertainments tax be levied by either authority and the proceeds thereof be apportioned between them in such proportions as Government may determine by general or special order or by rules made in this behalf :

Provided that if this Act is not in force in the local area in which the place of entertainment is situated, the local authority of such area shall not be directed to levy the tax :

Provided further that in cases of urgency, an application under this sub-section may be made on behalf of the local authority concerned by the executive authority in the case of a municipality and by the President in the case of a local board. A report of such application having been made shall be made to the local authority at its next meeting.

4. (1) No person shall be admitted for payment to any entertainment where the payment is subject to the entertainments tax except—

Admission of persons to entertainments subject to tax.

(a) with a ticket stamped with an embossed or adhesive stamp (not previously used) issued by Government and indicating the proper fee for such ticket ; or

(b) in special cases with the approval of the local authority through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted, unless the proprietor of the entertainment has made arrangements approved by the local authority for furnishing returns of the payments for admission to the entertainment and has given security approved by the local authority for the payment of the entertainments tax.

(2) Nothing in sub-section (1) shall be deemed to preclude the local authority from requiring security from the proprietor of an entertainment for the payment of the entertainments tax in any other case.

Manner of
payment of
tax.

5. (1) The entertainments tax shall be charged in respect of each person admitted for payment and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and in the case of admissions otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(2) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum, but where the local authority is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment or covers admission to an entertainment during any period during which the tax has not been in operation, the tax shall be charged on such an amount as appears to the local authority to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

Penalty for
non-payment
of tax.

6. If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction by a Magistrate, be liable in respect of each such offence to a fine not exceeding two hundred rupees, and shall in addition be liable to pay any tax which should have been paid.

Entertain-
ment
exempted
from pay-
ment of tax.

7. (1) The entertainments tax shall not be charged on payments for admission to any entertainment—

(a) which is of a wholly educational character;

or

(b) which is provided partly for educational or scientific purposes by a society not conducted or established for profit; or

(c) which is provided by a society established solely for the purpose of promoting public health or the interest of agriculture or a manufacturing industry and not

conducted for profit, and which entertainment consists solely of an exhibition of articles which are of material interest in connection with questions relating to public health or agriculture or of the products of the industry for promoting the interests of which the society exists or of the materials, machinery, appliances or foodstuffs used in the production of these products; or

(d) the whole of the net proceeds of which is devoted to philanthropic, religious or charitable purposes.

(2) Any dispute as to whether an entertainment is of the character referred to in any of the clauses of subsection (1) shall be referred to Government whose decision shall be final.

(3) Government may by general order exempt any class of entertainment from liability to entertainments tax, and may, in consultation with the local authority concerned, by special order exempt any particular entertainment from liability to the tax. The local authority shall also have power to grant exemption in any other case subject to the sanction of Government.

8. (1) Any amount due on account of the entertainments tax may be recovered by the local authority in the same manner as the profession-tax payable to such local authority.

Manner of recovery of tax and fines under the Act.

1086. (2) Any fine imposed under this Act or rules or by-laws made thereunder shall be recovered in the manner provided in the Code of Criminal Procedure, 1086 for the recovery of fines and shall on recovery be paid to the local authority concerned to be applied for the general purposes of such authority.

9. (1) Any officer authorised by the local authority concerned for the purpose may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable time, with a view to seeing whether the provisions of this Act or any rules made thereunder are being complied with.

Inspection by local authority.

(2) If any person prevents or obstructs the entry of any officer so authorised, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorised under this section shall be deemed to be a public servant within the meaning I of 105 of section 15 of the Cochin Penal Code.

Delegation of powers by Government.

10. Government may, by notification, authorise any person to exercise any one or more of the powers vested in them by this Act, and may in like manner withdraw such authority.

Powers of Government to make rules.

11. (1) Government may make rules to carry out all or any of the purposes of this Act, not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power they may make rules—

(a) for the supply and use of stamps or stamped or embossed tickets or for the stamping or embossing of tickets sent to be stamped or embossed and for securing the defacement of stamps when used ;

(b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payment for seats or other accommodation ;

(c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount) and for securing proper records of admission by means of barriers or mechanical contrivances ;

(d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of sub-section (4) of section 3 are applied or in respect of which the arrangements approved by the local authority for furnishing returns are made under section 4 ;

(e) for the renewal of damaged or spoiled stamps ;

(f) for the keeping of account of all stamps used under this Act ;

(g) for the presentation and disposal of applications for exemption from payment of the entertainments tax ; and

(h) for the apportionment of the tax between local authorities.

(3) In making any rule Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

12. (1) Any local authority may make by-laws, not inconsistent with this Act or any rules thereunder made—

Powers of local authority to make by-laws.

(a) for the regulation of the time and place of holding an entertainment and supervision thereof ;

(b) for the regulation of the time and mode of collecting the tax under this Act ; and, in general for carrying out the purposes of this Act.

(2) In making a by-law the local authority may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach.

(3) All such by-laws shall have effect when they have been approved and confirmed by Government and published in the Gazette.

PROCLAMATION.**(III of 1114.)**

*Promulgated by His Highness Sir Sree Rama Varma, G. C. I. E.,
Maharaja of Cochin,
on the 29th day of Kumbham, 1114, corresponding to the
13th day of March, 1939.*

WHEREAS the Cochin Rubber Control Act, XXXIV of 1111 as amended by Act IX of 1113 has ceased to be in force from 1st January 1939, and whereas it is deemed expedient that the provisions of the said Act should continue in force for some time more, WE are hereby pleased to command that the said Act as amended shall, with effect from the 17th Dhanu 1114 corresponding to the 1st January 1939, continue in force until such time as Our Government shall, by notification in the Cochin Government Gazette, determine.

THE REGISTRATION OF FOREIGNERS ACT

(XV OF 1114)

(As amended by Act XVI of 1114.)

*Promulgated by His Highness the Maharaja of Cochin
on the 16th day of Mithunam 1114 corresponding
to the 30th day of June 1939.*

WHEREAS it is expedient to provide for the registration of foreigners entering, being present in and departing from Cochin State; It is hereby enacted as follows:—

Preamble

1. (1) This Act may be called the Registration of Foreigners Act, XV of 1114.

Short title and extent.

(2) It extends to the whole of Cochin State.

2. In this Act—

Definitions.

(a) the term 'foreigner' shall denote a person who is not—

(i) a British subject domiciled in the United Kingdom; or

(ii) a British Indian subject; or

(iii) a ruler or subject of this or any other Indian State; or

(iv) a person duly appointed by a Foreign Government to exercise diplomatic functions with the Government of India; ¹ [or

(v) a consul or a vice-consul;]

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

3. Government may after previous publication by notification in the Gazette, make rules with respect to foreigners for any or all of the following purposes, that is to say—

Power to make rules.

(a) for requiring any foreigner entering or being present in Cochin State, to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

(1) Added by section 2 of Act XVI of 1114.

(b) for requiring any foreigner moving from one place to another place in Cochin State to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed ;

(c) for requiring any foreigner who is about to leave Cochin State to report the date of his intended departure and such other particulars as may be prescribed to such authority and within such period before departure as may be prescribed ;

(d) for requiring any foreigner entering, being present in, or departing from, Cochin State to produce, on demand by a prescribed authority, such proof of his identity as may be prescribed ;

(e) for requiring any person having the management of any hotel, boarding-house or any other premises of like nature to report the name of any foreigner residing therein for whatever duration, to a prescribed authority within such time and in such manner and with such particulars as may be prescribed ;

(f) for requiring any person having the management or control of any vessel or aircraft to furnish to a prescribed authority such information as may be prescribed regarding any foreigner entering, or intending to depart from Cochin State in such vessel or aircraft, and to furnish to such authority such assistance as may be necessary or prescribed for giving effect to this Act ;

(g) for providing for such other incidental or supplementary matters as may appear to Government necessary or expedient for giving effect to this Act.

Burden of proof.

4. If any question arises with reference to this Act or any rule made thereunder, whether any person is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding

anything contained in the Indian Evidence Act as made applicable to Cochin, lie upon such person.

5. Any person who contravenes, or attempts to contravene, or fails to comply with, any provision of any rule made under this Act shall be punished, if a foreigner, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both, or if not a foreigner, with fine which may extend to five hundred rupees.

Penalties.

6. Government may, by order, declare that any or all of the provisions of the rules made under this Act shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified in the said order to or in relation to any individual foreigner or any class or description of foreigner.

Power to exempt from application of Act.

7. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under this Act.

8. The provisions of this Act shall be in addition to, and not in derogation of any other law for the time being in force.

Application of other laws not barred.

PROCLAMATION

(IV of 1114)

*Promulgated by His Highness Sir Sree Rama Varma, G. C. I. E.,
Maharaja of Cochin,
on the 18th day of Karkadagam 1114, corresponding to the
3rd day of August 1939.*

WHEREAS it is necessary to enact a law relating to Merchant Shipping, We are pleased to command that the provisions of the Indian Merchant Shipping Act, 1923, as amended up-to-date, shall *mutatis mutandis* come into force in Our State.

We are further pleased to command that Our Government may, by notification in the Cochin Government Gazette, provide that the rules and notifications issued under the Indian Merchant Shipping Act or so much of them as are necessary shall apply *mutatis mutandis* in Our State.

THE COCHIN NAMBU DIRI ACT (XVII OF 1114)

*Passed by His Highness the Maharaja of Cochin on the
18th day of Karkadagam 1114, corresponding
to the 3rd day of August 1939.*

Preamble.

WHEREAS it is expedient to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and adoption applicable to Nambudiri Brahmins and certain other communities not governed by the Marumakkathayam Law of inheritance; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title
and applica-
tion.

1. (1) This Act may be called the Cochin Nambudiri Act, XVII of 1114.
- (2) It shall apply—

(a) to all Nambudiris in the Cochin State.

(b) to all persons referred to in clause (a) of this section outside the State in respect of immovable property situated within the State.

2. (a) 'Anandaravan' means any member of the illom other than the Karanavan; Definitions.

(b) 'Illom' or 'Mana' means all the members of a Nambudiri joint family with community of property;

Explanation.—A female shall on her marriage cease to be a member of the illom in which she was born and become a member of the illom of her husband.

(c) 'Karanavan' means the oldest male member of an illom in whom the right of management of its properties vests or in the absence of a male member, the senior female member;

Explanation.—The seniority as between two or more females, who become members of the illom by marriage, shall be determined according to the dates of their marriages.

(d) 'Major' means a person who has attained eighteen years of age;

(e) 'Minor' means a person who has not attained eighteen years of age; and

(f) 'Nambudiri' means Nambudiri Brahmins and includes the following communities, namely, Pottis, Adigals, Elayads, Moosads, Pitarans, Nambiars and Nambissans who are not governed by the Marumakkathayam Law of inheritance and who follow customs and usages similar to those of Nambudiris.

CHAPTER II.

ILLOM AND ITS MANAGEMENT.

3. Every member of an illom, whether male or female, shall have an equal proprietary interest in its properties. The Karanavan shall have the right of management and of possession on behalf of the illom of such properties. Proprietary right of members in illom properties.

Anandaravan's right to see illom properties safe.

4. Every member of an illom has the right to see that the illom estate is properly administered by the Karanavan and is duly conserved for the use of the illom and that his or her right to succeed to the Karanavanship is in no way impaired.

Right to seek removal of Karanavan.

5. Every member of an illom 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 illom or that he is guilty of conduct of a kind tending to defeat the very purpose for which the illom exists.

Duty of Karanavan to keep accounts.

6. The Karanavan shall keep true and correct accounts of the income and expenditure of the illom. The original or an attested copy of the accounts of each year shall be available for the inspection at the illom house by the major anandaravans once in a year throughout the month of Kanni, and any such anandaravan may take copies of or extracts from such accounts.

Karanavan to maintain inventory of all movables and immovables.

7. The Karanavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the illom. 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 anandaravan may take copies of or extracts from such inventory.

Karanavan entitled to a share of the net income.

8. 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 illom income which remains after meeting all the illom expenses including interest on illom debts.

Consent of major members necessary to validate alienation of illom property.

9. Except with the written consent of the majority of all the major members of the illom, no Karanavan shall sell, mortgage or pledge illom property, movable or immovable, or lease it for a period of more than six years or grant renewals of kanam for a period of more than twelve years or give discharges of mortgages or pledges :

Provided the Karanavan by himself can alienate illom properties for meeting the marriage expenses and for payment of the dowry under section 17 of the Act.

For the purposes of this section movables do not include usufructs and grains realised in the shape of pattam, michavaram, renewal fees or interest.

10. No sale, mortgage, pledge or other alienation of illom property or debt shall bind the illom unless it is executed or made or contracted for illom necessity or it is executed or made or contracted with the written consent of the majority of all the major members of the illom when there are only major members in the illom.

Mortgage and alienation when valid.

11. The burden of proving illom 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 majority of all the major members of the illom are parties to or have given their written consent to the transaction.

Burden of proving illom necessity.

12. No decree shall bind the illom 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 decree-holder proves that such omission was not due to his negligence and that the illom was liable for the claim upon which it is based.

What decrees shall bind the illom.

13. Every member of an illom is entitled to maintenance proportionate to the income and status of the illom. If any such member lives outside the illom, he or she shall be entitled to separate maintenance, provided that such member is not living away from the illom for any improper purpose.

Maintenance of members.

Explanation.—Maintenance means and includes food and raiment, expenses of education including English education and of medical treatment and such other expenses of anandaravan as come under the category of *menchilavu*.

14. Any member of an illom shall be at liberty to give up his rights in the illom at any time and any Karanavan may by a registered document give up his rights as

Relinquishment of karanavanship.

Karanavan after it becomes vested in him but he shall not delegate his powers to any one.

Receiver to be appointed when illom consists of minors only.

15. Where an illom 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.

CHAPTER III.

MARRIAGE.

Right of Nambudiri male to marry in his own community.

16. Notwithstanding any custom or usage to the contrary every major male Nambudiri shall, subject to any law for the time being in force, be at liberty to marry in his own community.

Right of major Nambudiri female to have her marriage performed and recover the marriage expenses and dowry.

17. (1) Any unmarried major female member of an illom who marries, or has her marriage with a male belonging to her community performed with her consent by her father or any other member of her illom, shall be entitled to recover from the illom properties, the reasonable expenses of such marriage as well as her dowry:

Provided that not less than three months' previous notice in writing of the marriage shall be given to the Karanavan.

(2) The amount recoverable under sub-section (1) shall not exceed one-third of the value of the share which would fall to such female member if a division *per capita* of the properties of the illom were made among all the members thereof living on the date of the marriage, or rupees ten thousand, whichever is less:

Provided that where an illom consists of females only, the amount recoverable under this sub-section may extend to the full value of her share.

Dowry to be separate property of Nambudiri female.

18. The dowry given to a Nambudiri female or recovered by her under section 17 shall be her separate property.

19. No Nambudiri who has a Nambudiri wife living shall marry another Nambudiri woman except in the following cases :—

Nambudiri not to marry a Nambudiri woman during life-time of a Nambudiri wife except in certain cases.

(a) where the wife is afflicted with an incurable disease for more than five years, making her unfit for conjugal union ;

(b) where the wife has become an outcaste;

(c) where the wife has not borne him any male child within ten years of her marriage:

Provided that before he exercises his right to remarry under this section he has obtained a formal sanction as hereinafter provided.

20. A Nambudiri may present a petition for sanction to marry a second wife under the preceding section in the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction he or his wife is resident. The court after issuing notice to the wife and hearing her objections, if any, may in its discretion grant or refuse such sanction.

Presentation of petition for sanction:

21. (1) Any Nambudiri male who contracts a marriage in contravention of section 19 shall be punished with fine which may extend to one thousand rupees, but a marriage so contracted shall not be deemed to be invalid.

Penalty for marrying in contravention of section 19 .

(2) Any person who conducts, directs or abets the performance of any marriage in contravention of section 19 shall be punished with fine which may extend to one thousand rupees.

CHAPTER IV.

GUARDIANSHIP.

22. (1) Subject to the provisions of sub-section (2) the following persons in the order named shall be the legal guardian of a minor, male or female, in respect of his or her person and separate property, namely, father, mother, full brothers in the order of seniority, paternal grand-father, paternal uncles in the order of seniority, father's mother and consanguine brothers in the order of seniority.

Guardianship of minors.

(2) The husband shall be the legal guardian of his minor wife in respect of her person and separate property.

Saving of the operation of the Guardian and Wards Act, XVII of 1095;

23. Nothing contained in section 22 shall be deemed to affect the operation of the Cochin Guardian and Wards Act, XVII of 1095.

CHAPTER V.

INTESTATE SUCCESSION.

Property as to which a person is considered to have died intestate.

24. 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.

Devolution of property left by Nambudiri male intestate.

25. On the death intestate of a Nambudiri male, if he has left an heir or heirs in any other community, the share in the self-acquired or separate property of the deceased to which such heir or heirs are entitled under any law for the time being in force shall devolve on them. The balance of such property or in the absence of such heirs the whole of it shall devolve in the order and according to the rules contained in sections 26, 27 and 28.

Where the intestate has left widow, children or lineal descendants.

26. Where the intestate has left surviving him by a marriage or marriages in his own community one or more of the following relations, namely,

(a) a widow or widows,

(b) a son or sons,

(c) an unmarried daughter or unmarried daughters,

and

(d) a lineal descendant or descendants (other than married females) in the male line through a deceased son or sons,

the whole of the property shall belong to such surviving relation or relations.

27. The distribution of the property among the heirs referred to in section 26 shall be made in accordance with the following rules :—

Rules of distribution in cases falling under section 26.

(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 son or unmarried daughter.

(ii) Every son or unmarried daughter shall be entitled to an equal share :

Provided that if a son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such son would have taken had he survived the intestate.

(iii) The sons and unmarried daughters of a deceased son shall be entitled in equal shares to what their father would have taken had he survived the intestate :

Provided that if a son's son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such son's son would have taken had he survived the intestate.

(iv) In like manner, the property shall go to the surviving lineal descendants of the intestate in the male line (other than married females) where such descendants are in the degree of great-grand-children or in a more remote degree.

Explanation.—The descendants of a son, son's son or other male descendant in the male line shall not be entitled to any share in such property if such son, son's son or other descendant is alive at the time of the death of the intestate.

Illustrations.

(a) *Z* dies intestate leaving two widows *A* and *B*, a son *C*, a grand-son *D* by such son, a married daughter *E*, an unmarried daughter *F* and by a deceased son a grand-son *G*, a married grand-daughter *H* and an unmarried grand-daughter *J*. *A*, *B*, *C* and *F* each gets one-fifth of the property, *G* and *J* one-tenth each and *D*, *E* and *H* do not get any share.

(b) *Z* dies intestate leaving no widow but leaving *A* a son, *B* an unmarried daughter, *E* a grand-son and *F* an unmarried grand-daughter by a deceased son *C*, an unmarried grand-daughter *G* by a deceased son *D* and two great-grand-sons *H* and *J* by a deceased son of *D*. *A* and *B* will each be entitled to one-fourth, *E* and *F* will each be entitled to one-eighth, *G* will be entitled to one-eighth and *H* and *J* to one-sixteenth each.

(c) *Z* dies intestate leaving no widow or child but leaving three grand-sons *A*, *B* and *C* by a deceased son *X* and two unmarried grand-daughters *D* and *E* by a deceased son *Y*. *A*, *B* and *C* will each be entitled to one-sixth and *D* and *E* will be entitled to one-fourth of *Z*'s property.

Devolution of property where the intestate has not left any of the heirs mentioned in section 26.

28. (1) Where the intestate has not left surviving him any of the heirs mentioned in section 26 the property shall devolve on the relations and in the order specified below:—

- (i) Father,
- (ii) Mother,
- (iii) Married daughters,
- (iv) Brothers and sisters,
- (v) Sons and unmarried daughters of brothers,
- (vi) Married daughters of brothers,
- (vii) Father's father,
- (viii) Paternal uncles,
- (ix) Sons of paternal uncles,
- (x) Sister's children,
- (xi) Father's paternal grand-father,

(xii) Father's paternal grand-father's descendants in the male line, the nearer excluding the more remote, and

(xiii) Father's remoter ascendants in the male line and their descendants of the same ascendants, the nearer excluding the more remote ascendant and his descendants and among the descendants of the ascendant, the nearer excluding the more remote.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally.

29. (1) On the death intestate of a married Nambudiri female her property which is self-acquired or separate shall devolve on the relations in the order specified below:—

Devolution of property left by a married Nambudiri intestate female.

- (i) Sons and daughters,
- (ii) Children of deceased sons,
- (iii) Children of deceased daughters,
- (iv) Husband,
- (v) Father,
- (vi) Mother,
- (vii) Brothers and sisters,

(viii) Brother's and sister's children,

(ix) Relations of her husband mentioned in section 26 in the order specified therein not included in clauses (i) and (ii) above,

(x) The relations of her husband mentioned in sub-section (1) of section 28 in the order specified therein.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally:

Provided that where the property devolves on the relations of the husband referred to in clause (ix) of sub-section (1) it shall be divisible among them in accordance with the rules laid down in section 27.

30. On the death intestate of an unmarried Nambudiri female, the whole of her property which is self-acquired or separate shall devolve on her parents. In the absence of her parents it shall devolve on her brothers and sisters in

Devolution of property left by an unmarried Nambudiri female intestate,

equal shares and in their absence it shall devolve on her illom.

CHAPTER VI.

ADOPTION.

Adoption.

31. Where an illom consists of only female members, the Karanavan may with the consent in writing of all the other members of the illom and on taking the customary Theettooram from His Highness the Maharaja on payment of the customary dues make an adoption in Sarvaswadhanam or in any other form allowed by custom or usage for the purpose of perpetuating the family.

CHAPTER VII.

MISCELLANEOUS.

Saving.

32. Nothing contained in this Act shall be deemed to affect any law, custom or usage applicable to Nambudiris except to the extent expressly laid down in this Act.

THE COCHIN AGRICULTURISTS' RELIEF ACT.

(XVIII of 1114).

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THE COCHIN AGRICULTURISTS' RELIEF ACT.

(XVIII of 1114).

(As amended by Act I of 1115.)

*Passed by His Highness the Maharaja of Cochin
on the 26th day of Karkadagam 1114, corresponding
to the 11th day of August 1939.*

WHEREAS it is expedient to provide for the relief of Preamble.
indebted agriculturists in Cochin State; It is hereby
enacted as follows :

CHAPTER I.

Preliminary.

1. This Act may be called the Cochin Agriculturists' Short title.
Relief Act, XVIII of 1114.

2. It extends to the whole of Cochin State and shall Extent and
commence-
ment.
come into force on the first day of Chingam 1115.

3. In this Act, unless there is anything repugnant in Definitions.
the subject or context—

(i) 'person' means an individual, his heirs or legal
representatives and includes an undivided Hindu family,

a marumakkathayam tarawad or tavazhi, but does not include a body corporate, a charitable or religious institution or an unincorporated company or association;

(ii) 'agriculturist' means a person who has a saleable interest in any agricultural or horticultural land in Cochin State other than a simple mortgagee of such land and includes landlord as well as tenant as defined in the Cochin Tenancy Act, XV of 1113 :

Provided that a person shall not be deemed to be an 'agriculturist' if he—(a) has in either of the two financial years ending on the last day of Karkadagam 1114, been assessed to income-tax under the Cochin Income-tax Act, VIII of 1108, or under the income-tax laws of any Indian State or British India, or any foreign Government; or

(b) has within the two years immediately preceding 1st Chingam 1115, been in receipt of an annual income of Rs. 900 or more derived from a profession other than agriculture; or

(c) has within the two years immediately preceding 1st Chingam 1115, been assessed to property or house-tax in respect of buildings or lands, other than agricultural lands, under the Cochin Municipal Act or any law governing local or municipal bodies in any Province in British India, any Indian State or any foreign State in India, provided that the aggregate annual rental value of such buildings and lands exclusive of the house in which such person permanently resides is not less than Rs. 400; or

(d) pays any sum exceeding Rs. 1,000 as land revenue to the Cochin or any other Government or any two or more Governments together.

Explanation.—The annual rental value of any building or land for the purpose of proviso (c) shall—

(1) where the assessment is based on the annual rental value, be deemed to be such value;

(2) where the assessment is based on the capital value be deemed to be five per cent of the capital value; and

(3) in any other case, be deemed to be the value ascertained in the prescribed manner.

(iii) 'debt' means any liability in cash or kind, whether secured or unsecured, due from an agriculturist, whether payable under a decree or order of a civil or revenue court or otherwise, but does not include rent as defined in clause (vi), or 'kanam amount' as defined in clause (e) of section 2 of the Cochin Tenancy Act, XV of 1113;

(iv) 'pattam' means the dues payable to the landlord as fixed by the contract of tenancy whether in money or in kind or both, but does not include renewal fee ;

(v) '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, and includes puravaka dues.

Explanation.—A transaction, although called panayam in the document evidencing it, shall, if it is a renewal of an earlier transaction, be presumed, until the contrary is proved, to be a kanam for the purposes of this Act; and any amount paid as an initial lump sum consideration or as further advance in respect of such a transaction shall be 'kanam amount' or 'puramkadam', as the case may be, within the meaning of this clause;

(vi) 'rent' means 'pattam' or 'michavaram' as defined in clauses (iv) and (v), whether a decree or order of a civil or revenue court has been obtained therefor or not, and includes interest payable thereon but does not include costs incurred in respect of the recovery thereof through a civil or revenue court ;

(vii) 'creditor' includes his heirs, legal representatives and assigns ;

(viii) 'public company' means any public company as defined in the Indian Companies Act, VII of 1913 or the same as made applicable to Cochin State, or in the Companies Act of any Indian State or foreign Government ; and

(ix) 'municipality' includes a minor municipality.

4. (1) Nothing in this Act shall affect debts and liabilities of an agriculturist falling under the following heads:—

Certain debts and liabilities not to be affected.

(a) any revenue, tax or cess payable to Government or any other sum due to them by way of loan or otherwise;

(b) any tax or cess payable to any municipality or any other sum due to them by way of loan or otherwise;

(c) any debt contracted on the security of house property alone in a municipality;

(d) any liability in respect of any sum due to any Co-operative Society including a land mortgage bank, registered or deemed to be registered under the Cochin Co-operative Societies Act, XXVI of 1113;

(e) any liability arising out of a breach of trust;

(f) any liability in respect of maintenance whether under decree of court or otherwise;

(g) any wages due to an agricultural or other rural labourer;

(h) any debt which represents the price of goods purchased for purposes of trade;

(i) any liability arising out of a sale of immovable property in respect of the balance of purchase money for which the vendor has a lien on the property sold:

Provided that where the liabilities mentioned in clause (d) arise by reason of an assignment to the Co-operative Society, such assignment has taken place before the commencement of this Act or is an assignment to such society of a loan granted by a Co-operative Society.

(2) Government may, by notification in the Cochin Government Gazette, exempt from the operation of this Act any institution or estate which is under the direct control and management of Government.

Power of Government to exempt institutions or estates under their management.

Special provision for undivided Hindu families, etc.

5. Where an undivided Hindu family is assessed to the taxes specified in provisos (a), (b) and (c) to section 3 (ii), or falls within the category of persons specified in proviso (d) to the same section, no person who was a member of the family at the commencement of this Act shall be deemed to be an agriculturist for the purposes of this Act except section 14.

Explanation.—For the purposes of sections 5, 6 and 15 an undivided Hindu family will not include any Hindu family whose members have no saleable rights in the family property until a separation in status is effected.

Sons and descendants of non-agriculturist members of Hindu families to be non-agriculturists.

6. Where in an undivided Hindu family which is an "agriculturist" within the meaning of section 3 (ii), any member of the family is not an agriculturist, then, notwithstanding anything contained in section 3 (ii), none of his sons and descendants in the male line shall be deemed to be an agriculturist for the purposes of sections 7 to 13 and 24 to 30.

CHAPTER II.

Scaling down of debts and future rate of interest.

Debts payable by agriculturists to be scaled down.

7. (1) Notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of this Act, shall be scaled down in accordance with the provisions of this Chapter.

(2) No sum in excess of the amount so scaled down shall be recoverable from him or from any land or interest in land belonging to him nor shall his property be liable to be attached and sold or proceeded against in any manner in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under this Chapter.

(3) The debt so scaled down shall be payable in two equal instalments falling on the last day of Makaram and Karkadagam 1115 :

Provided that if default is made in any instalment the whole or the balance, as the case may be, of the debt

as scaled down with interest as specified in section 13 from the date of default shall become immediately payable.

8. Debts due by an agriculturist and subsisting at the commencement of this Act shall be scaled down in the manner mentioned hereunder, namely:—

Provision for debts subsisting on 1st Chingam 1107.

(1) All interest outstanding on the 1st Chingam 1107, whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged, and only the principal outstanding shall be deemed to be the amount repayable by the agriculturist on that date.

(2) Notwithstanding anything contained in the preceding clause, any payment on or after 1st Chingam 1107 towards interest and appropriated by the creditor towards interest accrued for a period prior to 1st Chingam 1107 shall not be re-opened.

9. (1) Interest from 1st Chingam 1107 up to the commencement of this Act on all debts including those scaled down under the provisions of the last preceding section shall be calculated as follows:—

Provision for interest from 1st Chingam 1107 to the commencement of the Act.

(a) where the creditor is a public company, at the rate applicable to the debt under law, custom, contract or decree of court under which it arises or at nine per cent per annum simple interest, whichever is less;

(b) where the creditor is not a public company, at the rate applicable to the debt under law, custom, contract or decree under which it arises or at six per cent per annum simple interest, whichever is less.

Credit shall be given for all sums paid towards interest, and only such amount as is found outstanding, if any, for interest calculated as above shall be deemed payable together with the principal amount as is due.

(2) Notwithstanding anything contained in sub-section (1), no creditor shall be required to refund any sum paid to him which is in excess of the amount calculated as due under sub-section (1) nor shall such excess

amount be liable to be adjusted towards any future interest or the principal amount of the debt.

Explanation.—Interest in sections 8 and 9 includes pattam payable by the mortgagor to the mortgagee on a lease back of the mortgaged properties.

Principal for purposes of sections 8 and 9.

10. Arrears of interest which have been included as principal in the subsisting document shall be treated as principal for the purposes of sections 8 and 9 if they relate to any period till 1st Chingam 1107 but not otherwise.

Exception.

11. The provisions of sections 8 and 9 shall not apply to any person, who, though an agriculturist as defined in section 3 (ii), did not on the 1st Chingam 1114, hold an interest in any land as specified in that section.

Provision as to costs, etc., in certain cases.

12. Where a debt payable by an agriculturist includes any sum decreed as costs by any Court, or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable in addition to the sum recoverable under the provisions of sections 8 and 9.

Rate of future interest on debts scaled down:

13. All debts which have been scaled down under the provisions of this Act shall carry from the date of the commencement of this Act, interest on the principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise:

Provided that it shall not exceed nine per cent per annum simple interest where the creditor is a public company and six per cent per annum in the case of other creditors.

Rate of interest payable by agriculturists on new loans.

14. In any proceeding for recovery of a debt, the court shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at 9 per cent per annum simple interest, where the creditor is a public company and at six per cent per annum simple interest in the case of other creditors:

Provided that Government may, by notification in the Cochin Government Gazette, alter and fix any other rate of interest, from time to time.

Explanation.—For the purposes of this section, the definition of ‘agriculturist’ in section 3 (ii) shall be read as if

(i) in proviso (a) to that section, for the expression “the two financial years ending on the last day of Karkadagam 1114”, the expression “the two financial years ending on the last day of Karkadagam immediately preceding the date on which the debt is incurred” were substituted; and

(ii) in provisos (b) and (c) to that section for the expression “the two years immediately preceding the 1st Chingam 1115” the expression “the two years immediately preceding the date on which, the debt is incurred” were substituted.

15. Notwithstanding anything contained in section 3 (ii) and subject to the provisions of sections 5 and 6, where in a Hindu family, whether divided or undivided, some of the members liable in respect of a family debt are not agriculturists while others are agriculturists, the creditor shall, notwithstanding any law to the contrary, be entitled to proceed—

Separation of share of debt in particular cases.

(a) against the non-agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt; and

(b) against the agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt which shall be scaled down in accordance with the provisions of this Act.

CHAPTER III.

Arrears of Pattam and Michavaram.

16. (1) Subject to the provisions of sub-section (4) the arrears of pattam and interest thereon payable by an agriculturist to a landholder, jenmi, or intermediary at the commencement of this Act, whether the same be due as such or whether a decree has been obtained therefor, shall be scaled down in the manner specified in sub-section (2).

Conditional discharge of arrears of pattam due to landholders, etc.

(2) All arrears of interest outstanding at the commencement of this Act and the entire pattam in arrears for the period prior to the first day of Chingam 1107 and fifty per cent of the pattam in arrears for the period subsequent thereto up to the date of the commencement of this Act shall be deemed to be discharged and only the balance shall be deemed to be the arrears due from the agriculturist at the commencement of this Act.

(3) The arrears as scaled down under sub-section (2) shall be payable in annual instalments, the amount for the first instalment being payable on or before the last day of Karkadagam 1115 and the amount for each subsequent instalment being payable on or before the last day of Karkadagam of each succeeding year :

Provided that—

(1) the amount of each instalment is equal in value to one year's pattam and in the case of the last instalment whatever remains due ;

(2) the amount payable as scaled down shall in no case be less than one year's pattam ;

(3) if the agriculturist makes default in payment of two consecutive instalments the landlord may claim in one lump the whole or balance amount, as the case may be, of the arrears as scaled down under sub-section (2) with six per cent interest from the date of default.

(4) Notwithstanding anything contained in sub-section (1), if in any year during which an instalment is due under sub-section (3), the agriculturist makes default in the payment of the pattam other than puravaka dues payable for that year on the due date as provided in the contract of tenancy or where there is no such contract the dates specified in the Cochin Tenancy Act, XV of 1113, the landlord shall be entitled to recover from the agriculturist the entire arrears for the period after 1st Chingam 1107 till the date of the commencement of this Act together with six per cent per annum simple interest from the date of default after giving credit for the actual amount, if any, received by him for any instalment.

Explanation.—Payments, if any, made by the tenant on or before the dates mentioned in this sub-section shall be first credited towards the pattam, exclusive of puravaka dues, due for that year.

(5) The right of the landholder, jenmi or intermediary in a suit for eviction to set off the arrears of pattam against the value of improvements due to the tenant shall, so far as the arrears up to the commencement of this Act are concerned, be restricted to the arrears realisable under sub-section (3) or (4), as the case may be, with six per cent per annum simple interest from the date on which the default mentioned in these sub-sections is committed.

Explanation.—Pattam in this section does not include the pattam payable by the mortgagor to the mortgagee on a lease back of the mortgaged properties.

17. (1) Subject to the provisions of sub-section (4) the arrears of michavaram and interest thereon payable by an agriculturist to a landholder or jenmi at the commencement of this Act, whether the same be due as such or whether a decree has been obtained therefor, shall be scaled down in the manner specified in sub-section (2).

Conditional discharge of arrears of michavaram due to landholders, etc.

(2) All arrears of interest outstanding at the commencement of this Act and the entire michavaram in arrears for the period prior to the first day of Chingam 1107 and one-third of the michavaram in arrears for the period subsequent thereto up to the commencement of this Act shall be deemed to be discharged and only the balance shall be deemed to be the arrears due from the agriculturist at the commencement of this Act.

(3) The arrears as scaled down under sub-section (2) shall be payable in three equal annual instalments, the amount for the first instalment being payable on or before the last day of Karkadagam 1115 and the amount for each subsequent instalment being payable on or before the last day of Karkadagam of each succeeding year:

Provided that if the agriculturist makes default in the payment of any instalment the landlord may claim in one lump the entire or balance amount, as the case may

be, of the arrears of michavaram as scaled down under sub-section (2) with six per cent interest from the date of default.

(4) Notwithstanding anything contained in sub-section (1), if in any year during which an instalment is due under sub-section (3), the agriculturist makes default in the payment of the michavaram exclusive of puravaka dues payable for that year on the due date as provided in the contract of tenancy or where there is no such contract the date specified in the Cochin Tenancy Act, XV of 1113, the landholder or jenmi shall be entitled to recover from the agriculturist the entire arrears for the period after 1st Chingam 1107 up to the commencement of this Act together with six per cent per annum simple interest from the date of default after giving credit for the actual amount, if any, received by him.

Explanation.—Payments, if any, made by the tenant on or before the dates mentioned in this sub-section shall be first credited towards the michavaram, exclusive of puravaka dues, due for that year.

Landlord's right to set off arrears against value of improvements.

18. Nothing contained in section 17 shall affect the right of the landlord, in a suit for eviction instituted against the tenant, to set off the entire arrears of michavaram, with six per cent per annum simple interest towards any value of improvements due to the tenant.

Payments how to be made.

19. Payments to be made under sections 16 and 17 shall be made in any one of the following ways:—

(i) by payment in kind of rent or money value thereof direct to the jenmi, landholder or intermediary to whom it is due;

(ii) by payment of the money value of the rent into the Court of the District Munsiff within whose jurisdiction the whole or any portion of the property comprised in the holding is situate;

(iii) by remitting the money value of the rent by money order.

Such money value shall be computed with reference to the rates 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.

20. In any proceeding for the recovery of pattam or michavaram, the Court shall scale down all interest due on such pattam or michavaram due from an agriculturist so as not to exceed a sum calculated at six per cent per annum simple interest.

Rate of future interest on pattam and michavaram.

21. Notwithstanding anything contained in this chapter, a landholder, jenmi or intermediary shall be entitled to recover, in addition to any sum recoverable by him under sections 16 and 17,—

Landholder to be entitled to recover land revenue and costs.

(a) the land revenue, if any, paid by him to Government in respect of the holding for the years for which he has not received any pattam or michavaram and where he has received only a portion of the pattam or michavaram for any year, the difference, if any, between the amount of land revenue paid and the value of the pattam or michavaram received by him for that year;

(b) the costs awarded to him in any decree for rent obtained by him.

22. Notwithstanding anything contained in any law of limitation or procedure in force for the time being, no suit or execution proceedings in respect of ¹ [debts scaled down under Chapter II of the Act or of] arrears of rent accrued for a period prior to the last day of Karkadagam 1114, which under the existing law would become barred between the commencement of this Act and the last day on which the last instalment falls due under sections ¹ [7,] 16 and 17, shall be so barred and ¹ [the creditor or decreeholder, or] the landholder, jenmi, or intermediary, as the case may be, shall be entitled to have the said period excluded in computing the period of limitation prescribed for such suit or application.

Extension of limitation for suits, etc., for rent in certain cases.

1. Inserted by section 2 of Act I of 1115.

CHAPTER IV.

Procedure and Miscellaneous.

Provision as
to costs in
certain cases.

23. (1) Where a decree is passed against an agriculturist in a suit filed on or after the 17th Meenam 1114, the Court shall allow only such costs as would have been allowable if the suit had been filed for the amount of the debt as scaled down in accordance with the provisions of this Act, and where in any such case a decree has been passed before the commencement of this Act, the Court shall, on application by the agriculturist, amend the decree accordingly.

(2) Nothing in sub-section (1) shall apply to any suit instituted on or after the 17th Meenam 1114 and before the commencement of this Act in respect of a claim which would be barred by limitation before the commencement of this Act.

Amendment
to certain
decrees.

24. Where before the commencement of this Act, a Court has passed a decree for the repayment of a debt, it shall, on the application of any judgment-debtor who is an agriculturist or in respect of a Hindu joint family debt, on the application of any member of the family, whether or not he is the judgment-debtor, or on the application of the decree-holder, such application being made within 90 days of the commencement of this Act, apply the provisions of this Act to such decree and shall, notwithstanding anything contained in the Cochin Code of Civil Procedure, XXIX of 1111, amend the decree accordingly or enter satisfaction, as the case may be:

Provided that all payments made or amounts recovered, whether before or after the commencement of this Act, in respect of any such decree shall first be applied in payment of all costs decreed to the creditor.

25. Every court executing a decree passed against a person entitled to the benefits of this Act shall, on application, stay the proceedings until the court which passed the decree has passed orders on an application made or to be made under section 24 :

Stay of execution proceedings.

Provided that where within 60 days after the application for stay has been granted, the judgment-debtor does not apply to the court which passed the decree for relief under section 24 or where an application has been so made and is rejected, the decree shall be executed as it stands, notwithstanding anything contained in this Act to the contrary.

Explanation.— The expression “the court which passed the decree” shall have the same meaning as in the Cochin Code of Civil Procedure, XXIX of 1111.

26. Nothing contained in this Act shall apply to the debts payable by any person who has been adjudicated an insolvent, if, prior to the coming into force of this Act, a dividend has been declared out of his assets. If a dividend has not been so declared, this Act shall apply to the debts payable by such person if he would have been an agriculturist within the meaning of this Act but for his adjudication in insolvency.

Adjudications in insolvency

27. Where, in execution of any decree, any movable property of an agriculturist has been sold on or after the 1st of Vrischigam 1114, any judgment-debtor may apply to the court for an order that the provisions of sections 8 or 9, as the case may be, and of sections 12 and 13 be applied to the decree, and the court shall, if satisfied that the applicant is an agriculturist entitled to the benefits of those sections, apply the same and order the decree-holder to refund any sum received by him on or after the 1st

Special provision in the case of certain sales of movable property.

Vrischigam 1114 in excess of the amount to which he would have been entitled if the property had not been sold :

Provided that no such order shall be made without notice to the decree-holder and without affording him an opportunity to be heard in the matter.

Sales of immovable property to be set aside in certain cases.

28. (1) Where in execution of any decree, any immovable property in which an agriculturist had an interest has on or after 1st Thulam 1114 been foreclosed, or sold and the proceeds of such sale has not been rateably distributed, then, notwithstanding anything contained in the Cochin Limitation Act, XII of 1112, or in the Cochin Code of Civil Procedure, XXIX of 1111, and notwithstanding that the sale has been confirmed, any judgment-debtor, claiming to be an agriculturist entitled to the benefits of this Act, may apply to the court within 90 days of the commencement of this Act for the appropriate relief specified below :—

(1) to set aside the foreclosure ;

(2) to set aside the sale when the property has been purchased by the decree-holder ;

(3) for refund by the decree-holder of any amount drawn by him out of the sale proceeds in excess of the debt as scaled down when the property sold has been purchased by a person other than the decree-holder ;

The court shall, if satisfied that the applicant is an agriculturist entitled to the benefits of this Act, order the foreclosure or sale to be set aside on payment of the value of improvements, if any, effected by the decree-holder or order the excess amount drawn by the decree-holder to be refunded :

Provided that no such order shall be made without notice to the decree-holder and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter.

(2) Where a sale is set aside under sub-section (1) the decree-holder shall have a charge subject to previous charges, if any, existing on the date of the sale on the property sold for the amount of the decree debt as scaled down under the provisions of this Act, which shall be enforceable in execution proceedings.

29. Any creditor may apply to the Commissioner of Income-tax for information as to whether his debtor has been assessed to income-tax in terms of proviso (a) to section 3 (ii) and the Commissioner of Income-tax shall thereupon furnish such information and grant to such creditor a memorandum in the prescribed form as to whether the debtor has been so assessed to income-tax. Such memorandum shall be received in every court as evidence of the facts stated therein.

Income-tax
Commissioner to
furnish
information
as to certain
facts.

30. Any creditor may apply to the executive authority of a municipality, for information as to whether his debtor was or is assessed to profession, property or house tax and the executive authority shall thereupon grant to such creditor a certificate in the prescribed form as to whether the debtor named in the application has been assessed to profession, property or house tax and the amount for which he is so assessed. Such certificate shall be received in every court as evidence of the facts stated therein.

Executive
authority of
Municipality
to furnish
information
as to certain
facts.

31. (1) Government may make rules for carrying into effect the purposes of this Act.

Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, Government may make rules—

(a) in regard to any matter which is required to be prescribed by this Act;

(b) prescribing the form of, and the fees to be paid in respect of, applications under this Act; and

(c) for removing any difficulty in giving effect to the provisions of this Act.

(3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in the Cochin Government Gazette and upon such publication, shall have effect as if enacted in this Act.

PART II.
AMENDING ACTS.

THE COCHIN EXTRADITION (AMENDMENT) ACT.
(I OF 1114.)

*Promulgated under the prerogative powers of
His Highness the Maharaja
on the 27th day of Kanni 1114 corresponding
to the 13th day of October 1938.*

Whereas it is deemed expedient to further amend the Cochin Extradition Act, X of 1093, for the purpose of making extraditable certain offences relating to currency ; it is hereby enacted as follows:— Preamble.

1. This Act may be called the Cochin Extradition (Amendment) Act, I of 1114; and it shall come into force on such date as Government may notify in the Cochin Government Gazette. Short title and commencement.

2. In the Schedule to the Cochin Extradition Act, X of 1093, insert the following as items 18 and 19 and re-number the existing items 18 to 21 as items 20 to 23 respectively:— Amendment to schedule.

- | | |
|---|------------------------------------|
| “18. Using as genuine forged or counterfeit currency notes. | Section 469 B, Cochin Penal Code. |
| 19. Possession of forged or counterfeit currency notes or bank-notes. | Section 469 C, Cochin Penal Code.” |
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THE COCHIN TRADE DISPUTES (AMENDMENT) ACT.

(II OF 1114.)

*Passed by His Highness the Maharaja of Cochin
on the 26th day of January 1939 corresponding
to the 13th day of Makaram 1114.*

Preamble. Whereas it is expedient to amend the Cochin Trade Disputes Act, LXVI of 1112, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Cochin Trade Disputes (Amendment) Act, II of 1114.

Amendment of section 2. 2. In section 2 of the Cochin Trade Disputes Act, LXVI of 1112, hereinafter referred to as the Act,—

(a) in clause (g),—

(i) after sub-clause (i) the following sub-clause shall be inserted, namely:—

“(ia) any water transport service or tramway service, if Government by notification in the Cochin Government Gazette declare the water transport or tramway service, as the case may be, to be a public utility service for the purposes of this Act, or”; and

(ii) in sub-clause (iii), after the word “supplies” the word “power” shall be inserted;

(b) in clause (j), after the word “difference” the words “between employers and employees or” shall be inserted; and

(c) in clause (k), after the word “reward” the following words shall be added, namely:—

“and includes for the purposes of any proceedings under this Act in relation to a trade dispute a workman discharged during that dispute.”

Amendment of section 3. 3. In section 3 of the Act the words “between an employer and any of his workmen” shall be omitted.

4. For sub-section (2) of section 4 of the Act the following sub-section shall be substituted, namely:—

“(2) A court, having the prescribed quorum may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if the appointing authority notifies the court that the services of the chairman have ceased to be available the court shall not act until a new chairman has been appointed.”

5. For sub-section (3) of section 6 of the Act the following shall be substituted, namely:— Amendment of section 6.

“(3) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that if the appointing authority notifies the Board that the services of the chairman or where the Board includes an equal number of persons representing the parties to the dispute the service of any such person have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.”

6. To section 10 of the Act, the following sub-section shall be added, namely:— Amendment of section 10.

“(3) Where a Board includes an equal number of persons representing the parties to the dispute, and the services of any such person have ceased to be available as aforesaid, the appointing authority shall appoint in the manner specified in sub-section (2) of section 6 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.”

7. In section 15 of the Act,—

(a) in sub-section (2),—

(1) for the words “his workmen” the words “any of his workmen” shall be substituted;

(2) for the words “liable to” the words “punishable with” shall be substituted; and

Amendment of section 15.

(3) for the words "to a fine" the words "with fine" shall be substituted;

(b) after sub-section (2) the following sub-section shall be inserted, namely:—

"(2-A) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any person employed by him any such notices as are referred to in sub-section (2), he shall within five days report to Government or such authority as Government may prescribe the number of such notices received or given on that day, and, if he fails to do so, he shall be punishable with fine which may extend to five hundred rupees"; and

(c) in sub-section (3) for the words, brackets and figure "under sub-section (2)" the words, brackets and figures "under sub-section (2) or sub-section (2A)" shall be substituted.

Amendment
of section 16.

8. In sub-section (1) of section 16 of the Act,—

(a) after the words "other than" the words "or in addition to" shall be added;

(b) in clause (b) for the words "general and prolonged" the words "and general" shall be substituted.

Amendment
of section 17.

9. In sub-section (1) of section 17 of the Act, for the word "declares" the words "commences, continues" shall be substituted.

Insertion of
a new
section.

10. After section 18 of the Act, the following heading and section shall be inserted, namely:—

"Conciliation Officers.

Appointment
of Concilia-
tion Officer.

18-A. (1) Government may, by notification in the Cochin Government Gazette, appoint officers herein referred to as conciliation officers, charged with the duty of mediating in or promoting the settlement of trade disputes.

(2) A conciliation officer may be appointed for

a specified area or for specified businesses, industries or undertakings in a specified area or for one or more specified businesses, industries or undertakings, and either permanently or for a limited period.

(3) A conciliation officer may, for the purposes of inquiring into an existing or apprehended trade dispute after giving reasonable notice, enter the premises occupied by any industry, business or undertaking and may call for and inspect any document which he has ground for considering to be relevant to the trade dispute, and for the purposes of any such inquiry shall be deemed to be a public servant within the meaning of the Cochin Penal Code.

(4) If any person supplying information or producing a document to a conciliation officer requests in writing that the information or the document or any part thereof shall be treated as confidential the conciliation officer shall not disclose such information or the contents of such document or part thereof except to—

(a) the authority which appointed him to be a conciliation officer ; or

(b) the parties concerned in the dispute for the purpose of mediating therein or promoting the settlement thereof.

(5) If the conciliation officer contravenes the provisions of sub-section (4), he shall be punishable with fine which may extend to one hundred rupees.

(6) No Criminal Court shall take cognizance of an offence under this section except with the previous sanction of the authority appointing the conciliation officer; and no Civil Court shall without the like sanction entertain any suit against a conciliation officer in respect of the disclosure of any information or the contents of any document or part thereof of the nature referred to in sub-section (4) ”.

Amendment
of section 19.

11. In sub-section (1) of section 19 of the Act delete the words 'in respect of industries, business and undertakings carried on by it or under its authority or by a Railway Company.'

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**THE COCHIN VILLAGE PANCHAYAT
(AMENDMENT) ACT.
(III OF 1114.)**

*Passed by His Highness the Maharaja of Cochin
on the 26th day of January 1939, corresponding
to the 13th day of Makaram 1114.*

Preamble.

Whereas it is expedient further to amend the Cochin Village Panchayat Act, V of 1089; it is hereby enacted as follows:—

Short title
and com-
mencement.

1. This Act may be called the Cochin Village Panchayat (Amendment) Act, III of 1114, and it shall come into force at once.

Amendment
to section 58.

2. For sub-clauses (i) and (ii) of clause (g) of section 58 of the Cochin Village Panchayat Act, V of 1089, the following shall be substituted:—

“(i) the whole of the salary where the salary does not exceed twenty rupees monthly,

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees, and.”

—

THE COCHIN ANCHAL (AMENDMENT) ACT.

(IV OF 1114).

*Passed by His Highness the Maharaja of Cochin
on the 13th day of Makaram 1114, corresponding
to the 26th day of January 1939.*

Whereas it is expedient to amend the Cochin Anchal Act, I of 1067 ; it is hereby enacted as follows:—

Preamble.

1. This Act may be called the Cochin Anchal (Amendment) Act, IV of 1114, and shall come into force at once.

Short title and commencement.

2. Substitute the following for section III of the Cochin Anchal Act, I of 1067, hereinafter referred to as "the Act"—

Substitution of section 3.

"III. (1) Wherever within the Cochin State Anchal or Anchal communications is or are established by Government, Government shall have the exclusive privilege of conveying by Anchal, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say—

Exclusive privilege of conveying letters reserved to Government.

(a) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them ;

(b) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose ;

(c) letters solely concerning goods or property, sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them ; and

(d) letters carried by the British Post under such arrangements as have been or may be made with Government from time to time :

Provided that nothing in this section shall authorise

any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by Anchal.

(2) For the purposes of this section and section III-A the expression 'letters' includes Anchal cards."

3. Insert the following as section III-A of the Act:—

Insertion of a new section, III-A. Certain persons expressly forbidden to convey letters.

"III-A. Whenever, within the Cochin State, Anchal or Anchal communications is or are established by Government, the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward or other profit or advantage for so doing, that is to say—

(a) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages; and

(b) owners and masters of vessels sailing or passing on any river or canal in the Cochin State, or between any ports or places in the Cochin State, and their servants, or agents, except as regards the letters solely concerning goods on board."

4. Substitute the following for section XIV of the Act—

Substitution of section XIV.

Penalty for contravention of section III.

"XIV. (1) Whoever—

(a) conveys, otherwise than by Anchal, a letter within the exclusive privilege conferred on Government by section III, or

(b) performs any service incidental to conveying otherwise than by Anchal, any letter within the exclusive privilege aforesaid, or

(c) sends, or tenders or delivers in order to be sent, otherwise than by Anchal, a letter within the exclusive privilege aforesaid, or

(d) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending

them otherwise than by Anchal, shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees."

5. Insert the following as section XIV-A of the Act—

Insertion of a new section XIV-A Penalty for contravention of section III-A

"XIV-A. (1) Whoever, in contravention of the provisions of section III-A carries, receives, tenders, delivers or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having once been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees."

THE COCHIN PROVIDENT FUNDS (AMENDMENT) ACT.

(V OF 1114.)

*Passed by His Highness the Maharaja of Cochin
on the 26th day of January 1939, corresponding
to the 13th day of Makaram 1114.*

Whereas it is expedient to amend the Cochin Provident Funds Act, XXIII of 1111; It is hereby enacted as follows:—

Preamble

1. This Act may be called the Cochin Provident Funds (Amendment) Act, V of 1114, and shall come into force at once.

Short title and commencement.

2. For clause (c) of section 2 of the Cochin Provident Funds Act, XXIII of 1111, the following shall be substituted, namely:—

Amendment to section 2.

“(c) ‘Dependant’ means any of the following relatives of a deceased subscriber to or a depositor in a Provident Fund, namely, a wife, husband, parent, child, brother, sister, sister’s child, and a deceased son’s widow and child, and where no parent of the subscriber or depositor is alive, a grand-parent”.

**THE COCHIN MATCHES (EXCISE DUTY)
AMENDMENT ACT.**

(VI OF 1114.)

*Passed by His Highness the Maharaja of Cochin
on the 26th day of January 1939, corresponding
to the 13th day of Makaram 1114.*

Preamble, Whereas it is expedient to amend the Cochin Matches (Excise Duty) Act, VIII of 1110; It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Cochin Matches (Excise Duty) Amendment Act, VI of 1114.

(2) It shall come into force at once.

Amendment to section 6. 2. In section 6 of the Cochin Matches (Excise Duty) Act, VIII of 1110, substitute a full-stop for the comma occurring after the word ‘Act’ and delete the words “or, until such rules are made”.

**THE COCHIN STATE AID TO INDUSTRIES
(AMENDMENT) ACT.
(VII OF 1114.)**

*Passed by His Highness the Maharaja of Cochin
on the 13th day of Makaram 1114, corres-
ponding to the 26th day of January 1939.*

Whereas it is expedient to amend the Cochin State Aid to Industries Act, X of 1111, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Preamble.

1. This Act may be called the Cochin State Aid to Industries (Amendment) Act, VII of 1114, and shall come into force at once.

Short title and commencement.

2. After section I of the Cochin State Aid to Industries Act, X of 1111, hereinafter referred to as "the Act", the following section shall be inserted, namely:—

Insertion of a new section.

"1-A. In this Act—

Definitions.

(i) 'Cottage industry' means any industry carried on by a worker in his own home; and

(ii) 'Village industry' means any industry which forms the normal occupation, whether whole time or part time, of any class of the rural population of the Cochin State".

3. In section 5 of the Act—

Amendment of section 5.

(a) for clause (c) the following clause shall be substituted, namely:—

"(c) by paying a subsidy, in the case of a cottage industry for any purpose, and in the case of any other industry for the conduct of research or the purchase of machinery" and

(b) the following clause (g) shall be added, namely:—

"(g) by supplying at concessional rates electric energy from a source belonging to Government".

**Amendment
of section 8**

4. In section 8 of the Act—

(a) the following words and figures occurring between the words 'enterprise' and 'after' shall be deleted, namely:—

“or 70 per cent in the case of cottage industries;”,
and

(b) the following proviso shall be added, namely:—

“Provided, however, that a loan of an amount not exceeding Rs. 10,000 may be granted even if it exceeds 50 per cent of the value of the assets as above ascertained.”

**Insertion of
a new section
13-A.**

5. After section 13 of the Act the following section shall be inserted, namely:—

**Exemption
of small and
cottage
industries.**

“13-A. Save as otherwise may be prescribed by rules made under this Act, nothing in sections 8, 9, 10 and 13 shall apply to any industrial business or enterprise with a capital outlay not exceeding five hundred rupees or to cottage industries”.

**Amendment
of section 15.**

6. In section 15 of the Act, after the words, “No subsidy” in the second paragraph, the words “to an industry or other than a cottage industry” shall be inserted.

**Amendment
of section 18.**

7. In clause 15 of sub-section (b) of section 18 of the Act for the words ‘under this Act’ the words “referred to in section 13-A” shall be substituted.

**Amendment
of section 19**

8. In section 19 of the Act, after clause (d), the following clause shall be added, namely:—

“(e) from assisting a village industry in any manner which may be determined by Government”.

**THE COCHIN CODE OF CIVIL PROCEDURE
(AMENDMENT) ACT.
(IX OF 1114.)**

*Passed by His Highness the Maharaja of Cochin
on the 29th day of Kumbham 1114, corresponding
to the 13th day of March 1939.*

Whereas it is expedient further to amend the Code of Civil Procedure, 1111, for the purposes hereinafter appearing; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, IX of 1114 and it shall come into force at once. Short title and commencement.

2. To section 45 of the Code of Civil Procedure, 1111, (hereinafter referred to as the said Code) the following proviso shall be added, namely:— Amendment to section 45.

“Provided that where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

(a) that the judgment-debtor with the object or effect of obstructing or delaying the execution of the decree,

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation to his property; or

(b) that the judgment-debtor has or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purpose of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.”

Amendment
to Rule 35,
order XXI,
1st schedule.

3. In sub-rule (1) of Rule 35 of Order XXI in the First Schedule to the said Code, for the word ‘may’, the word ‘shall’, shall be substituted and to the sub-rule the following proviso shall be added namely:—

“Provided that such notice shall not be necessary if the Court is satisfied, by affidavit or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.”

Amendment
to Rule 38,
order XXI,
1st schedule.

4. For Rule 38 of Order XXI in the First Schedule to the said Code together with any alterations therein or additions thereto made, under Section 97 of the said Code the following Rule shall be substituted, namely:—

“38 (1) When a judgment-debtor appears before the Court in obedience to a notice issued under Rule 35, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence

as may be produced by him in support of his application for execution and shall then give the judgment-debtor an opportunity of showing cause why he should not be committed to the civil prison.

(2) Pending the conclusion of the inquiry under sub-rule (1) the Court may, in its discretion, order the judgment-debtor to be detained in the custody of an officer of the Court or release him on his furnishing security to the satisfaction of the Court for his appearance when required.

(3) Upon the conclusion of the inquiry under sub-rule (1) the Court may subject to the provisions of Section 45 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in the civil prison and shall in that event cause him to be arrested if he is not already under arrest :

Provided that in order to give the judgment-debtor an opportunity of satisfying the decree, the Court may, before making the order of detention, leave the judgment-debtor in the custody of an officer of the Court for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Court for his appearance at the expiration of the specified period if the decree be not sooner satisfied.

(4) A judgment-debtor released under this rule, may be re-arrested.

(5) When the Court does not make an order of detention under sub-rule (3), it shall disallow the application and, if the judgment-debtor is under arrest, direct his release."

THE COCHIN SEA CUSTOMS
(AMENDMENT) ACT.

(X OF 1114.)

*Passed by His Highness the Maharaja of Cochin
on the 29th day of Kumbham 1114, corresponding
to the 13th day of March 1939.*

Preamble.

Whereas it is deemed expedient to further amend the Cochin Sea Customs Act, XII of 1109, for the purpose of enabling Government to prohibit or restrict the bringing or taking of goods of any specified description by air ; It is hereby enacted as follows:—

**Short title
and
commence-
ment.**

1. This Act may be called the Cochin Sea Customs (Amendment) Act, X of 1114, and it shall come into force at once.

**Amendment
to section 18.**

2. In section 18 of the Cochin Sea Customs Act, XII of 1109, substitute the words "by sea, air or land" for the words "by sea or by land."

**THE COCHIN TEA CESS (AMENDMENT) ACT.
(XI OF 1114).**

*Passed by His Highness the Maharaja of Cochin
on the 19th day of Meenam 1114, corresponding
to the 1st day of April 1939.*

WHEREAS it is expedient to amend the Cochin Tea Cess Act, XXX of 1113, for the purpose of empowering Government to levy the duty fixed by the Government of India from time to time, it is hereby enacted as follows.— Preamble.

1. This Act may be called the Cochin Tea Cess (Amendment) Act, XI of 1114 and it shall come into force with effect from 5th Meenam 1114 corresponding to 18th March 1939. Short title and commencement.

2. Substitute the following for section 3 of the Cochin Tea Cess Act, XXX of 1113.— Substitution of section 3.

3. "A customs duty at such rate as Government may, from time to time, fix by notification in the Cochin Government Gazette shall be levied on all tea produced in India and exported by sea from any port in the Cochin State." Imposition of tea cess.

**THE COCHIN COMPANIES (AMENDMENT) ACT.
(XII OF 1114).**

*Passed by His Highness the Maharaja of Cochin
on the 19th day of Meenam 1114, corresponding
to the 1st day of April 1939.*

WHEREAS it is expedient further to amend the Indian Companies Act as made applicable to Cochin by His Highness the Maharaja's Proclamations dated 19th Thulam 1097 and 13th Meenam 1112; it is hereby enacted as follows.— Preamble

1. This Act may be called the Indian Companies (Amendment) Act as made applicable to Cochin by His Highness the Maharaja's Proclamations dated the 19th Thulam 1097 and the 13th Meenam 1112, and it shall come Short title and commencement.

into force on the 1st day of April, 1939, corresponding to the 19th Meenam 1114.

Amendment
of section
277 K.

2. To sub-section (3) of section 277 K the following shall be added as a further proviso.—

“Provided further that a banking company may ear-mark any immovable property free of encumbrance situate in Cochin and owned by the company, and such property so ear-marked shall be deemed to be a sufficient investment for the purpose of this sub-section for a period of two years from 1st April 1939 corresponding to 19th Meenam 1114, on the following conditions namely.—

(1) the property is not a lease-hold for a term of years,

(2) the value of the property exceeds if consisting of land by one-third or if consisting of buildings by one-half of the amount to be invested, and

(3) no mortgages or other charges are created by such companies on the properties so ear-marked.”

THE COCHIN MUNICIPAL (AMENDMENT) ACT.
(XIII OF 1114).

*Passed by His Highness the Maharaja of Cochin
on the 19th day of Meenam 1114, corresponding
to the 1st day of April 1939.*

Preamble.

WHEREAS it is deemed expedient to amend the Cochin Municipal Act, XVIII of 1113; it is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Municipal Amendment Act, XIII of 1114 and it shall come into force at once.

Amendment
of section
341.

2. In section 341 of the Act, the words “executive authority” shall be substituted for the word “Chairman”.

**THE COCHIN INCOME-TAX (AMENDMENT) ACT.
(XIV OF 1114).**

*Passed by His Highness the Maharaja of Cochin
on the 7th day of Edavam 1114, corresponding
to the 21st day of May 1939.*

WHEREAS it is expedient to further amend the Preamble.
Cochin Income-tax Act, VIII of 1108; It is hereby enacted
as follows.—

1. This Act may be called the Cochin Income-tax Short title
and com-
mencement.
(Amendment) Act, XIV of 1114, and shall come into force
with effect from the first day of Chingam 1114.

2. In sub-section (5) of section 51 of the Cochin Amendment
to section 15.
Income-tax Act, VIII of 1108, for the words "not a subject
of Cochin" substitute the words "neither a British subject
nor a subject of Cochin".

**THE REGISTRATION OF FOREIGNERS (AMENDMENT) ACT.
(XVI OF 1114).**

*(Amendment incorporated in Act XV of 1114
printed at page 13 of Part I).*
