

**THE  
ACTS AND PROCLAMATIONS  
OF  
COCHIN**

# THE ACTS AND PROCLAMATIONS OF COCHIN

Volume XII—(1119 M.E.)

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# THE ACTS AND PROCLAMATIONS OF COCHIN

## Volume XII—(1119 M.E.)

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\*The Rubber Control Act, XXXIV of 1111 has ceased to be in force by virtue of Notification No. 115 (R. D.), dated 31st Medam 1119 (13th May 1944.)

**ACTS  
AND  
PROCLAMATIONS  
VOLUME XII  
1119  
PROCLAMATION  
(I of 1119)**

**EXTENSION OF TIME FOR PAYMENT OF PATTAM PROCLAMATION**

*Promulgated by His Highness Sir Sree Kerala Varma G.C.I.E.,  
Maharaja of Cochin,  
on the 4th day of Chingam 1119 corresponding  
to the 20th day of August 1943*

**[Published in the Cochin Government Gazette, dated 12th Chingam 1119]**

WHEREAS it is necessary to extend the time fixed in the Cochin Verumpattamdars Act, VIII of 1118 for the payment of pattam which has accrued due <sup>1</sup>[on or after] the 22nd day of Kumbham 1118 and before the coming into force of this Proclamation in respect of garden lands the major produce of which is cocoanut; We are pleased to command that the pattam payable by a verumpattamdar under the provisions of the Cochin Verumpattamdars Act, VIII of 1118 and which has accrued due between the 21st day of Kumbham 1118 and the coming into force of this Proclamation in respect of garden lands the major produce of which is cocoanut, may be paid by him on or before the last day of Thulam 1119 and that notwithstanding the provisions contained in the said Act, he shall not be liable to be evicted therefrom on the ground that he has not paid the pattam therefor within the period specified in clause (c) of sub-section (1) of section 8 of that Act <sup>2</sup>[and suits instituted prior to the 12th day of Chingam 1119 for the eviction of such a verumpattamdar on the ground that he has not paid the pattam due under clause (c) of sub-section (1) of section 8 of the said Act within the time specified therein shall be dismissed and the decrees, if any, passed in such suits annulled, if the said pattam is paid on or before the last day of Thulam 1119. Where a suit or decree is dismissed or annulled as aforesaid the plaintiff or the plaintiff decree-holder as the case may be, shall be entitled to a refund of the court fees paid by him on his plaint and the award of the remaining costs shall be in the discretion of the court].

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<sup>1</sup> Substituted by clause 3 (a) of Proclamation II of 1119.

<sup>2</sup> Added by clause 3 (b) *ibid.*

**THE COCHIN PORTS (AMENDMENT) ACT  
(I of 1119)**

**THE COCHIN PORTS (AMENDMENT) ACT  
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1. Short title and commencement.
2. Amendment of section 33.

**THE COCHIN PORTS (AMENDMENT) ACT**

*Promulgated by His Highness Sir Sree Kerala Varma G.C.I.E.,  
Maharaja of Cochin,  
on the 4th day of Chingam 1119 corresponding to  
the 20th day of August 1943*

**[Published in the Cochin Government Gazette,  
dated 12th Chingam 1119]**

**Preamble.**

Whereas it is necessary further to amend the Cochin Ports Act, VI of 1113, it is hereby enacted as follows.--

**Short title  
and commen-  
cement.**

1. This Act may be called the Cochin Ports (Amendment) Act, I of 1119 and it shall come into force at once.

**Amendment  
of section 33.**

2. For sub-section (1) of section 33 of the Cochin Ports Act, VI of 1113, the following shall be substituted and shall be deemed always to have been substituted, namely.—

“(1) Subject to the provisions of sub-section (1-A), in each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as Government direct, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(1-A) The Government may, by notification in the Cochin Government Gazette, alter or add to any entry in the first schedule.”



## PROCLAMATION

(II of 1119)

EXTENSION OF TIME FOR THE PAYMENT OF ARREARS OF  
PATTAM PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 26th day of Thulam 1119 corresponding to  
the 12th day of November 1943*

[Published in the Cochin Government Gazette,  
dated 27th Thulam 1119]

WHEREAS it is necessary to extend the time fixed in the Cochin Verumpattamdars Act, VIII of 1118, for the payment of arrears of pattam due at the commencement of the said Act; We are hereby pleased to command as follows.—

1. Notwithstanding the provisions contained in the Cochin Verumpattamdars Act, VIII of 1118, no verumpattamdar shall be evicted from his holding on the ground that he has not paid the arrears of pattam due under clause (d) of sub-section (1) of section 8 or the costs, if any, to be paid by him under section 12 of the said Act within the time specified therein if he pays the same on or before the last day of Vrischigam 1119.

2. Suits instituted after the 21st day of Chingam 1119 and before the commencement of this Proclamation for the eviction of a verumpattamdar on the ground that he has not paid the arrears of pattam due under clause (d) of sub-section (1) of section 8 of the Cochin Verumpattamdars Act, VIII of 1118, within the time specified therein shall be dismissed and the decrees, if any, passed in such suits annulled, if the said arrears are paid on or before the last day of Vrischigam 1119. Where a suit or decree is dismissed or annulled as aforesaid the plaintiff or the plaintiff decree-holder, as the case may be, shall be entitled to a refund of the court-fees paid by him on his plaint and the award of the remaining costs shall be in the discretion of the court.

3. In Proclamation I of 1119—

(a) for the words “on or before” occurring in the preamble, the words “on or after” shall and shall always be deemed to have been substituted; and

(b) the following shall be added at the end, namely—

“and suits instituted prior to the 12th day of Chingam 1119 for the eviction of such a verumpattamdar on the ground that he has

not paid the pattam due under clause (c) of sub-section (1) of section 8 of the said Act within the time specified therein shall be dismissed and the decrees, if any, passed in such suits annulled, if the said pattam is paid on or before the last day of Thulam 1119. Where a suit or decree is dismissed or annulled as aforesaid the plaintiff or the plaintiff decree-holder, as the case may be, shall be entitled to a refund of the court fees paid by him on his plaint and the award of the remaining costs shall be in the discretion of the court."

## THE COCHIN CODE OF CIVIL PROCEDURE (AMENDMENT) ACT

(II of 1119)

THE COCHIN CODE OF CIVIL PROCEDURE  
(AMENDMENT) ACT

### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Amendment of section 52.

### THE COCHIN CODE OF CIVIL PROCEDURE (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin  
on the 8th day of Vrischigam 1119 corresponding  
to the 24th day of November 1943*

[Published in the Cochin Government Gazette,  
dated 11th Vrischigam 1119]

**Preamble.** WHEREAS it is expedient further to amend the Cochin Code of Civil Procedure; It is hereby enacted as follows.—

**Short title and commencement.** 1. This Act may be called the Cochin Code of Civil Procedure (Amendment) Act, II of 1119 and shall come into force at once.

**Amendment of section 52.** 2. In sub-section (1) of section 52 of the Cochin Code of Civil Procedure, Act XXIX of 1111—

(a) After clause (j) the following shall be added as clause (jj), namely.—

“Any allowance forming part of the emoluments of any public officer or of any servant of a local authority which Government may by notification in the Cochin

Government Gazette exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension;" and

(b) in the Explanation for the word, letters and brackets "(j) and (k)" the word, letters and brackets "(j),(jj) and (k)" shall be substituted.

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## PROCLAMATION

(III of 1119)

### EXEMPTION FROM ATTACHMENT AND SALE OF ENGINES BROUGHT FOR KOLE CULTIVATION PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 8th day of Vrischigam 1119 corresponding to  
the 24th day of November 1943*

[Published in the Cochin Government Gazette,  
dated 11th Vrischigam 1119]

WHEREAS engines are imported into Our State from Travancore under special arrangements to facilitate the cultivation of Kole Nilams and Whereas it is necessary to provide that such engines should not be attached or sold by the Courts in Our State, We are pleased to command as follows.—

1. The engines or their appurtenances that have been or that may hereafter be brought from Travancore to Our State for pumping out water from the Kole Nilams shall not be attached or sold by the Courts in Our State. Attachments, if any, of such engines or their appurtenances effected prior to the date of this Proclamation shall be deemed to be null and void.

2. A certificate from Our Chief Engineer that an engine or its appurtenances have been brought from Travancore to Our State for pumping out water from the Kole Nilams shall be treated by Our Courts as conclusive evidence of the fact that such engine or its appurtenances have been brought to Our State for the purpose aforesaid.

3. This Proclamation shall be in force until such time as Government may, by notification in the Cochin Government Gazette, determine.

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**PROCLAMATION****(IV of 1119)**

THE PATINJATTIYEDATH MANA (ASSUMPTION OF  
MANAGEMENT) PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 8th day of Vrischigam 1119 corresponding  
to the 24th day of November 1943*

**[Published in the Cochin Government Gazette,  
dated 11th Vrischigam 1119]**

WHEREAS all the members of the Patinjattiyedath Mana in Thekkumbhagam Village, Cochin-Kanayannur Taluk, have requested OUR Government to assume management of their Illom and have executed an Agreement in that behalf;

AND WHEREAS WE are satisfied that it is necessary that OUR Government should assume such management;

AND WHEREAS the interest of OUR Government have to be effectively protected on account of the assumption of such management; We are pleased to command as follows.—

1. The management of the immovable properties belonging to the Patinjattiyedath Mana (hereinafter referred to as "the Estate") shall be assumed forthwith by OUR Government and such management by OUR Government shall be continued until such time as OUR Government may deem fit.

2. During the period of the management of the Estate by OUR Government the members of the Illom now living or to be born hereafter shall have no manner of right to alienate the whole or any portion of the Estate and alienations, if any, made in contravention of this Proclamation shall be void.

3. During the period of such management of the Estate, OUR Government shall have plenary powers to alienate the whole or any portion of the Estate, to advance or borrow funds for the re-payment of the debts of the Illom, to compromise claims in respect of

arrears of rent, michavaram and kindred dues accruing and accrued due and to exercise all rights of management in general and to do all that OUR Government consider necessary for the efficient administration and management of the Estate.

4. OUR Government may, by notification published in OUR Government Gazette, appoint a person or persons to manage the affairs of the Estate and OUR Government may delegate, by notification published in OUR Government Gazette, to the person or persons so appointed all or any of the powers conferred upon them by clause 3.

5. OUR Government may frame such rules, as may, from time to time, be deemed necessary for managing the affairs of the Estate. Such Rules, when framed and published in OUR 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.

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

7. All acts done by OUR Government or by the person or persons appointed to manage the affairs of the Estate in pursuance of the powers conferred by this Proclamation during the period of management by OUR Government shall be accepted without question by the members of the aforesaid Illom and all accounts of management maintained by OUR Government or the persons appointed by OUR Government to manage the affairs of the Estate and all items of expenditure incurred by them for and on behalf of the Estate during such period shall also be accepted without question by the members of the aforesaid Illom.

8. The provisions of the Cochin Revenue Recovery Act, IV of 1083, shall apply for the recovery of dues already accrued due or accruing due in future in respect of the Estate during the period of its management by OUR Government.

9. Every Officer or servant employed by OUR Government in relation to the management of the Estate shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

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## PROCLAMATION

### (V of 1119)

#### THE ARMED FORCES (SPECIAL POWERS)

#### PROCLAMATION

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2. Power to certain officers of armed forces to order use of force in certain circumstances.
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4. Protection to persons acting under the Proclamation.
5. Power to extend Proclamation to Police forces.

#### THE ARMED FORCES (SPECIAL POWERS)

#### PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 28th day of Vrischigam 1119 corresponding  
to the 14th day of December 1943*

[Published in the Cochin Government Gazette,  
dated 3rd Dhanu 1119]

#### Preamble.

Whereas an emergency has arisen which makes it necessary to confer certain special powers upon certain officers of the armed forces; We are pleased to command as follows.—

#### Short title and commencement.

1. (1) This Proclamation may be called the Armed Forces (Special Powers) Proclamation, V of 1119.
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once.

#### Power to certain officers of armed forces to order use of force in certain circumstances.

2. (1) Any officer not below the rank of Captain in His Majesty's Military Forces and any officer holding equivalent rank either in His Majesty's Naval or Air Forces or in the forces of a foreign power allied with His Majesty or in the forces of a foreign authority recognised by His Majesty as competent to maintain armed forces for service in association with His Majesty's

forces or in the military forces of this or of any other Indian State serving in association with any such forces as aforesaid may, if in his opinion it is necessary for the proper performance of his duty so to do, by general or special order in writing, require any personnel under his command to use such force as may be necessary, even to the causing of death, against any person who—

(a) fails to halt when challenged by a sentry, or

(b) does, attempts to do, or appears to be about to do or attempt to do, any such act as would endanger or damage any property of any description whatsoever which it is the duty of such officer to protect;

and it shall be lawful for such personnel, when so ordered, to use such force against such person.

(2) The use of force against any person in obedience to an order under sub-section (1) shall include the power to arrest and take into custody such person, and the use of such force as may be necessary, even to the causing of death in order to effect such arrest.

3. Any person arrested and taken into custody under this Proclamation shall be made over to the Officer in charge of the nearest police station as soon as practicable, together with a report of the circumstances occasioning the arrest.

**Arrested persons to be made over to Police.**

4. No prosecution, suit or other legal proceedings for any order purporting to be made under this Proclamation or for any act purporting to be done in obedience to any such order shall be instituted in any court except with the previous sanction of the Government and notwithstanding anything contained in any other law for the time being in force, no person purporting in good faith to make such an order or to do any act in obedience thereto shall, whatever consequences ensue, be liable therefor.

**Protection to persons acting under this Proclamation.**

Power to  
extend Pro-  
clamation to  
Police forces.

5. Government may, by notification in the Cochin Government Gazette, direct that the provisions of section 2 and section 4 shall apply to the officers and members of any police force or any portion of a police force specified in the notification, when employed on any duty specified in the notification, as they apply to officers and members of His Majesty's Military forces; and on such direction being made the powers exercisable by an officer not below the rank of Captain in His Majesty's Military Forces shall be exercisable by any officer of a police force so specified who holds a gazetted appointment in such force.

## PROCLAMATION

(VI of 1119)

THE ENEMY AGENTS (AMENDMENT)

PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 9.

THE ENEMY AGENTS (AMENDMENT)

PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 28th day of Vrischigam 1119 corresponding  
to the 14th day of December 1943*

[Published in the Cochin Government Gazette,  
dated 3rd Dhanu 1119]

WHEREAS it is necessary to amend the Enemy Agents Proclamation, XVIII of 1118; We are hereby pleased to command as follows.—

Short title  
and com-  
mencement.

1. (1) This Proclamation may be called the Enemy Agents (Amendment) Proclamation, VI of 1119.

(2) It shall come into force at once.

Amendment  
of section 9.

2. Section 9 of the Enemy Agents Proclamation, XVIII of 1118, shall be renumbered as sub-section (1) of



that section, and the following sub-sections shall be added, namely.—

- “(2) Where any proceedings are so submitted for review, the Judge reviewing the proceedings may exercise in his discretion any of the powers exercisable under section 348 of the Cochin Code of Criminal Procedure, II of 1086, by the High Court in the case of any proceeding to which the said section 348 refers.
- (3) The person appointed under sub-section (1) to review the proceedings of a Special Judge may call for and examine the record of any proceedings before the Special Judge for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of the Special Judge, and may exercise in the case of proceedings the record of which has been so called for any of the powers which would have been exercisable by him in the case of such proceedings had they been submitted to him for review under sub-section (1).”

## PROCLAMATION

(VII of 1119)

THE COCHIN VEGETABLE PRODUCT (EXCISE DUTY)

PROCLAMATION

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### Preamble

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2. Definitions.
3. Imposition of and amount of duty.
4. Recovery of duty with penalty.
5. Issue from factory.
6. Application of the provisions of Act XII of 1109 to the duty on vegetable product.
7. Power of Government to impose a duty of customs or to prohibit import.
8. Power to make rules.

THE COCHIN VEGETABLE PRODUCT (EXCISE DUTY)  
PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 12th day of Dhanu 1119 corresponding  
to the 27th day of December 1943*

[Published in the Cochin Government Gazette,  
dated 19th Dhanu 1119]

**Preamble.**

WHEREAS it is expedient to provide for the imposition and collection of an excise duty on vegetable product; We are hereby pleased to command as follows.—

**Short title and extent.**

1. (1) This Proclamation may be called the Cochin Vegetable Product (Excise Duty) Proclamation VII of 1119.

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

(3) It shall be deemed to have come into force on the 18th day of Meenam 1118 corresponding to the 31st day of March 1943.

**Definitions.**

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

(a) “factory” means any premises wherein vegetable product is manufactured;

(b) “owner” includes any person expressly or impliedly authorised by an owner of a factory to be his agent in respect of the factory;

(c) “vegetable product” means any vegetable oil or fat which, whether by itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human consumption.

**Imposition of and amount of duty.**

3. A duty of excise at the rate of five rupees per hundred weight shall be levied on all vegetable product manufactured in any factory in Cochin State and issued out of such factory on or after the 19th day of Meenam 1118 corresponding to the 1st day of April 1943, and shall be payable by the owner of the factory.

4. (1) If any duty payable under section 3 is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Proclamation, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum, not exceeding double the amount of the duty unpaid, which such authority may in its discretion think it reasonable to require. **Recovery of duty with penalty.**
- (2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Proclamation.
- (3) Without prejudice to the provisions of sub-section (2), when under the provisions of sub-section (1) any duty is deemed to be an arrear, the authority by which the notice referred to in sub-section (1) was issued may direct that no issue of vegetable product shall be made and no plant, machinery or material shall be removed out of the factory whose owner has failed to pay the duty until the duty or the sum recoverable in lieu thereof is paid or recovered; and such direction shall have effect notwithstanding any change in the ownership of the factory.
- (4) Any vegetable product issued, and any plant, machinery or material removed in contravention of a direction under sub-section (3) shall be liable to confiscation, and any person concerned in such issue or removal shall be punishable with fine which may extend to two thousand rupees.
5. (1) No vegetable product shall be issued out of any factory except in accordance with the provisions of rules made under section 8 regulating such issue, or until such rules are made, in accordance with the general or special orders of Government. **Issue from factory.**

- (2) If any vegetable product is issued out of any factory contrary to the provisions of subsection (1), any person concerned in such issue shall be punishable with fine which may extend to one thousand rupees or to a sum equal to double the amount of the duty on the vegetable product so issued, whichever is greater.

**Application of the provisions of Act, XII of 1109 to the duty on vegetable product.**

6. Government may, by notification in the Cochin Government Gazette, declare that any of the provisions of the Cochin Sea Customs Act, XII of 1109, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by section 3.

**Power of Government to impose a duty of customs or to prohibit import.**

7. Government may, by notification in the Cochin Government Gazette, impose on vegetable product brought into Cochin State from the territory of any other Indian State, not being territory which has been declared under section 5 of the India Tariff Act, 1934, to be foreign territory for the purposes of that section, a duty of customs equivalent to the excise duty imposed by this Proclamation on vegetable product manufactured in Cochin State, or prohibit absolutely, or with such exceptions as they think fit, the bringing of vegetable product into Cochin State from the territory of any specified Indian State.

**Power to make rules.**

8. (1) Government may, by notification in the Cochin Government Gazette, make rules—

- (a) imposing on owners of factories the duty of furnishing returns and keeping records and books, and prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified;
- (b) regulating the issue of vegetable product out of factories;

- (c) providing for the assessment and collection of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable and the recovery of arrears;
- (d) specifying the manner in which directions under the provisions of sub-section (3) of section 4 shall be made and communicated, and determining when such directions shall be deemed to become effective;
- (e) authorising and providing for the inspection of factories; and
- (f) generally for carrying into effect the provisions of this Proclamation.

(2) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees:

Provided that the breach of any rule made under clause (b) of sub-section (1) shall be punishable with the punishment provided for an offence against section 5.

## PROCLAMATION (VIII of 1119)

### THE HOARDING AND PROFITEERING PREVENTION PROCLAMATION CONTENTS

#### Preamble

#### Sections

1. Short title, extent and commencement.
2. Interpretation.
3. Fixing of maximum quantities which may be held or sold and maximum prices.
4. Restrictions on possession and sale by dealers and producers where maximum is fixed under section 3.
5. Restrictions on possession by dealers or producers where no maximum is fixed under section 3.

6. Restriction on price where no maximum is fixed under section 3.
7. General limitation on quantity to be possessed at one time.
8. Duty to declare possession of excess stocks.
9. Refusal to sell.
10. Cash memorandum to be given of certain sales.
11. Marking of prices and exhibiting price list.
12. Powers of Director, Inspectors, etc.
13. Penalties.
14. Procedure.
15. Certain officers to be deemed public servants.
16. Bar of legal proceedings.
17. Saving of other laws.

THE HOARDING AND PROFITEERING PREVENTION  
PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 2nd day of Makaram 1119  
corresponding to the 15th day of January 1944*

[Published as Gazette Extraordinary, dated  
7th Makaram 1119]

WHEREAS an emergency has arisen which makes it necessary to provide for the prevention of hoarding and profiteering; We are pleased to command as follows.—

1. *Short title, extent and commencement.*—(1) This Proclamation may be called the Hoarding and Profiteering Prevention Proclamation, VIII of 1119.  
(2) It extends to the whole of Cochin State.  
(3) It shall come into force at once.
2. *Interpretation.*—In this Proclamation, unless there is anything repugnant in the subject or context—
  - (a) “article” includes any article or thing, except food-grains, which has not, by notification in the Cochin Government Gazette, been declared by Government to be an article or thing to which this Proclamation does not apply;
  - (b) “dealer” means a person carrying on the business of selling any article, whether wholesale or retail;
  - (c) “Director” means the Director of Food Supplies appointed by Government and includes the Deputy Director of Food Supplies or such other officer as may be appointed by Government to work any or all of the provisions of this Proclamation;

- (d) "inspector" means an inspector appointed for the purposes of this Proclamation by Government;
- (e) "producer" includes a manufacturer;
- (f) an article shall be deemed to be in the possession of a person—
  - (i) when it is held on behalf of that person by another person;
  - (ii) notwithstanding that it is mortgaged to another person.

3. *Fixing of maximum quantities which may be held or sold and maximum prices.*—

- (1) Government may, by notification in the Cochin Government Gazette, fix in respect of any article—
  - (a) the maximum quantity which may at any one time be possessed by a dealer or producer;
  - (b) the maximum quantity which may in any one transaction be sold to any person;
  - (c) the maximum price or rate which may be charged by a dealer or producer.
- (2) The quantities and prices or rates fixed in respect of any article under this section may be different in different localities.

4. *Restrictions on possession and sale by dealers and producers where maximum is fixed under section 3.*—No dealer or producer shall—

- (a) have in his possession at any one time a quantity of any article exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 3; or
- (b) sell or offer for sale to any person in any one transaction a quantity of any article exceeding the maximum fixed by notification under clause (b) of sub-section (1) of section 3; or
- (c) sell or offer for sale to any person any article for a price or at a rate exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 3.

5. *Restrictions on possession by dealers or producers where no maximum is fixed under section 3.*—Where no maximum has

been fixed by notification under clause (a) of sub-section (1) of section 3,—

- (a) no dealer shall have in his possession at any one time a quantity of any article exceeding one-quarter of the total quantity of that article held by him in the course of the year 1939, or as the case may be, exceeding the quantity which the Director or other officer empowered in this behalf by Government may intimate to him as the maximum quantity of that article which he may have in his possession at any one time; and
- (b) no producer shall have in his possession at any one time a quantity of any article exceeding one-quarter of his total production of that article during that one of the three years, 1940, 1941 and 1942 in which his production was greatest, or, as the case may be, exceeding the quantity which the Director or other officer empowered in this behalf by Government may intimate to him as the maximum quantity of that article which he may have in his possession at any one time.

6. *Restriction on price where no maximum is fixed under section 3.*—(1) Where no maximum has been fixed by notification under clause (c) of sub-section (1) of section 3, no dealer or producer shall sell or offer for sale or otherwise dispose of an article for a consideration which is unreasonable.

(2) For the purposes of this section a consideration is unreasonable if, whether it is exclusively in money or not, it exceeds the amount represented by an addition of twenty per cent or the addition allowed by normal trade practice whichever is less to—

- (a) the cost landed of the article in the case of an imported article,
- (b) the cost of production of the article in the case of an article which is not imported, or if as a condition of sale the purchaser is required to purchase at the same time any other article.



(3) The Director may, by order published in the Cochin Government Gazette, vary in respect of any specified article or class of articles the figure of twenty per cent referred to in sub-section (2) and if he does so that sub-section shall have effect accordingly.

7. *General limitation on quantity to be possessed at one time.*—(1) No person shall have in his possession at any one time a greater quantity of any article to which this section applies than the quantity necessary for the reasonable needs of himself and his family for a period of three months or such longer period as may for special reasons in his particular circumstances be considered a reasonable period for which to make provision.

(2) For the purposes of sub-section (1), the expression “reasonable needs” includes the fulfilment of social or religious or other customary obligations.

(3) Nothing in this section shall apply to a dealer or producer in respect of any article sold by or produced by him.

(4) This section shall apply only to such articles as the Director may by order published in the Cochin Government Gazette specify for the purpose.

8. *Duty to declare possession of excess stocks.*—Any person having in his possession a quantity of any article exceeding that permitted by or under this Proclamation shall forthwith report the fact to the Director or other officer empowered in this behalf by Government, and shall take such action as to the storage, distribution or disposal of the excess quantity as the Director or such officer may direct.

9. *Refusal to sell.*—No dealer or producer shall, unless previously authorised to do so by the Director or other officer empowered in this behalf by Government, without sufficient cause refuse to sell to any person any article within the limits as to quantity imposed by this Proclamation.

*Explanation.*—The possibility or expectation of obtaining a higher price for an article at a later date shall not be deemed to be a sufficient cause for the purposes of this section.

10. *Cash memorandum to be given of certain sales.*—(1) Every dealer or producer when selling any articles for cash

shall, if the amount of the purchase is ten rupees or more, in all cases, and, if the amount of the purchase is less than ten rupees, when so requested by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

- (2) Government may, by notification in the Cochin Government Gazette, prescribe the particulars to be contained in any such cash memorandum.
  - (3) Government may, by notification in the Cochin Government Gazette, exempt specific areas, classes of dealers or producers, or commodities from the operation of this section.
11. *Marking of prices and exhibiting price list.*—(1) The Director may direct any dealer or producer to mark articles exposed or intended for sale with the sale prices or to exhibit on his premises a price list of articles held by him for sale, and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.
- (2) No dealer shall destroy, efface or alter any label or mark affixed to an article and indicating the price marked by a producer.
12. *Powers of Director, Inspectors, etc.*—(1) The Director or an inspector or an officer empowered in this behalf by Government may—
- (a) direct a dealer or producer to maintain records of all sale and purchase transactions;
  - (b) direct a dealer or producer to furnish any information he may require as to the business carried on by such dealer or producer;
  - (c) direct a dealer or producer to furnish any information possessed by such dealer or producer as to the business carried on by any other person;
  - (d) inspect or cause to be inspected any books or other documents belonging to or under the control of any dealer or producer;

- (e) enter and search or authorise any officer to enter and search any premises;
- (f) seize or authorise the seizure of any article in respect of which he suspects that an offence under this Proclamation has been committed, and thereafter take or authorise the taking of all measures necessary for securing the production of the article in a court.

(2) The Director may, by order published in the Cochin Government Gazette, issue to all dealers or producers of a specified class a direction such as is referred to in clause (a) or clause (b) of sub-section (1).

13. *Penalties.*—(1) Whoever contravenes any of the provisions of this Proclamation shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both.
- (2) Whoever fails to comply with any direction made under authority conferred by this Proclamation shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.
- (3) A Court convicting any person of an offence punishable under this Proclamation may order any article, in respect of which the offence was committed, to be forfeited to Government.

14. *Procedure.*—No prosecution for any offence punishable under this Proclamation shall be instituted except with the previous sanction of Government, or of an officer empowered by Government to grant such sanction.

15. *Certain officers to be deemed public servants.*—The Director, inspector and officer empowered for the purposes of section 5, 8, 9 or 12 by Government shall be deemed to be public servants within the meaning of section 15 of the Cochin Penal Code, I of 1059.

16. *Bar of legal proceedings.*—No suit, prosecution or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Proclamation.

17. *Saving of other laws.*—The provisions of this Proclamation shall be in addition to and not in derogation of any other law for the time being in force regulating the keeping, storage, distribution, disposal, or price of articles.

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**PROCLAMATION  
(IX of 1119)**

**THE MILITARY STORES (UNLAWFUL POSSESSION)  
PROCLAMATION**

**CONTENTS**

**Preamble**

**Sections**

1. Short title, extent and commencement.
2. Definition.
3. Unlawful possession of military stores.

**THE MILITARY STORES (UNLAWFUL POSSESSION)  
PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 20th day of January 1944 corresponding to  
the 7th day of Makaram 1119*

**[Published in the Cochin Government Gazette,  
dated 9th Makaram 1119]**

**Preamble.**

WHEREAS it is necessary to make special provision for the punishment of the offence of unlawful possession of military stores; We are hereby pleased to command as follows.—

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

1. (1) This Proclamation may be called the Military Stores (Unlawful Possession) Proclamation, IX of 1119.
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once.

**Definition.**

2. In this Proclamation "military stores" includes any article intended for use in the equipment of or for supply to the military forces of this State or to the military, naval or air forces of His Majesty or of any foreign Power allied with His Majesty.

**Unlawful  
possession  
of military  
stores.**

3. Whoever is found or is proved to have been in possession of any article of military stores shall, if the Court sees reasonable grounds for believing such article to be or to have been the property of this State or of His Majesty or of a foreign Power allied with His Majesty, as the case may be, unless he proves that the article came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years or with fine or with both.

**THE COCHIN RUBBER CONTROL  
(AMENDMENT) ACT  
(III of 1119)  
CONTENTS**

**Preamble  
Sections**

1. Short title and commencement.
2. Addition of a new section.
3. Suspension of operation of certain provisions of the Act.

**THE COCHIN RUBBER CONTROL  
(AMENDMENT) ACT**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin*

*on the 29th day of January 1944*

*corresponding to the 16th day of Makaram 1119*

**[Published in the Cochin Government Gazette,  
dated 16th Makaram 1119]**

WHEREAS it is necessary further to amend the Cochin Preamble.  
Rubber Control Act, XXXIV of 1111; It is hereby enacted  
as follows.—

1. This Act may be called the Cochin Rubber Short title  
Control (Amendment) Act III of 1119, and shall come and com-  
into force at once. commencement.

2. After section 21 of the Cochin Rubber Control Addition of  
Act, XXXIV of 1111, the following shall be added.— a new  
section.

**“CHAPTER VI**

**SUSPENSION OF OPERATION OF ACT**

- 22 (1) If Government are satisfied that an emergency Suspension  
has arisen rendering it necessary that certain of operation  
of the restrictions imposed by this Act of certain  
should cease to be imposed, Government provisions of  
may, by notification in the Cochin Govern- the Act.  
ment Gazette, suspend, either indefinitely  
or for such period as may be specified in the  
notification, the operation of all or any of  
the provisions of this Act.
- (2) Where the operation of certain provisions of  
this Act has under sub-section (1) been  
suspended indefinitely, such suspension may  
at any time while this Act remains in force  
be removed by Government by notification  
in the Cochin Government Gazette in this  
behalf”.

**PROCLAMATION****(X of 1119)****STAY OF SUITS AND PROCEEDINGS FOR THE RECOVERY OF  
RENEWAL FEES IN RESPECT OF CERTAIN KANAMS  
PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 29th day of January 1944, corresponding to  
the 16th day of Makaram 1119*

**[Published in the Cochin Government Gazette,  
dated 16th Makaram 1119]**

WHEREAS the question of amending the provisions of the Cochin Tenancy Act, XV of 1113, is under the consideration of OUR Government and Whereas it is considered expedient to stay suits and other proceedings for the recovery of renewal fees in respect of certain classes of Kanams; WE are pleased to command that, until such date as OUR Government may by notification in the Cochin Government Gazette deem fit to withdraw this Proclamation, no suit involving claims for renewal fees shall be instituted nor shall any suit, appeal, second appeal, revision or decree involving such claims be further proceeded with so far as such claims are concerned where—

- (a) the Kanam demise in respect of which renewal fee is claimed is a Ner-kanam and is expressly described as such in the demise ; or
  - (b) the interest on the Kanam and Puramkadam amount, if any, is 50 per cent or more of the Kanapattam ; or
  - (c) the renewal fee sought to be recovered is for a cycle which commenced on a date prior to the commencement of the Cochin Tenancy Act, XV of 1113, and is in respect of Kanams which were given fixity for the first time by the said Act.
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**PROCLAMATION  
(XI of 1119)**

**THE FACTORIES (CONTROL OF DISMANTLING)  
PROCLAMATION**

**CONTENTS**

**Preamble  
Sections**

1. Short title, extent and commencement.
2. Definitions.
3. Dismantling a factory.
4. Offences by corporations.
5. Power of entry, examination, taking evidence, etc.
6. Cognizance of offences.
7. Bar of legal proceedings.
8. Power to make rules.

**THE FACTORIES (CONTROL OF DISMANTLING)  
PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 27th day of Makaram 1119 corresponding  
to the 9th day of February 1944*

**[Published in the Cochin Government Gazette,  
dated 30th Makaram 1119]**

WHEREAS an emergency has arisen which makes it necessary to control the dismantling of factories; WE are hereby pleased to command as follows.—

1. *Short title, extent and commencement.*—(1) This Proclamation may be called the Factories (Control of Dismantling) Proclamation, XI of 1119.
  - (2) It extends to the whole of Cochin State.
  - (3) It shall come into force at once.
2. *Definitions.*—In this Proclamation, unless there is anything repugnant in the subject or context,—
  - (a) “to dismantle” a factory means to remove from its position the machinery or part of the machinery of the factory, where by such removal the factory is rendered wholly or partly useless for its purpose; but does not include any temporary removal of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs;

- (b) "factory" means a factory as defined in clause (i) of section 2 of the Cochin Factories Act, II of 1113, but includes also any premises which were at any time after the commencement of this Proclamation a factory as so defined ;
- (c) "machinery" has the meaning assigned to that word in clause (j) of section 2 of the Cochin Factories Act, II of 1113.

3. *Dismantling a factory.*—(1) No person shall, without the written permission of Government or of an officer authorised in this behalf by Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.
- (2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment which may extend to two years or with fine or with both.

4. *Offences by corporations.*—If the person contravening any of the provisions of sub-section (1) of section 3 is a company or other corporate body, every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

5. *Power of entry, examination, taking evidence, etc.*—(1) Subject to any rules made by Government, any officer authorised in this behalf by Government, may, if he has reason to believe that any person has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,—

- (a) enter with such assistants (if any), being persons in the service of Government as he thinks fit, any place ;
- (b) make such examination of the place and of any machinery, books or documents therein and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Proclamation; and



- (c) exercise such other powers as may be necessary for carrying out the purposes of this Proclamation:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

- (2) Whoever wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or document in his custody or to comply with any demand for information, or knowingly or recklessly makes to such officer a statement false in a material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

6. *Cognizance of offences.*—No prosecution for any offence under this Proclamation shall be instituted except by or with the previous sanction of Government or the officer authorised by Government for the purposes of sub-section (1) of section 3.

7. *Bar of legal proceedings.*—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 Proclamation.

8. *Power to make rules.*—(1) Government may make rules for carrying out the purposes of this Proclamation.

- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

- (a) for the procedure for the grant of the permission referred to in sub-section (1) of section 3,
- (b) for an appeal against a refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer authorised in pursuance of that section, and
- (c) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.
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# THE COCHIN PAYMENT OF WAGES

## (AMENDMENT) ACT

(IV of 1119)

### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Amendment of section 2.

### THE COCHIN PAYMENT OF WAGES (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin  
on the 18th day of Kumbham 1119*

*corresponding to the 1st day of March 1944*

[Published in the Cochin Government Gazette,  
dated 21st Kumbham 1119]

**Preamble.** WHEREAS it is necessary to amend the Payment of Wages Act, IV of 1113; It is hereby enacted as follows.—

**Short title and commencement.** 1. This Act may be called the Cochin Payment of Wages (Amendment) Act, IV of 1119 and shall come into force at once.

**Amendment of section 2.** 2. In section 2 of the Cochin Payment of Wages Act, IV of 1113, for sub-clause (c) of clause (ii) the following shall be substituted, namely.—

“inland vessel propelled by steam, electricity or other mechanical power;”

**THE COCHIN MOTOR VEHICLES  
(AMENDMENT) ACT  
(V of 1119)**

**CONTENTS**

**Preamble**

**Sections**

1. Short title and commencement.
2. Amendment of section 22.

**THE COCHIN MOTOR VEHICLES  
(AMENDMENT) ACT**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 18th day of Kumbham 1119*

*corresponding to the 1st day of March 1944*

**[Published in the Cochin Government Gazette,  
dated 21st Kumbham 1119]**

WHEREAS it is deemed necessary to amend the Cochin **Preamble.**  
Motor Vehicles Act, VIII of 1116; It is hereby enacted as  
follows.—

1. This Act may be called the Cochin Motor Vehi- **Short title  
and commen-  
cement.**  
cles (Amendment) Act, V of 1119, and shall be deemed  
to have come into force with effect from the last day of  
Karkadagam 1118.

2. In sub-section (2) of section 22 of the Cochin **Amendment  
of section 22.**  
Motor Vehicles Act, VIII of 1116, for the words “until  
the 1st day of Chingam immediately succeeding the com-  
mencement of this Act” the words “until such date as  
Government may, by notification in the Cochin Govern-  
ment Gazette, specify in this behalf” shall be substituted.

**THE COCHIN MUNICIPAL  
(AMENDMENT) ACT  
(VI of 1119)  
CONTENTS**

**Preamble  
Sections**

1. Short title and commencement.
2. Amendment of section 13.
3. Amendment of section 51.

THE COCHIN MUNICIPAL (AMENDMENT) ACT  
*Passed by His Highness the Maharaja of Cochin  
on the 18th day of Kumbham 1119  
corresponding to the 1st day of March 1944*  
[Published in the Cochin Government Gazette,  
dated 21st Kumbham 1119]

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

**Short title and commencement.** 1. This Act may be called the Cochin Municipal (Amendment) Act, VI of 1119 and shall come into force at once.

**Amendment of section 13.** 2. For sub-section (4) of section 13 of the Cochin Municipal Act, XVIII of 1113, hereinafter referred to as the Act, the following shall be substituted.—

“(4) The Government may, at any time, remove the Commissioner from Office and shall do so if such removal is recommended by a resolution of the Council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the Council”.

**Amendment of section 51.** 3. For sub-section (2) of section 51 of the Act the following shall be substituted.—

“(2) No officer of Government shall be qualified for election or for holding office as an elected councillor:

Provided that this prohibition shall not apply to the holder of any office which does not involve both of the following incidents, namely.—

- (a) that the incumbent is a whole-time servant of the Government; and

(b) that he is remunerated by either salary or fees:

Provided further that if any question arises either before or after an election whether any person is or is not disqualified under this sub-section the question shall be referred to the Government whose decision shall be final."

## PROCLAMATION (XII of 1119)

### THE ALLIED FORCES (EXEMPTION FROM LOCAL TAXATION) PROCLAMATION

#### CONTENTS

#### Preamble

#### Sections

1. Short title, extent and commencement.
2. Interpretation.
3. Exemption from taxes imposed by local authorities.
4. Decision of questions arising under this Proclamation.

### THE ALLIED FORCES (EXEMPTION FROM LOCAL TAXATION) PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 9th day of March 1944 corresponding  
to the 26th day of Kumbham 1119*

[Published in the Cochin Government Gazette,  
dated 28th Kumbham 1119]

WHEREAS it is necessary to exempt the members in Cochin State of establishments and forces of certain foreign Powers allied with His Majesty and of certain foreign Authorities from payment of taxes imposed by local authorities; We are hereby pleased to command as follows.— Preamble.

1. (1) This Proclamation may be called the Allied Forces (Exemption from Local Taxation) Proclamation, XII of 1119. Short title, extent and commencement

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

(3) It shall come into force at once and shall remain in force until such time as Government may by notification in the Cochin Government Gazette determine.

Interpreta-  
tion.

2. In this Proclamation—
- (a) “Power to which this Proclamation applies” means a foreign Power allied with His Majesty to which the Allied Forces Ordinance, 1942 (LVI of 1942), is for the time being applicable by virtue of Proclamation XI of 1118.
- (b) “Authority to which this Proclamation applies” means a foreign Authority recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty’s forces to which the Allied Forces Ordinance, 1942 (LVI of 1942), is for the time being applicable by virtue of Proclamation XI of 1118.

Exemption  
from taxes  
imposed by  
local authori-  
ties.

3. (1) Notwithstanding anything contained in any enactment for the time being in force, no tax imposed by a municipality or any other local authority whatever shall, except as provided in this Proclamation, be payable by any establishment or naval, military or air force maintained in Cochin State by a Power or Authority to which this Proclamation applies in respect of—
- (a) any immovable property in the possession or occupation of, or
- (b) any goods the property of, or consigned or under transport for ultimate delivery to, or
- (c) any animal, bicycle, motor bicycle, motor car, vessel, vehicle, aircraft or apparatus maintained by and for the purpose of, such establishment or force.
- (2) Notwithstanding anything contained in any enactment for the time being in force, no such tax as aforesaid shall, except as provided in this Proclamation, be payable by any member of an establishment or force maintained in Cochin State by a Power or Authority to which this Proclamation applies in respect of any building occupied by him,

or in respect of any horse, bicycle, motor bicycle, motor car or other means of conveyance maintained by him in his capacity as a member of such establishment or force and under authority from a person exercising authority in such establishment or force or by way of a tax on persons or a requirement to take out a licence for practising a profession, trade or calling.

- (3) Nothing in this section shall be deemed to exempt any person from payment of any tax imposed or of that part of any tax which is imposed to cover the cost of specific services rendered to that person by the local authority imposing the tax.
- (4) The provisions of this section apply to taxes which had become payable before the commencement of this Proclamation as they apply to taxes which would but for the provisions of this section have become payable after the commencement of this Proclamation.

4. If any question arises whether, or as to the extent to which, any tax is payable as having been imposed to cover the cost of specific services rendered by the local authority imposing the tax or whether in the particular circumstances of any case a particular tax is payable, the decision of Government thereon shall be conclusive.

**Decision of questions arising under this Proclamation.**

## THE COCHIN STATE FORCES PROCLAMATION (XIII of 1119)

### CONTENTS

#### Preamble

#### Sections

1. Short title, application and commencement.
2. Power to make rules.

**THE COCHIN STATE FORCES PROCLAMATION**  
*Promulgated by His Highness Sree Ravi Varma,*  
*Maharaja of Cochin,*  
*on the 26th day of Kumbham 1119 corresponding to*  
*the 9th day of March 1944*

[Published in the Cochin Government Gazette,  
dated 28th Kumbham 1119]

**Preamble.** WHEREAS it is necessary to provide for the government, control, discipline, trial and punishment of the members of the Cochin State Forces; We are pleased to command as follows.—

**Short title,  
application  
and com-  
mencement.**

1. (1) This Proclamation may be called the Cochin State Forces Proclamation, XIII of 1119.
- (2) It shall apply to the members of the Cochin State Forces.
- (3) It shall come into force at once.

**Power to  
make rules.**

2. (1) Our Government may, by notification in the Cochin Government Gazette, make rules for the government, control, discipline, trial and punishment of the members of the Cochin State Forces.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—
  - (a) prescribe the offences which when committed by the members of the Cochin State Forces shall be treated as military offences;
  - (b) provide for the arrest and trial of persons accused of the commission of military offences by court martial or otherwise and the carrying into effect of the sentences awarded;
  - (c) prescribe the punishment for military offences which may include imprisonment for a period not exceeding fourteen days with or without hard labour and confinement to lines for a term not exceeding fifteen days;
  - (d) provide for the convening and constitution of court martial,



- the procedure to be observed in trials and other enquiries by court martial ;
- (e) provide for the arrest and capture of deserters from the Cochin State Forces by the civil and military authorities; and
- (f) provide generally for the control and discipline of the Cochin State Forces.

— —

**THE COCHIN TEA CULTIVATION  
RESTRICTION (AMENDMENT)  
ACT  
(VII of 1119)  
CONTENTS**

**Preamble****Sections**

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 3-A.
4. Amendment of section 3-B.
5. Amendment of section 3-C.
6. Amendment of section 3-D.
7. Insertion of a new section 15.  
Suspension operation of Act.

**THE COCHIN TEA CULTIVATION RESTRICTION  
(AMENDMENT) ACT**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 26th day of Kumbham 1119 corresponding  
to the 9th day of March 1944*

[Published in the Cochin Government Gazette,  
dated 28th Kumbham 1119]

Whereas it is expedient further to amend the Cochin Tea Cultivation Restriction Act, V of 1110; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Tea Cul- Short title  
and com-  
mencement.  
tivation Restriction (Amendment) Act, VII  
of 1119.

**Amendment  
of section 3.**

(2) It shall be deemed to have taken effect from the 1st day of April 1943.

2. In section 3 of the Cochin Tea Cultivation Restriction Act, V of 1110 (hereinafter referred to as the Act) for the figures "1938", "1933" in both places where they occur, and "1931" respectively, the figures "1943", "1938" and "1936" shall be substituted.

**Amendment  
of section  
3-A.**

3. In section 3-A of the Act—

(a) in sub-section (1), for the words occurring after the words "shall not exceed" the following shall be substituted.—

"such area as will bring the total area of the land planted with tea in Cochin up to one-half of one per cent over the total area of the land which would have been planted with tea in Cochin on the 31st day of March 1943, had the extensions of plantation made in the two periods of five years subsequent to the 31st day of March 1933, each increased the area in Cochin planted with tea at the beginning of each such period by one-half of one per cent";

(b) in sub-section (2), for the words "after the commencement of this Act" the words and figures "before the last day of June 1944" shall be substituted, and the following words shall be added, namely.—

"and shall in like manner publish any subsequent variation of such total areas"

(c) sub-section (3) shall be omitted.

**Amendment  
of section  
3-B.**

4. In section 3-B of the Act—

(a) in sub-section (1), for the figures "1938" the figures "1943" shall be substituted and for the figures "1940", the figures "1944" shall be substituted.

(b) after sub-section (1) the following sub-section shall be inserted, namely.—

"(1-A) The Government or the licensing authority may require an applicant to supply such information as they think necessary to enable them to deal with the application";

- (c) in sub-section (2) after the word and figure "section 3-A" the words "and to any rules made in this behalf by Government" shall be inserted, and the following proviso shall be added, namely.—

"Provided that permission shall not be granted in the case of any tea estate owned by a limited liability company if the area planted with tea in the estate exceeds three hundred acres, or in the case of any tea estate owned by an individual proprietor or proprietors if the area planted with tea in the estate exceeds one hundred and fifty acres".

5. In section 3—C of the Act,—

Amendment  
of section  
3-C.

(a) in sub-section (1)—

- (i) for the words and figures "where any land which was on the 31st day of March 1933 planted with tea—", the following shall be substituted, namely.—

"where any land which was at the 31st day of March 1933, planted with tea (including land planted with tea at the 31st day of March 1931, from which the original bushes had been uprooted and which had not been replanted with tea at the said 31st day of March 1933), or where any land planted with tea after the 31st day of March 1933—";

- (ii) in clause (a), after the word "through" the words "circumstances due to existing war conditions or through" shall be inserted;

- (iii) the following Explanation shall be added, namely.—

"*Explanation.*—Land taken for purposes connected with the prosecution of war on which tea bushes have been

allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this sub-section to be incapable of carrying or no longer to carry tea”.

(b) in sub-section (2), in the proviso for the words “same tea estate” the words “the same or an adjacent tea estate” shall be substituted;

(c) after sub-section (3), the following sub-section shall be added, namely.—

“(4) If any land falling within the explanation to sub-section (1) is subsequently restored to the tea estate from which it was subtracted, the owner of the estate shall either uproot the tea planted thereon, or uproot any tea planted by him in pursuance of a permission granted under sub-section (2)”.

Amendment  
of section  
3-D.

6. In section 3-D of the Act, in the proviso to sub-section (1) delete the words and figures “upon the 31st day of March 1943”.

Insertion of  
a new section  
15.

7. After section 14 of the Act, the following section shall be inserted, namely.—

Suspension  
of operation  
of Act.

“15. (1) If Government are satisfied that an emergency has arisen rendering it necessary for the security of India that certain of the restrictions imposed by this Act should cease to be imposed, Government may, by notification in the Cochin Government Gazette suspend or relax to a specified extent either indefinitely or for such period as may be specified in the notification the operation of all or any of the provisions of this Act.

(2) Where the operation of certain provisions of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by Government by notification in the Cochin Government Gazette”.

**PROCLAMATION****(XIV of 1119)****THE COTTON CLOTH AND YARN (CONTRACTS)  
PROCLAMATION  
CONTENTS****Preamble  
Sections**

1. Short title, extent and commencement.
2. Sales in pursuance of contracts.

**THE COTTON CLOTH AND YARN (CONTRACTS)  
PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 8th day of Meenam 1119 corresponding  
to the 21st day of March 1944*

[Published in the Cochin Government Gazette,  
dated 12th Meenam 1119]

WHEREAS an emergency has arisen which makes it necessary to regulate the prices which may be charged in sales of cotton cloth and yarn under contracts; We are hereby pleased to command as follows.—

- (1) This Proclamation may be called the Cotton Cloth and Yarn (Contracts) Proclamation, XIV of 1119. Short title, extent and commencement.
  - (2) It extends to the whole of Cochin State.
  - (3) It shall come into force at once.
2. (1) Where after the making of any contract for the sale of cotton cloth or cotton yarn by one wholesale dealer to another or by a wholesale dealer to a retail dealer the maximum prices ex-factory and retail at which such cloth or yarn may be sold have been fixed by an order made under the Cochin Cotton Cloth and Yarn (Control) Order, 1118, then, notwithstanding anything to the contrary in such contract, when any delivery takes place in pursuance of that contract on or after the date of the said order, the maximum price which may be charged for such Sales in pursuance of contracts.

cloth or yarn shall not in any case exceed the maximum retail price fixed by the said order, nor shall it in the case of a first or any subsequent sale after delivery from the manufacturer exceed by more than a percentage to be fixed in this behalf by Government the price paid on the occasion of the last preceding transfer, or, if the said order has fixed a maximum price in respect of such sale, that maximum price; and where, in pursuance of any such contract the buyer has paid a price exceeding that laid down in this section, whether voluntarily or in execution of a decree passed by a court or otherwise, he shall be entitled to receive from the seller any sum so paid in excess.

- (2) The provisions of this section apply to contracts made whether before or after the commencement of this Proclamation, and to sales made in pursuance of any such contract on or after the 15th day of August 1943.

## PROCLAMATION

(XV of 1119)

### THE NATIONAL SERVICE (TECHNICAL PERSONNEL) PROCLAMATION

#### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 3.
4. Amendment of section 4.
5. Amendment of sections 5, 6 and 7.  
National Service Labour Tribunal.  
Enquiries by Tribunal.  
Release, disposal and training of technical personnel by order of Tribunal.

6. Amendment of section 8.
7. Amendment of sections 9 and 10.  
Appeals.  
Power of Government in respect of technical personnel.
8. Insertion of new section 10-A  
Release of technical personnel for employment overseas or in His Majesty's Forces.
9. Amendment of section 11.
10. Amendment of section 12.
11. Amendment of section 13.  
Relinquishment of employment by, dismissal of, and engagement by industrial undertakings of, technical personnel.
12. Amendment of section 19.  
Power to make rules.
13. Substitution of new Schedule for the Schedule to the Proclamation.

THE NATIONAL SERVICE (TECHNICAL PERSONNEL)  
PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 22nd day of Meenam 1119 corresponding to  
the 4th day of April 1944*

[Published in the Cochin Government Gazette,  
dated 3rd Medam 1119]

WHEREAS it is necessary further to amend the National Service (Technical Personnel) Proclamation, I of 1116; We are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the National Service (Technical Personnel) Amendment Proclamation, XV of 1119. Short title and commencement.
- (2) It shall come into force at once.
2. In section 2 of the National Service (Technical Personnel) Proclamation, I of 1116 (hereinafter referred to as the Proclamation),— Amendment of section 2.
  - (a) for clause (a) the following clause shall be substituted, namely.—

“(a) “technical personnel” includes all persons normally employed, or declared by the Tribunal to be normally employed, in any of the capacities specified in the Schedule and any such person, or class of persons undergoing training in any such capacity, as may be declared by Government by notification in the Cochin Government Gazette to be technical personnel for the purposes of this Proclamation; but does not include any person who is not liable under section 3 to undertake employment in the national service;”

(b) to clause (b) the following shall be added, namely.—

“and includes any place deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of the Indian Factories Act, 1934 or sub-section (1) of section 5 of the Cochin Factories Act, II of 1113”.

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

“(c) “industrial undertaking” means—

(i) any concern engaged in—

(a) the manufacture or production of any article or commodity,

(b) the supply or distribution of light, power or water,

(c) the supply or maintenance of any form of mechanised transport;

(ii) any concern engaged in installing equipment or erecting premises



for the purposes of or preparing and producing designs for or testing the products of any concern of the nature specified in sub-clause (i);

(iii) any training establishment;

(iv) any other undertaking which Government may, by general or special declaration notified in the Cochin Government Gazette, declare to be an industrial undertaking; ”;

(d) for clause (d) the following clause shall be substituted, namely.—

“(d) “employment in the national service” means employment undertaken in pursuance of an order passed under clause (b) or clause (c) of sub-section (1) of section 7 or under clause (b) of sub-section (1) or sub-section (2) of section 10; ”;

(e) in clause (e) after the words “by notification” the words “or order in writing” shall be inserted; and

(f) clause (h) shall be relettered as (j) and the following inserted as clauses (h) and (i).

“(h) “technical post under His Majesty” means any post under His Majesty the holder of which is required to possess a knowledge of one or more of the trades (or occupations) specified in the schedule;

(i) “training establishment” means any technical institution or training centre established, selected or approved by Government for the training of technical personnel.”

3. In section 3 of the Proclamation, after the words “Our Subjects” the words “or Asiatic immigrants from any Asiatic territory outside India notified in this behalf by Government in the Cochin Government Gazette” shall be inserted. Amendment  
of section 3.

Amendment  
of section 4.

4. In section 4 of the Proclamation—
- (a) in sub-section (1), after the words “by notification in the Cochin Government Gazette” the words “or by order in writing” shall be inserted; and
- (b) for sub-section (2) the following shall be substituted.—
- “(2) Every notified factory, training establishment or department under His Majesty shall be eligible to apply in the prescribed form, to the Tribunal or to Government for technical personnel and having so applied, shall take into its employment such technical personnel within such period and on such terms and conditions as the Tribunal or Government, as the case may be, may direct.
- (3) Government may, as a condition of declaring or of continuing to recognise any factory as a notified factory, by general or special order, require that the factory shall make such provision as may be specified in the order in regard to the terms of service and conditions of work of its employees or for affording technical instruction and training”.

Amendment  
of sections 5,  
6 and 7.

5. For sections 5, 6 and 7 of the Proclamation the following shall be substituted.—

National Service  
Labour  
Tribunal.

- “5. (1) Government shall constitute a National Service Labour Tribunal (in this Proclamation referred to as Tribunal) to exercise the functions assigned to the Tribunal by this Proclamation;
- (2) The Tribunal shall consist of a chairman and not less than two other members all of whom shall be servants of His Majesty and shall be appointed by Government:

Provided that for the purposes of this sub-section officers of Company-managed railways shall be deemed to be servants of His Majesty.

- (3) Any two members of the Tribunal shall constitute a quorum.

- (4) The Tribunal shall have power to associate with itself in its deliberations such other persons as it thinks fit under such conditions as may be prescribed.
  - (5) The Tribunal may meet at such times and places as it thinks fit and shall meet when required to do so by Government.
  - (6) The Tribunal shall have the powers of a Civil Court for the purpose of recording evidence, administering oaths, enforcing the attendance of witnesses and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 381 and 383 of the Code of Criminal Procedure, II of 1950 (and a court for the purposes of clause (aa) of the proviso to section 177 of that Code).
  - (7) The Tribunal may order any person, included within the definition of technical personnel, to submit himself to be examined by such medical authority as may be prescribed.
  - (8) The Tribunal may, subject to the prescribed conditions and limitations, delegate to its chairman any of its functions.
6. (1) The Tribunal may, subject to any rules made in this behalf under section 19, take steps to ascertain particulars of the technical personnel employed in any industrial undertaking (including a notified factory), the suitability of such personnel for employment in the national service and the capacity of the undertaking to release such personnel or any part thereof for such employment, having regard to the nature of the work in which such personnel or part is engaged.
- (2) for the purposes of sub-section (1), the Tribunal may—
- (a) summon the owner or manager of any industrial undertaking or any employee of such undertaking to appear before it and furnish such information as it may require.

Enquiries by  
Tribunal.

- (b) authorise one of its members or an Inspector appointed by it to enter upon and inspect any premises occupied by such undertaking and call for any information whether documentary or otherwise which appears to it to be necessary,
- (c) authorise an Inspector appointed by it or any person who belongs to the managerial or supervisory class of technical personnel to enter upon any premises occupied by such undertaking and test the technical skill of such persons as the Tribunal may by order in writing direct, and
- (d) require any industrial undertaking to afford such facilities as the Tribunal may specify for testing the skill of any technical personnel whether such personnel is employed by such undertaking or not,

and the owner or manager of the industrial undertaking and any employee of such undertaking shall comply with any requisition made in this behalf by or under authorisation from the Tribunal.

**Release, disposal and training of technical personnel by order of Tribunal.**

7. (1) Subject to any rules made in this behalf under section 19, the Tribunal may, by order in the prescribed form,—
- (a) require the owner or manager of any industrial undertaking other than a notified factory or a training establishment to release such technical personnel as it may specify for employment in the national service,
  - (b) direct technical personnel, who are either unemployed or are not already employed in a notified

factory, training establishment or technical post under His Majesty, to undertake employment in the national service in any notified factory or training establishment within the limits of its jurisdiction, or in any factory or technical post under His Majesty in any part of British India,

- (c) transfer technical personnel in respect of whom an order has been passed under clause (b) from one form or place of employment in the national service to another,
- (d) direct technical personnel, whether employed or unemployed, to present themselves at such place and time as may be specified in the order for interview or inquiry and, if so required, for submission to a test of their technical skill,
- (e) require the owner or manager of any industrial undertaking (other than an undertaking under His Majesty) to provide training for such numbers of persons as technical personnel on such terms and conditions as may be specified in the order,

and such order shall be complied with within such period or on such date as may be specified in the order.

- (2) No person included in the definition of technical personnel, who has been directed under sub-section (1) to undertake employment in the national service, shall be discharged from or leave his employment in such service unless the employer or the person concerned, as the case may be, has previously obtained the permission in writing of the Tribunal."

**Amendment  
of section 8.**

6. In section 8 of the Proclamation—

- (a) after the words “in a notified factory” the words “training establishment or technical post under His Majesty” shall be inserted;
- (b) for the words, brackets, figure and letter “under clause (b) of section 7” the words, brackets, figures and letters “under clause (b) or clause (c) of sub-section (1) of section 7” shall be substituted.

**Amendment  
of sections 9  
and 10.**

**Appeals.**

7. For sections 9 and 10 of the Proclamation the following shall be substituted.—

“9. An appeal shall lie to Government against any order passed by the Tribunal under clause (a), clause (b), clause (c) or clause (e) of sub-section (1) of section 7 or under section 8 and the decision of Government shall be final.

**Power of  
Government  
in respect of  
technical  
personnel.**

10. (1) Government may require the Tribunal to report what technical personnel, whether employed in industrial undertakings or otherwise, is available within its jurisdiction for employment in the national service, and may, whether or not the Tribunal has been so required to report by order in writing,—

- (a) require any industrial undertaking by which technical personnel is employed to release such personnel as may be specified in the order for employment in the national service;
- (b) direct any technical personnel to undertake such employment in the national service as may be specified in the order;
- (bb) direct that any technical personnel engaged in an industrial undertaking under conditions not amounting to employment in the national service, shall, for the purposes of sub-section (3), be deemed to have been taken into employment in the national service; and

- (c) require any notified factory, notwithstanding that it has not made any application under sub-section (2) of section 4, to take into its employment such technical personnel within such period as may be specified in the order.
- (2) Government may, by order in writing, transfer technical personnel from one form or place of employment in the national service to another, and the employer and the personnel concerned shall comply with such order.
- (3) The terms of service of technical personnel taken into employment in the national service in pursuance of an order made under sub-section (1) or transferred under sub-section (2) shall, subject to the conditions prescribed for the purposes of section 8, be laid down by Government.
- (4) Government may order any person who is required under sub-section (1) to undertake employment in the national service, or who is transferred under sub-section (2) from one form or place of employment to another, to submit himself to be examined by such medical authority as may be prescribed.
- (5) No person included in the definition of technical personnel who has been directed under sub-section (1) or sub-section (2) to undertake employment in the national service shall be discharged from or leave his employment unless the employer or the person concerned, as the case may be, has previously obtained the permission in writing of Government."

8. After section 10 of the Proclamation the following section shall be inserted, namely.—

"10A. (1) Where a person included in the definition of technical personnel is willing to undertake employment in any of the capacities specified in the Schedule in His Majesty's Forces or outside India, and Government

Insertion of new section 10A.

Release of technical personnel for employment overseas or in His Majesty's Forces.

are satisfied that such person would if released be taken into such employment and, in the case of employment outside India, that the employment to be undertaken is of national importance, Government may by order in writing require the owner or manager of any industrial undertaking by which such person is for the time being employed to release him for such employment.

(2) Subject to any rules made in this behalf under section 19 the Tribunal may exercise the powers conferred on Government by sub-section (1) in respect of technical personnel employed in any industrial undertaking other than an undertaking under Government.

(3) For the purposes of section 11, a person who has been released on a requirement under this section shall be deemed to have been released for employment in the national service".

Amendment  
of section 11.

9. In sub-section (1) of section 11 of the Proclamation for the word "Government" the words "the Tribunal or Government" shall be substituted.

Amendment  
of section 12.

10. In section 12 of the Proclamation sub-sections (3) and (4) shall be renumbered as sub-sections (4) and (5) and the following shall be inserted as sub-section (3), namely.—

"(3) No person serving as a member of the Tribunal shall, while so serving, be a member of the Special Tribunal".

Amendment  
of section 13.

11. In section 13 of the Proclamation—

(a) for sub-sections (1) and (2) the following shall be substituted.—

"(1) Subject to any rules made in this behalf under section 19 the Tribunal may require any industrial undertaking (including a notified factory) to post before a specified date and to keep posted on its premises notices making known

Relinquish-  
ment of em-  
ployment by,  
dismissal of,  
and engage-  
ment by  
industrial  
undertakings  
of, technical  
personnel.



the provisions of sub-sections (1), (2) and (3) of this section and intimating also the place to which applications to the Tribunal may be addressed.

(2) After any such notice has been posted no person included within the definition of technical personnel who is either employed in or is undergoing training in that undertaking shall leave his employment or training unless he has previously obtained the permission in writing of the Tribunal, and if any person leaves his employment or training without such permission, he may, without prejudice to his liability under section 14, be ordered by the Tribunal to return to his employment or training.

(2A) Where the Tribunal refuses permission to leave employment, the Tribunal may, of its own motion or on application by the person refused permission, lay down subject to the prescribed conditions the terms of service on which the employer shall continue to retain him in employment, and the employer shall not thereafter, notwithstanding anything contained in sub-section (3), discharge, dismiss, suspend or release such person without the previous permission of the Tribunal".

(b) In sub-section (3)—

(i) for the words "or any notified factory" the words "(including a notified factory)" shall be substituted;

(ii) for the words "shall discharge, dismiss or release" the words "shall save as may be otherwise prescribed discharge, dismiss, suspend, release or remove from one factory to another" shall be substituted; and

(iii) for the words "dismissal or release" the words "dismissal, suspension, release or removal" shall be substituted.

(c) the following shall be added as sub-section

(4), namely.—

"(4) Subject to any rules made in this behalf under section 19 the Tribunal may control the engagement of technical personnel by industrial undertakings (including notified factories) in such manner as it thinks fit."

Amendment  
of section 19.

12. For section 19 of the Proclamation the following shall be substituted.—

Power to  
make rules.

"19. (1) Government may, by notification in the Cochin Government Gazette, make rules for carrying out the provisions of this Proclamation.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the conditions governing the appointment of the persons referred to in sub-section (4) of section 5;

(b) the medical authority referred to in sub-section (7) of section 5 and sub-section (4) of section 10;

(c) the conditions under and the manner in which the tests mentioned in clause (c) of sub-section (2) of section 6 and clause (d) of section 7 shall be carried out;

- (d) the conditions and limitations governing the exercise of its functions by the Tribunal under sections 6, 7 and 8, sub-section (2) of section 10A and sub-section (2A) of section 13;
  - (e) the manner of preferring appeals under section 9 and of making references under the proviso to sub-section (1) of section 11;
  - (f) the matters requiring to be prescribed for the purposes of sub-sections (1), (3) and (4) of section 13;
  - (g) the registers or other documents to be maintained or prepared by industrial undertakings (including notified factories) and by Tribunals, and the forms of applications, notices and orders to be used for the purposes of this Proclamation.
- (3) Any rule made under this section may provide that a contravention of the rule shall be punishable with imprisonment for any term not exceeding six months, or with fine not exceeding one thousand rupees, or with both."

13. For the Schedule to the Proclamation the following Schedule shall be substituted, namely.—

Substitution  
of new  
Schedule for  
the Schedule  
to the Pro-  
clamation.

## "THE SCHEDULE

[See section 2 (a)]

### Technical Personnel

#### Managerial or Operational Staff

- |                                                                             |                          |
|-----------------------------------------------------------------------------|--------------------------|
| 1. Aircraft Pilots.                                                         | 4. Civil Engineers.      |
| 2. Assistant Work Managers.                                                 | 5. Electrical Engineers. |
| 3. Chemists (industrial, metallurgical, analytical and technical research). | 6. Mechanical Engineers. |
|                                                                             | 7. Production Engineers. |
|                                                                             | 8. Works Managers.       |

**Supervisory Staff**

- |                                 |                                       |
|---------------------------------|---------------------------------------|
| 1. Assistant Foremen.           | 9. Master Tailors and Master Cutters. |
| 2. Chargehands.                 | 10. Overseers.                        |
| 3. Chargemen.                   | 11. Storekeepers, Storeholders.       |
| 4. Chemical Process Foremen.    | 12. Supervising Maistries.            |
| 5. Ground Engineers (Aircraft). | 13. Supervisors.                      |
| 6. Inspectors (of all grades).  | 14. Viewers.                          |
| 7. Inspectors of material.      | 15. Works Chemists.                   |
| 8. Leading Hands.               | 16. Workshop Foremen.                 |

**Skilled and Semi-skilled Trades and Occupations**

- |                                                                                 |                                                                           |
|---------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 1. Aircraft Mechanics.                                                          | 35. Estimators.                                                           |
| 2. Armature Winders.                                                            | 36. Examiners (Tool and Wood).                                            |
| 3. Armourers.                                                                   | 37. Filers, Vicemen.                                                      |
| 4. Beater Mistris (Paper Mill).                                                 | 38. Fillers (Brushware).                                                  |
| 5. Beltmen.                                                                     | 39. Fitters.                                                              |
| 6. Blacksmiths, Angle Smiths, Spring Makers, Heavy Forge Smiths, Drop Stampers. | 40. Furnacemen, Firemen, Stokers.                                         |
| 7. Boiler Cleaners.                                                             | 41. Galvanizers.                                                          |
| 8. Boiler Makers, Platers.                                                      | 42. Gauge and Tool Fitters.                                               |
| 9. Boot and Shoe Makers.                                                        | 43. Hammermen, Holders up, Strikers.                                      |
| 10. Braiziers.                                                                  | 44. Ingot Parters.                                                        |
| 11. Bricklayers.                                                                | 45. Instrument Mechanics.                                                 |
| 12. Brick Moulders.                                                             | 46. Lead Burners.                                                         |
| 13. Brick and Tile Makers.                                                      | 47. Lithographers.                                                        |
| 14. Bronzers and Lacquerers.                                                    | 48. Lithoprinters.                                                        |
| 15. Carpenters, Joiners.                                                        | 49. Machine Mistris (Paper Mill).                                         |
| 16. Caulkers.                                                                   | 50. Machinists, Drillers, Shapers, Millers, Planers, Polishers, Grinders. |
| 17. Chemical Assistants (Analysits).                                            | 51. Markers Out.                                                          |
| 18. Chemical Process Workers.                                                   | 52. Masons.                                                               |
| 19. Coach Finishers.                                                            | 53. Millwrights.                                                          |
| 20. Component Setters, Machine and Tool Setters.                                | 54. Motor Mechanics.                                                      |
| 21. Coopers.                                                                    | 55. Motormen.                                                             |
| 22. Coppermiths.                                                                | 56. Moulders.                                                             |
| 23. Core Makers.                                                                | 57. Painters.                                                             |
| 24. Crane Drivers.                                                              | 58. Pattern Makers.                                                       |
| 25. Cupola Men.                                                                 | 59. Petrol Mechanics.                                                     |
| 26. Curriers.                                                                   | 60. Photo-Litho Operators.                                                |
| 27. Cutlers.                                                                    | 61. Process Photographers.                                                |
| 28. Die Singers.                                                                | 62. Plumbers.                                                             |
| 29. Draughtsmen (Mechanical, Structural, Jig and Tool).                         | 63. Precision Grinders, Gauge and Tool Grinders.                          |
| 30. Electricians.                                                               | 64. Press Workers.                                                        |
| 31. Electroplaters.                                                             | 65. Progressmen, Routers or Chasers.                                      |
| 32. Engine Drivers (Steam and Internal Combustion).                             | 66. Rate Fixers.                                                          |
| 33. Engravers.                                                                  | 67. Riveters.                                                             |
| 34. Erectors.                                                                   | 68. Riggers and Slingers.                                                 |
|                                                                                 | 69. Ropeworkers.                                                          |
|                                                                                 | 70. Saddlers.                                                             |

71. Sawyers.	81. Tube Workers.
72. Slotters.	82. Turners.
73. Storemen.	83. Upholsterers.
74. Surveyors.	84. Vulcanists.
75. Tanners.	85. Weighmen.
76. Tin Smiths.	86. Welders, acetylene and electric.
77. Tool Hardeners.	87. Wheelers.
78. Tool Makers.	88. Wireless Operators.
79. Tracers, Ferro-printers.	89. Wiremen.
80. Trimmers.	90. Wood Machinists."

## PROCLAMATION

### (XVI of 1119)

#### THE SUBVERSIVE ACTIVITIES PROCLAMATION CONTENTS

#### Preamble

#### Sections

1. Short title, extent, application and commencement.
2. Interpretation.
3. Subversive acts and uttering, and making, publishing, etc., document containing subversive matter.
4. Possession of document containing subversive matter.
5. Enhancement of penalty for certain offences punishable under the Cochin Penal Code.

#### THE SUBVERSIVE ACTIVITIES PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,*

*on the 22nd day of Meenam 1119 corresponding to  
the 4th day of April 1944.*

[Published in the Cochin Government Gazette,  
dated 3rd Medam 1119]

WHEREAS it is necessary to provide more effective punishment for certain subversive activities directed against the State or His Majesty's Naval, Military or Air Forces, or the Cochin State Forces; We are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Subversive Activities Proclamation, XVI of 1119.
- (2) It extends to the whole of Cochin State and it applies also in respect of the regulation and discipline of the Cochin State Forces,

Short title,  
extent, appli-  
cation and  
commence-  
ment.

to members of, and persons attached to, employed with or following, that force, wherever they may be.

- (3) It shall come into force at once and shall remain in force until such time as Government may, by notification in the Cochin Government Gazette, determine.

**Interpreta-  
tion.**

2. In this Proclamation—

(a) “document” includes gramophone records, sound tracks, and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

(b) “subversive act” means any act which is intended or is likely to cause disaffection among or to prejudice, prevent or interfere with the discipline, health or training of or the performance of their duties by, members of the Cochin State Forces or His Majesty’s Naval, Military or Air Forces, or to induce or influence any member of the Cochin State Forces or His Majesty’s Naval, Military or Air Forces to fail in the performance of his duties as such or to render any member of the Cochin State Forces or His Majesty’s Naval, Military or Air Forces incapable of efficiently performing his duties as such.

(c) “subversive matter” means any matter, whether expressed in words, spoken or written or in signs or visible representations or in any other manner whatsoever which is intended or is likely to cause disaffection among or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties by, members of the Cochin State Forces or His

Majesty's Naval, Military or Air Forces or to induce or influence any member of the Cochin State Forces or His Majesty's Naval, Military or Air Forces to fail in the performance of his duties as such, or which is an incitement to the commission of a subversive act.

3. Whoever—

(a) does any subversive act, or

(b) without lawful authority or excuse utters, or makes prints, publishes, distributes or spreads by any means whatsoever any document containing any subversive matter,

shall be punishable with imprisonment for a term which may extend to ten years and shall also be liable to fine.

**Subversive acts and uttering, and making, publishing, etc., document containing subversive matter.**

4. (1) Whoever without lawful authority or excuse has in his possession any document containing any subversive matter shall be punishable with imprisonment for a term which may extend to ten years and shall also be liable to fine.

**Possession of document containing subversive matter.**

(2) Any person who, without lawful authority or excuse, has on any premises in his occupation or under his control any document containing any subversive matter shall, unless he proves that he did not know and had no reason to suspect that the said document contained any subversive matter, or that the said document was on such premises without his knowledge or against his consent, be deemed to have contravened this section.

5. Whoever commits an offence punishable under section 117 or section 118 or section 119 or section 126A of the Cochin Penal Code, II of 1059, may, in lieu of any punishment to which he is liable under the said Code be punished with death.

**Enhancement of penalty for certain offences punishable under the Cochin Penal Code.**

**THE COCHIN PORT ROADS CONTROL  
(AMENDMENT) ACT  
(VIII of 1119)  
CONTENTS**

**Preamble****Sections**

1. Short title and commencement.
2. Amendment of the preamble.
3. Substitution of section 3.  
Levy of fees on carriages using Port Road and on goods entering or leaving Port Area by road.
4. Amendment of section 5.
5. Amendment of section 6.
6. Amendment of section 8.
7. Amendment of section 10.
8. Addition of Schedule.

**THE COCHIN PORT ROADS CONTROL (AMENDMENT)  
ACT**

*Passed by His Highness the Maharaja of Cochin,  
on the 22nd day of Meenam 1119 corresponding  
to the 4th day of April 1944*

[Published in the Cochin Government Gazette,  
dated 3rd Medam 1119]

**Preamble.**

WHEREAS it is necessary to amend the Cochin Port Roads Control Act, X of 1117, for the purposes hereinafter appearing; It is hereby enacted as follows.—

**Short title and commencement.**

1. This Act may be called the Cochin Port Roads Control (Amendment) Act, VIII of 1119, and shall come into force on such date as Government may by notification in the Cochin Government Gazette appoint.

**Amendment of the preamble.**

2. In the preamble to the Cochin Port Roads Control Act, X of 1117, hereinafter referred to as the Act, for the words "driven along the Port Roads" the words "entering the Port Roads and of terminal fees on goods carried by such roads and for the regulation of traffic in such roads" shall be substituted.

**Substitution of section 3.**

3. For section 3 of the Act the following shall be substituted, namely.—



"3. No carriage or cart shall enter or make use of any of the Port Roads and no goods shall be carried along the said roads unless the fees specified in Schedule I or Schedule II, as the case may be, are duly paid to such person and at such place and in such manner as may be prescribed: Levy of fees on carriages using Port Road and on goods entering or leaving Port Area by road.

Provided that no such fees shall be levied on goods or carriages or carts belonging to or in the service of Government or exempted by general or special order of Government."

4. For sub-section (1) of section 5 of the Act the following shall be substituted, namely.— Amendment of section 5.

"(1) If the fee payable under section 3 is not paid the person appointed to collect it may seize and detain, in the case of the fees leviable on goods such portion of the goods and in the case of the fees leviable on carriages and carts such portion of the appurtenances of the carriage or cart as will in his opinion suffice to defray the amount due; in the absence of appurtenances or in the event of the value of such appurtenances being insufficient to defray the fee due in respect of the carriage or cart, he may seize and detain the carriage or cart."

5. In section 6 of the Act for the word "vehicle" the words "carriage or cart" shall be substituted. Amendment of section 6.

6. In section 8 of the Act for the word "Schedule" the word "Schedules" shall be substituted. Amendment of section 8.

7. In sub-section (2) of section 10 of the Act— Amendment of section 10.

(1) the word "and" occurring at the end of clause (b) shall be deleted;

(2) the word "and" shall be added after clause (c); and

(3) the following shall be added as clause (d), namely—

"(d) the regulation of traffic on the Port Roads".

8. The Schedule to the Act shall be numbered as Schedule I and the following shall be added as Schedule II.— Addition of Schedule.

"SCHEDULE II

Goods	Rate			
	Rs.	A.	P.	
1. Grains and Pulses ..	0	4	0	per ton
2. Goods other than Grains and Pulses	0	7	0	do."

**THE CATTLE TRESPASS (AMENDMENT)  
ACT**

**(IX of 1119)**

**CONTENTS**

**Preamble**

**Sections**

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of sections 4 and 5.
4. Amendment of section 6.
5. Amendment of section 12.
6. Amendment of section 14.
7. Amendment of section 17.
8. Amendment of section 19.
9. Amendment of section 19-A.

**THE CATTLE TRESPASS (AMENDMENT)  
ACT**

*Passed by His Highness the Maharaja of Cochin,  
on the 22nd day of Meenam 1119 corresponding  
to the 4th day of April 1944*

**[Published in the Cochin Government Gazette,  
dated 3rd Medam 1119]**

**Preamble.** WHEREAS it is necessary to further amend the Cattle Trespass Act, III of 1071; It is hereby enacted as follows.—

**Short title and commencement.** 1. This Act may be called the Cattle Trespass (Amendment) Act, IX of 1119, and shall come into force at once.

**Amendment of section 3.** 2. In section 3 of the Cattle Trespass Act, III of 1071, hereinafter referred to as the Act, the following definition shall be added.—

“ ‘Tahsildar’ includes a Deputy Tahsildar.”

3. In sections 4 and 5 of the Act, for the words “District Magistrate” wherever they occur, the words “Diwan Peishkar” shall be substituted. **Amendment of sections 4 and 5.**

4. In section 6 of the Act for the words “District Magistrate” in the two places where they occur the words “Diwan Peishkar” and for the words “such Magistrate” the words “the Diwan Peishkar” shall be substituted. **Amendment of section 6.**

5. In section 12 of the Act—

(1) in the proviso—

(a) for the words “a Magistrate of a District” the words “the Diwan Peishkar” shall be substituted; and **Amendment of section 12.**

(b) the words “subject to the jurisdiction or control of such Magistrate” shall be deleted; and

(2) in the paragraph occurring next after the proviso for the words “District Magistrate” the words “Diwan Peishkar” shall be substituted.

6. In section 14 of the Act—

(1) for the words “the Officer in charge of the nearest police station” the words “the Tahsildar” shall be substituted; and **Amendment of section 14.**

(2) for the words “District Magistrate” wherever they occur the words “Diwan Peishkar” shall be substituted.

7. In section 17 of the Act for the words “District Magistrate” wherever they occur the words “Diwan Peishkar” shall be substituted. **Amendment of section 17.**

8. In section 19 of the Act for the word “Magistrate” the word “Tahsildar” shall be substituted. **Amendment of section 19.**

9. In section 19-A of the Act for the words “District Magistrate” the words “Diwan Peishkar” shall be substituted. **Amendment of section 19-A.**

**THE COCHIN REGISTRATION  
(AMENDMENT) ACT  
(X of 1119)**

**CONTENTS**

**Preamble**

**Sections**

1. Short title and commencement.
2. Amendment of section 15.
3. Substitution of section 57.  
    Procedure on registering documents relating to land.
4. Amendment of section 59.

**THE COCHIN REGISTRATION (AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin,  
on the 22nd day of Meenam 1119 corresponding  
to the 4th day of April 1944*

[Published in the Cochin Government Gazette,  
dated 3rd Medam 1119]

**Preamble.**

WHEREAS it is expedient further to amend the Cochin Registration Act, V of 1084; It is hereby enacted as follows.—

**Short title  
and com-  
mencement.**

1. This Act may be called the Cochin Registration (Amendment) Act, X of 1119, and it shall come into force at once.

**Amendment  
of section 15.**

2. In clause (c) of section 15 of the Cochin Registration Act, V of 1084, hereinafter referred to as the Act, the words “or, in case such property is situate in several districts by such number of true copies of the map or plan as are equal to the number of such districts” shall be deleted.

**Substitution  
of section 57.**

3. For section 57 of the Act, the following shall be substituted.—

**Procedure  
on regis-  
tering docu-  
ments  
relating to  
land.**

“57. On registering any non-testamentary document relating to immoveable property not wholly situate in his district, the Registrar shall make a memorandum thereof and of the endorsement and certificate (if any) thereon and send the same to every other Registrar in whose district any part of such property is situate, with extracts showing the description of properties or schedules

as contained in the document regarding properties in the respective districts.

Such Registrar on receiving any such memorandum shall file it in his Book No. I."

4. In section 59 of the Act, the following shall be inserted as a new clause after the clause ending with the word and figure "section 56".— <sup>Amendment of section 59.</sup>

"prescribing the form in which memoranda to be transmitted under section 57 shall be prepared".

## PROCLAMATION

(XVII of 1119)

### THE RESTRICTION AND DETENTION PROCLAMATION

#### CONTENTS

#### Preamble

#### Sections

1. Short title, extent, application and commencement.
2. Power to make orders restricting the movements or actions of or detaining certain persons.
3. Powers of photographing, etc., persons.
4. Delegations of powers and duties of Government to other authorities and to officers.
5. Orders made under Rule 26 of the Defence of India Rules.
6. Grounds of order of detention to be disclosed to person affected by the order.
7. Order of detention made in pursuance of delegation under section 4 to be reported to Government for confirmation.
8. Duration of orders of detention made under section 2.
9. Saving as to orders.
10. Disclosure of grounds of detention, etc., communicated or of contents of written representation made under section 6.
11. Protection of action taken under this Proclamation.
12. Application of other laws not barred.

## THE RESTRICTION AND DETENTION PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 24th day of Medam 1119 corresponding to  
the 6th day of May 1944*

[Published in the Cochin Government Gazette,  
dated 24th Medam 1119]

WHEREAS an emergency has arisen which makes it necessary to empower Government and any officer or authority to whom Government may delegate their powers in this behalf to restrict the movements and actions of and to place in detention and detain certain persons, to regulate the exercise of these powers and the duration of orders made in such exercise; We are pleased to command as follows.—

Short title,  
extent,  
application  
and  
commence-  
ment.

1. (1) This Proclamation may be called the Restriction and Detention Proclamation, XVII of 1119.
- (2) It extends to the whole of Cochin State, and it applies also to Cochin subjects in any part of India.
- (3) It shall come into force at once.

Power to  
make orders  
restricting  
the move-  
ments or  
actions of  
or detaining  
certain  
persons.

2. (1) Government, if satisfied with respect to any particular person that with a view to preventing him from acting in any manner prejudicial to the defence of Cochin State, the public safety, the maintenance of public order, His Highness' relations with His Majesty or any other Indian State, the maintenance of peaceful conditions in Cochin State or the efficient prosecution of the war it is necessary so to do, may make an order—
  - (a) directing such person to remove himself from Cochin State in such manner, by such time and by such route as may be specified in the order, and prohibiting his return to Cochin State;
  - (b) directing that he be detained;
  - (c) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as

may be specified therein, he shall not be in any such area or place in Cochin State as may be specified in the order;

- (d) requiring him to reside or remain in such place or within such area in Cochin State as may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order;
  - (e) requiring him to notify his movements or report himself or both to notify his movements and report himself in such manner at such times and to such authority or person as may be specified in the order;
  - (f) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions;
  - (g) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order;
  - (h) otherwise regulating his conduct in any such particular as may be specified in the order.
- (2) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be specified in the order.
- (3) If any person is in any area or place in contravention of an order made under the provisions of this section, or fails to leave any area or place in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-section (6), he

may be removed from such area or place by any police officer or by any person acting on behalf of Government.

(4) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained, he shall be liable to be removed to and detained in such place and under such conditions, including conditions as to maintenance, discipline and the punishment of offences and breaches of discipline, as Government may from time to time by general or special order specify.

(5) If Government have reason to believe that a person in respect of whom such an order as aforesaid has been made directing that he be detained has absconded or is concealing himself so that the order cannot be executed, Government may—

(a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 72, 73 and 74 of the Code of Criminal Procedure, II of 1086, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(b) by order notified in the Cochin Government Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.



- (6) If any person contravenes any order made under this section, other than an order of the nature referred to in clause (b) of sub-section (5), he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (2), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.
- (7) Any order made under the powers given by this section shall have effect notwithstanding anything inconsistent therewith contained in any Act, Proclamation or order other than this Proclamation, or in any instrument having effect by virtue of any such Act, Proclamation, or order.

3. (1) Government may, by order, direct that any person, in respect of whom an order has been made under sub-section (1) of section 2, shall—
- Powers of photographing, etc., persons.
- (a) allow himself to be photographed,
- (b) allow his finger and thumb impressions to be taken,
- (c) furnish specimens of his handwriting and signature, and
- (d) attend at such time and place before such authority or person as may be specified in the order for all or any of the purposes mentioned in this sub-section.
- (2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

4. Government may by order direct that any power or duty which under section 2 or section 3 is conferred or imposed upon them shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority subordinate to Government.

Delegation of powers and duties of Government to other authorities and to officers.

5. Every order made under rule 26 of the Defence of India Rules as made applicable to Cochin by Proclamation, VIII of 1115, shall on the commencement of this Proclamation be deemed to have been, and shall have effect as if it had been, made under this Proclamation and as if this Proclamation had been in force at the time the order was made:

Orders made under Rule 26 of the Defence of India Rules.

Provided that section 6 and section 8 of this Proclamation shall apply in relation to any order made under clause (b) of sub-rule (1) of rule 26 of the Defence of India Rules as made applicable to Cochin as if that order had been made on the date of the commencement of this Proclamation, and section 7 of this Proclamation shall not apply to any such order.

Grounds of order of detention to be disclosed to person affected by the order.

6. Where an order is made in respect of any person under clause (b) of sub-section (1) of section 2 as soon as may be after the order is made, and where before the commencement of this Proclamation an order has been made in respect of any person under clause (b) of sub-rule (1) of rule 26 of the Defence of India Rules as made applicable to Cochin, as soon as may be after the commencement of this Proclamation, the authority making or which made the order shall communicate to the person affected thereby so far as such communication can be made without disclosing facts which the said authority considers it would be against the public interest to disclose, the grounds on which the order has been made against him and such other particulars as are in the opinion of such authority sufficient to enable him to make if he wishes a representation against the order, and such person may at any time thereafter make a representation in writing to such authority against the order, and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest practical opportunity of doing so.

Order of detention made in pursuance of delegation under section 4 to be reported to Government for confirmation.

7. When any order is made in respect of any person under clause (b) of sub-section (1) of section 2 by an officer or authority empowered in pursuance of section 4 that officer or authority shall forthwith report the fact to Government who shall, after considering all the circumstances of the case including any representation made by the person affected by the order, make an order confirming or cancelling the order.

Duration of orders of detention made under section 2.

8. No order made or deemed under the provisions of section 5 to have been made under clause (b) of sub-section (1) of section 2 shall be in force for more than six months from the date on which it is made:

Provided that Government may after a further consideration of all the circumstances of the case direct that the order shall continue in force notwithstanding that the said period of six months has expired, and the order as so extended shall continue in force for a further period of six months and thereafter if and so often as it is again extended by a further similar direction made in the same manner.

9. (1) No order made under this Proclamation, and no order having effect by virtue of section 5 as if it had been made under this Proclamation, shall be called in question in any Court. Saving as to orders.

(2) Where an order purports to have been made by any authority in exercise of any power conferred by or under this Proclamation, the Court shall, within the meaning of the Indian Evidence Act, as made applicable to Cochin, presume that such order was so made by that authority.

10. (1) No Court shall allow any statement to be made or any evidence to be given before it of the substance of any communication made under section 6 of the grounds on which an order under clause (b) of subsection (1) of section 2 has been made against any person, or of any particulars disclosed in connection therewith under section 6, or of any representation made under that section against any order, and notwithstanding anything contained in the Indian Evidence Act, as made applicable to Cochin, no Court shall be entitled to require any public officer to produce before it, or to disclose the substance of, any such communication of grounds, particulars disclosed, or representation made. Disclosure of grounds of detention, etc., communicated or of contents of written representation made under section 6.

(2) It shall be an offence punishable with imprisonment for a term which may extend to two years, or with fine, or with both, for any person to disclose or publish without the previous authorization of Government any contents of any such communication of grounds, particulars disclosed, or representation made:

Provided that nothing in this sub-section shall apply to a disclosure made by a person the subject of an order under this Proclamation to his legal adviser.

11. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Proclamation. Protection of action taken under this Proclamation.

12. The provisions of this Proclamation shall be in addition to, and not in derogation of, the provisions of any other Act, Proclamation or order for the time being in force. Application of other laws not barred.

## PROCLAMATION

(XVIII of 1119)

### THE NATIONAL SERVICE (TECHNICAL PERSONNEL) AMENDMENT PROCLAMATION

#### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Amendment of section 5.

### THE NATIONAL SERVICE (TECHNICAL PERSONNEL) AMENDMENT PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 24th day of Medam 1119 corresponding  
to the 6th day of May 1944*

[Published in the Cochin Government Gazette,  
dated 24th Medam 1119]

#### Preamble.

WHEREAS it is necessary further to amend the National Service (Technical Personnel) Proclamation, I of 1116; WE are hereby pleased to command as follows.—

#### Short title and commencement.

1. This Proclamation may be called the National Service (Technical Personnel) Amendment Proclamation, XVIII of 1119, and it shall come into force at once.

#### Amendment of section 5.

2. In sub-section (2) of section 5 of the National Service (Technical Personnel) Proclamation, I of 1116,—

(a) for the words “servants of His Majesty” the words “servants of Government” shall be substituted; and

(b) the proviso shall be deleted.

# THE COCHIN MUNICIPAL (AMENDMENT) ACT

(XI of 1119)

## CONTENTS

### Preamble

### Sections

1. Short title and commencement.
2. Amendment of section 93-A.

### THE COCHIN MUNICIPAL (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin,  
on the 19th day of Medam 1119 corresponding  
to the 1st day of May 1944*

[Published in the Cochin Government Gazette,  
dated 24th Medam 1119]

WHEREAS it is necessary further to amend the Preamble.  
Cochin Municipal Act, XVIII of 1113; It is hereby  
enacted as follows.—

1. This Act may be called the Cochin Municipal Short title  
and com-  
mencement.  
(Amendment) Act, XI of 1119, and shall come into force  
at once.

2. In section 93-A of the Cochin Municipal Act, Amendment  
of section  
93-A.  
XVIII of 1113—

- (a) between the words “motor cars” and “on”  
the words “and motor cycles” shall be  
inserted;
- (b) between the words “cars” and “ply” the  
words “and cycles” shall be inserted ;
- (c) in clause (1) for the word “cars” the words  
“motor cars and motor cycles” shall be  
substituted;
- (d) in clause (2) after the words “motor cars”  
the words “and motor cycles” shall be  
added; and
- (e) for the explanation, the following shall be  
substituted, namely.—

“*Explanation.*—“Motor cars” and “Motor cycles”  
in this section shall have the meanings assigned to them  
in the Cochin Motor Vehicles Act, VIII of 1116.”

# THE COCHIN TOBACCO (AMENDMENT)

## ACT

(XII of 1119)

### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Amendment to section 5.

### THE COCHIN TOBACCO (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin,  
on the 19th day of Medam 1119 corresponding  
to the 1st day of May 1944*

[Published in the Cochin Government Gazette,  
dated 24th Medam 1119]

#### Preamble.

WHEREAS it is expedient to further amend the Cochin Tobacco Act, VII of 1084; It is hereby enacted as follows.—

#### Short title and commencement.

1. This Act may be called the Cochin Tobacco (Amendment) Act, XII of 1119, and it shall come into force at once.

#### Amendment to section 5.

2. In section 5 of the Cochin Tobacco Act, VII of 1084—

- (a) the word “and” occurring at the end of clause (d) shall be deleted;
- (b) the word “and” shall be added at the end of clause (e); and
- (c) after clause (e), the following clause shall be added.—

“(f) the forfeiture, notwithstanding provisions to the contrary contained in the Cochin Contract Act, XXIII of 1112, or in any other law, of the whole or any portion of the kists deposited by persons who purchase the right to sell tobacco, in addition to the damages recoverable by Government on account of the breach of the conditions of sale laid down by the Diwan from time to time”.

# THE COCHIN ABKARI (AMENDMENT)

## ACT

(XIII of 1119)

### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Amendment to section 29.

#### THE COCHIN ABKARI (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin,  
on the 19th day of Medam 1119 corresponding  
to the 1st day of May 1944*

[Published in the Cochin Government Gazette,  
dated 24th Medam 1119]

WHEREAS it is expedient to further amend the Preamble. Cochin Abkari Act, I of 1077; It is hereby enacted as follows.—

1. This Act may be called the Cochin Abkari Short title and commencement. (Amendment) Act, XIII of 1119, and it shall come into force at once.

2. In sub-section (2) of section 29 of the Cochin Amendment to section 29. Abkari Act, I of 1077, after clause (q) the following clause shall be added.—

“(r) for the forfeiture, notwithstanding provisions to the contrary contained in the Cochin Contract Act, XXIII of 1112, or in any other law, of the whole or any portion of the kists deposited by persons who purchase the right to sell toddy, arrack, foreign liquors or ganja, in addition to damages recoverable by Government on account of the breach of the conditions of sale laid down by the Diwan from time to time.”

**THE COCHIN OPIUM (AMENDMENT)  
ACT  
(XIV of 1119)  
CONTENTS**

**Preamble****Sections**

1. Short title and commencement.
2. Amendment to section 6.

**THE COCHIN OPIUM (AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin,  
on the 19th day of Medam 1119 corresponding  
to the 1st day of May 1944*

[Published in the Cochin Government Gazette,  
dated 24th Medam 1119]

**Preamble.**

Whereas it is expedient to further amend the Cochin Opium Act, VIII of 1076; It is hereby enacted as follows.—

**Short title and commencement.**

1. This Act may be called the Cochin Opium (Amendment) Act, XIV of 1119, and it shall come into force at once.

**Amendment to section 6.**

2. In section 6 of the Cochin Opium Act, VIII of 1076—

- (a) the word “and” at the end of clause (c) shall be deleted;
- (b) the word “and” shall be added at the end of clause (d); and
- (c) after clause (d) and before the proviso the following clause shall be added.—

“(e) the forfeiture, notwithstanding provisions to the contrary contained in the Cochin Contract Act, XXIII of 1112, or in any other law, of the whole or any portion of the kists deposited by persons who purchase the right to sell opium, in addition to the damages recoverable by Government on account of the breach of the conditions of sale laid down by the Diwan from time to time.”



**THE COCHIN VERUMPATTAMDARS  
(AMENDMENT) ACT  
(XV of 1119)  
CONTENTS**

**Preamble****Sections**

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 3.
4. Amendment of section 5.
5. Amendment of section 13.

**THE COCHIN VERUMPATTAMDARS (AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin,  
on the 6th day of Edavam 1119, corresponding  
to the 19th day of May 1944.*

[Published in the Cochin Government Gazette dated  
7th Edavam 1119]

Whereas it is necessary further to amend the Cochin **Preamble.**  
*Verumpattamdars Act, VIII of 1118; It is hereby enacted*  
as follows.—

1. This Act may be called the Cochin *Verumpattamdars* (Amendment) Act, XV of 1119, and shall come **Short title and commencement.**  
into force at once.

2. In clause (d) of section 2 of the Cochin *Verumpattamdars* Act, VIII of 1118, hereinafter referred to as **Amendment of section 2.**  
the Act, after the word "*Kudikidappukaran*" the words  
"or a *Nadupattamdar*" shall be and shall always be  
deemed to have been added.

3. For clause (b) of section 3 of the Act, the follow- **Amendment of section 3.**  
ing shall be and shall always be deemed to have been  
substituted, namely.—

“(b) Leases granted by the Official Receiver or by a mortgagee or by any officer appointed by a court under the provisions of any law in force or by any person holding under or deriving title from any of them :

Provided that nothing in this clause shall apply to a lease which is a renewal or an attornment of a lease in

favour of a *verumpattamdar* who would have acquired fixity of tenure at the commencement of this Act”.

Amendment  
of section 5.

4. To sub-section (1) of section 5 of the Act, the following proviso shall be and shall always be deemed to have been added, namely.—

“Provided that a *verumpattamdar* shall, where a portion of the land comprised in his holding is acquired under the provisions of the Cochin Land Acquisition Act, II of 1070, be entitled to an abatement in the rent in the same proportion as the yield from the portion acquired bears to the yield from the entire holding”.

Amendment  
of section 13.

5. In section 13 of the Act, after the words “the provisions of this Act”, the words “except interest, if any, thereon” shall be and shall always be deemed to have been added.

## THE COCHIN CRIMINAL LAW AMEND- MENT ACT

(XVI of 1119)

### CONTENTS

#### Preamble

#### Sections

1. Short title, extent, commencement and duration.
2. Definitions.
3. Power to declare association unlawful.
4. Penalties.
5. Power to notify and take possession of places used for the purposes of an unlawful association.
6. Moveable property found in a notified place.
7. Trespass upon notified places.
8. The relinquishment of property.
9. Power to forfeit property of an unlawful association.
10. Jurisdiction barred.
11. Continuance of association.
12. Power to try offences under this Act.

**THE COCHIN CRIMINAL LAW AMENDMENT ACT**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin*

*on the 6th day of Edavam 1119 corresponding  
to the 19th day of May 1944.*

[Published in the Cochin Government Gazette,  
dated 7th Edavam 1119]

WHEREAS it is expedient to provide for the prohibition of associations dangerous to the public peace; It is hereby enacted as follows.— Preamble.

1. (1) This Act may be called the Cochin Criminal Law Amendment Act, XVI of 1119. Short title, extent, commencement and duration.
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once and shall remain in force during the continuance of the present war and for a period of six months thereafter.

2. In this Act— Definitions.

- (1) "association" means any combination or body of persons, whether the same be known by any distinctive name or not; and
- (2) "unlawful association" means an association—
  - (a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or
  - (b) which has been declared to be unlawful by Government under the powers hereby conferred.

3. If Government are of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, Government may, by notification in the Cochin Government Gazette, declare such association to be unlawful. Power to declare association unlawful.

## Penalties.

4. (1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.
- (2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.
- (3) An offence under sub-section (1) shall be cognizable by the Police and notwithstanding anything contained in the Code of Criminal Procedure, II of 1086, shall be non-bailable.
5. (1) The Government may, by notification in the Cochin Government Gazette, notify any place which in their opinion is used for the purposes of an unlawful association.

Power to notify and take possession of places used for the purposes of an unlawful association.

*Explanation.*—For the purposes of this section “place” includes a house or building, or part thereof, or a tent or vessel.

- (2) The District Magistrate or any officer authorised by him in this behalf in writing may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to Government:

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

- (3) A notified place whereof possession is taken under sub-section (2) shall be deemed to

remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

6. (1) The District Magistrate or officer taking possession of a notified place shall also take possession of all moveable property found therein and shall make a list thereof in the presence of two respectable witnesses. Moveable property found in a notified place.
- (2) If, in the opinion of the District Magistrate any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to Government.
- (3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or if no such person is found, shall be disposed of in such manner as the District Magistrate may direct.
- (4) The District Magistrate shall publish, as nearly as may be in the manner provided in section 72 of the Code of Criminal Procedure, II of 1086, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article.
- (5) Where any such representation is accepted by the District Magistrate he shall deal with the article concerned in accordance with the provisions of sub-section (3).
- (6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, and no order of forfeiture shall be made

until the District Judge has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

- (7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Cochin Code of Civil Procedure, XXIX of 1111, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge shall be final.
- (8) If the article seized is livestock or is of a perishable nature, the District Magistrate may, if he thinks it expedient, order the immediate sale thereof and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

**Trespass upon notified places.**

7. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass.

**The relinquishment of property.**

8. Before a notification under sub-section (1) of section 5 is cancelled, Government shall give such general or special directions as they may deem requisite regulating the relinquishment by Government of possession of notified places.

**Power to forfeit property of an unlawful association.**

9. (1) Where Government are satisfied, after such inquiry as they may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, Government may, by order in writing, declare such monies, securities or credits to be forfeited to Government.

- (2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

- (3) Before an order of forfeiture is made under sub-section (1) Government shall give written notice to the person (if any) in whose custody the monies, securities or credits are found of their intention to forfeit, and any person aggrieved thereby may within fifteen days from the issue of such notice file an application to the District Judge to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies securities or credits concerned until such application has been disposed of, and unless the District Judge has decided that the monies, securities or credits are liable to forfeiture.
- (4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Cochin Code of Civil Procedure, XXIX of 1111, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge shall be final.
- (5) Where Government have reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever

*Criminal Law Amendment Act [1119: Act XVI*

with the same, save in accordance with the written orders of Government. A copy of such order shall be served upon the person to whom it is directed.

- (6) Government may endorse a copy of an order under sub-section (5) for investigation to any officer they may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.
- (7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, II of 1086, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.
- (8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (5) such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or



deliver the whole of the monies, securities, or credits forfeited, to the order of Government.

- (9) Where any person liable under this section to pay or deliver any monies, securities or credits to the order of Government refuses or fails to comply with any direction of Government in this behalf, Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.
- (10) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by Government in this behalf.
- (11) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government, without the consent of Government.

10. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made, under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 6 and 9 no proceeding purporting to be taken under section 5, 6, 7, 8 or 9 shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act.

**Jurisdiction  
barred.**

Continuance  
of associa-  
tion.

11. An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Power to try  
offences  
under this  
Act.

12. Notwithstanding anything contained in the Code of Criminal Procedure, II of 1086, no Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

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## THE COCHIN ANCHAL ACT

*Passed by His Highness the Maharaja of Cochin  
on the 12th day of Edavam 1119,  
corresponding to the 25th day of May 1944*

[Published in the Cochin Government Gazette  
dated 21st Edavam 1119]

Whereas it is expedient to consolidate and amend the law relating to the Anchal Offices in the State; It is hereby enacted as follows.—

### CHAPTER I Preliminary

1. (1) This Act may be called the Cochin Anchal Act, XVII of 1119. Short title,  
extent and  
commence-  
ment.
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force on such day as Government may by notification in the Cochin Government Gazette appoint.

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

- (a) the expression "mail bag" includes a bag, box, parcel or any other envelope or covering in which Anchal articles in course of transmission by Anchal are conveyed, whether it does or does not contain any such article;
- (b) the expression "Officer of the Anchal Department" includes any person employed in any business of the Anchal Department or on behalf of the Anchal Department ;
- (c) the expression "postage" means the duty chargeable for the transmission by Anchal of Anchal articles ;
- (d) the expression "Anchal stamp" means any stamp provided by Government for denoting postage or other fees or sums payable in respect of Anchal articles under this Act and includes adhesive anchal stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, card or other article ;

- (e) the expression "Anchal Office" includes every house, building, room, carriage or boat, or place used for the purposes of the Anchal Office, and every letter box provided by the Anchal Office for the reception of Anchal articles;
- (f) the expression "Anchal article" includes a letter, card, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by Anchal.

Meanings of  
"in course of  
transmission  
by Anchal"  
and "deli-  
very".

3. For the purposes of this Act,—

- (a) an Anchal article shall be deemed to be in course of transmission by Anchal from the time of its being delivered to an Anchal Office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII:
- (b) the delivery of an Anchal article of any description to an Anchalman or other person authorised to receive Anchal articles of that description for the Anchal shall be deemed to be a delivery to an Anchal Office; and
- (c) the delivery of an Anchal article at the house or office of the addressee, or to the addressee or his servant or agent or other person authorised to receive the article according to the usual manner of delivering Anchal articles to the addressee, shall be deemed to be delivery to the addressee.

## CHAPTER II

### Privilege and Protection of Government

4. (1) Wherever within 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

Exclusive  
privilege of  
conveying  
letters reser-  
ved to  
Government.

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.—

- (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 by 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 5 the expression "letters" includes Anchal cards.

5. Wherever within 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

**Certain persons expressly forbidden to convey letters.**

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 Cochin State or between any ports or places in Cochin State, and their servants or agents except as regards the letters solely concerning goods on board.

**Exemption from liability for loss, misdelivery, delay or damage.**

6. Government shall not incur any liability by reason of the loss, misdelivery, or delay or damage to any Anchal article in course of transmission by Anchal, except in so far as such liability may, in express terms, be undertaken by Government, as hereinafter provided; and no officer of the Anchal Department shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

### CHAPTER III

#### Postage

**Power to fix rates of postage.**

7. Government may, by notification in the Cochin Government Gazette, fix the rates of postage and other sums to be charged in respect of Anchal articles sent by Anchal under this Act, and may make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged.

**Power to make rules as to payment of postage and fees in certain cases.**

8. Government may, by rule,—

- (a) require the prepayment of postage on Anchal articles or any class of Anchal articles, and prescribe the manner in which prepayment shall be made;



- (b) prescribe the postage to be charged on Anchal articles when the postage is not prepaid or is insufficiently prepaid;
- (c) provide for the redirection of Anchal articles and the transmission by Anchal of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules; and
- (d) prescribe the fees to be charged for the "Express delivery" of Anchal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

*Explanation.*—"Express delivery" means delivery by a special messenger or conveyance.

9. (1) Government may make rules providing for the registration of newspapers for transmission by Anchal as registered newspapers. Power to make rules as to registered newspapers.
- (2) For the purpose of such registration, every publication consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely.—
- (a) that it is published in numbers at intervals of not more than thirty-two days; and
  - (b) that it has a *bona fide* list of subscribers.
- (3) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper:

Provided that no such extra or supplement shall be so deemed, unless it consists wholly or in great part of matter like that of the newspaper and has the title and date of publication of the newspaper printed at the top of each page.

*Explanation.*—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by Anchal.

**Liability for payment of postage.**

10. (1) The addressee of an Anchal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the Anchal article, unless he forthwith returns it unopened:

Provided that, if any such Anchal article appears to the satisfaction of the Superintendent of Registration and Anchal to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

- (2) If any Anchal article on which postage or any other sum chargeable under this Act is due, is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

**Recovery of postage and other sums due in respect of Anchal articles.**

11. If any person refuses to pay any postage or other sum due from him under this Act in respect of any Anchal article, the sum so due may, on application made by an officer of the Anchal Department authorised in this behalf by the written order of the Superintendent of Registration and Anchal, be recovered for the use of the Anchal Department from the person so refusing as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident and the Superintendent of Registration and Anchal may further direct that any other Anchal article, not being on Cochin Government Service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

**Anchal Office marks *prima facie* evidence of certain facts denoted.**

12. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of an Anchal article,—

- (a) the production of the Anchal article, having thereon the official mark of the Anchal Office denoting that the article has been refused, or that the addressee is dead or cannot be found, shall be *prima facie* evidence of the fact so denoted, and

- (b) the person from whom the Anchal article purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

13. The official mark on an Anchal article denoting that any postage or other sum is due in respect thereof to the Anchal Department shall be *prima facie* evidence that the sum denoted as aforesaid is so due. **Official mark to be evidence of amount of postage.**

## CHAPTER IV

### Anchal Stamps

14. (1) Government shall cause Anchal stamps to be provided of such kinds and denoting such values as they may think necessary for the purposes of this Act. **Provision of Anchal stamps and power to make rules as to them.**
- (2) Government may make rules as to the supply, sale and use of Anchal stamps.
- (3) In particular, and without prejudice to the generality of the foregoing power, such rules may—
- (a) fix the price at which Anchal stamps shall be sold ;
  - (b) declare the classes of Anchal articles in respect of which Anchal stamps shall be used for the payment of postage or other sums chargeable under this Act ;
  - (c) prescribe the conditions with regard to perforation, defacement and all other matters subject to which Anchal stamps may be accepted or refused in payment of postage or other sums ;
  - (d) regulate the custody, supply and sale of Anchal stamps ;
  - (e) declare the persons by whom and the terms and conditions subject to which Anchal stamps may be sold ; and
  - (f) prescribe the duties and remuneration, if any, of persons selling Anchal stamps.

**Anchal stamps to be deemed stamps for the purpose of revenue.**

15. Anchal stamps provided under section 14 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Cochin Penal Code, I of 1059, and, subject to the other provisions of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of Anchal articles, except where Government direct that prepayment shall be made in some other way.

## CHAPTER V

### Conditions of transmission of Anchal articles

**Redelivery to sender of Anchal article in course of transmission by Anchal.**

16. (1) Government may, by rule, provide for the redelivery to the sender without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any Anchal article in course of transmission by Anchal.
- (2) Save as provided by any rules that may be made under sub-section (1), the sender shall not be entitled to recall an Anchal article in course of transmission by Anchal.

**Transmission by Anchal of anything injurious prohibited.**

17. (1) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by Anchal any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure Anchal articles in course of transmission by Anchal or any Officer of the Anchal Department.
- (2) No person shall send by Anchal any article or thing which is likely to injure Anchal articles in course of transmission by Anchal or any officer of the Anchal Department.

**Transmission by Anchal of anything indecent, etc., prohibited.**

18. No person shall send by Anchal—
- (a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or
- (b) any Anchal article having thereon, or on the cover thereof, any words, marks or designs

of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

19. (1) Government may make rules as to the transmission of Anchal articles by Anchal. Power to make rules as to the transmission by Anchal of Anchal articles.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may—
- (a) specify articles which may not be transmitted by Anchal;
  - (b) prescribe conditions on which articles may be transmitted by Anchal;
  - (c) provide for the detention and disposal of articles in course of transmission by Anchal in contravention of rules made under clause (a) or clause (b);
  - (d) provide for the granting of receipts for, and granting and obtaining of certificates of, posting and delivery of Anchal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates; and
  - (e) regulate covers, forms, dimensions, maximum weights, and enclosures, and the use of Anchal articles, other than letters, for making communications.
- (3) Anchal articles shall be posted and delivered at such times and in such manner as the Superintendent of Registration and Anchal may, by order, from time to time appoint.
20. (1) Where the despatch or delivery from an Anchal Office of letters would be delayed by the despatch or delivery therefrom at the same time of book, pattern or sample packets and parcels or any of them, such packets or parcels or any of them, may, subject to such rules as Government may make in this behalf, be detained Power to postpone despatch or delivery of certain Anchal articles.

in the Anchal Office so long, as may be necessary.

- (2) Where separate parcel mails are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Anchal Office for that purpose.

Power to deal with Anchal articles posted in contravention of Act.

21. (1) Any Anchal article sent by Anchal in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as Government may, by rule, direct.
- (2) Any officer in charge of an Anchal Office or authorised by the Superintendent of Registration and Anchal in this behalf may open or unfasten any newspaper or any book, pattern or sample packet in course of transmission by Anchal, which he suspects to have been sent by Anchal in contravention of section 18, clause (a), or of section 19, or of any of the provisions of this Act relating to postage.
- (3) Notwithstanding anything in sub-section (1)—
- (a) any Anchal article sent by Anchal in contravention of the provisions of section 17 may, under the authority of the Superintendent of Registration and Anchal if necessary, be opened and destroyed; and
- (b) any Anchal article sent by Anchal in contravention of the provisions of section 18, may be disposed of in such manner as Government may, by rule, direct.

Power to deal with Anchal articles containing goods contraband or liable to duty.

22. Except as otherwise provided in this Act where an Anchal article suspected to contain any goods of which the import by Anchal or the transmission by Anchal is prohibited by or under any enactment for the time being in force or anything liable to duty, is received for delivery at an Anchal Office, the officer in charge of the Anchal Office shall send a notice in writing to the addressee inviting him to attend either in person or by agent, within a specified time at the Anchal Office, and shall in the

presence of the addressee or his agent or if the addressee or his agent fails to attend as aforesaid, then in his absence, open and examine the Anchal article in the presence of two respectable witnesses and make a record of the same with their attestation:

Provided that in all cases, an Anchal article after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the article and the circumstances connected therewith shall be immediately reported to the Superintendent of Registration and Anchal.

23. Where a notification has been published under section 18 of the Cochin Sea Customs Act, XII of 1109, in respect of any goods of any specified description, any officer of the Anchal Department empowered in this behalf by Government may search, or cause search to be made, for any such goods in course of transmission by Anchal, and shall deliver all Anchal articles reasonably believed or found to contain such goods to such officer as Government may appoint in this behalf, and such goods may be disposed of in such manner as Government may direct. In carrying out any such search, such officer of the Anchal Department may open or unfasten, or cause to be opened or unfastened, any newspaper or any book, pattern or sample packet in course of transmission by Anchal.

Power to intercept notified goods during transmission by Anchal.

24. (1) On the occurrence of any public emergency, or in the interests of public safety or tranquillity, Government or any officer specially authorised in this behalf by Government, may, by order in writing, direct that any Anchal article or class or description of Anchal articles in course of transmission by Anchal shall be intercepted or detained, or shall be delivered to Government or to an officer thereof mentioned in the order, to be disposed of in such manner as Government may direct.

Power to intercept Anchal articles for public good.

(2) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (1) was in the interests of public safety or tranquillity, a

certificate signed by the Secretary to Government shall be conclusive proof on the point.

Power to deal with Anchal articles bearing fictitious or previously used Anchal Stamps.

25. (1) When an Anchal article is received by Anchal—
- (a) bearing a fictitious Anchal stamp, that is to say, any facsimile or imitation or representation of an Anchal stamp, or
  - (b) purporting to be prepaid with any Anchal Stamp which has been previously used to prepay any other Anchal article, the officer in charge of the Anchal Office at which the Anchal article is received, shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time at the Anchal Office to receive delivery of the Anchal article.
- (2) If the addressee or his agent attends at the Anchal Office within the time specified in the notice and consents to make known to the officer in charge of the Anchal Office the name and address of the sender of the Anchal article and to redeliver to the Officer aforesaid the portion of the Anchal article which bears the address and the fictitious or previously used Anchal stamp, or, if the Anchal article is inseparable from the stamp, the entire Anchal article, the Anchal article shall be delivered to the addressee or his agent.
- (3) If the addressee or his agent fails to attend at the Anchal Office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to redeliver the Anchal article or portion thereof as required by sub-section (2), the article shall not be delivered to him, but shall be disposed of in such manner as Government may direct.



26. No newspaper printed and published within the State without conforming to the rules laid down in the Cochin Press and Registration of Books Act, VII of 1097, shall be transmitted by Anchal.

Prohibition of transmission by Anchal of certain newspapers.

27. (1) Any officer of the Anchal Department authorised by Government in this behalf may detain any Anchal article in course of transmission by Anchal which he suspects to contain—

Power to detain newspapers and other articles being transmitted by Anchal.

(a) (i) any newspaper or book as defined in the Cochin Press and Registration of Books Act, VII of 1097; or

(ii) any document containing any seditious matter, that is to say, any matter the publication of which is punishable under section 120 of the Cochin Penal Code, I of 1059; or

(b) any newspaper as defined in the Cochin Press and Registration of Books Act, VII of 1097, edited, printed or published otherwise than in conformity with the rules laid down in that Act; and

shall deliver any Anchal article so detained to such officer as Government may appoint in this behalf.

(2) Any officer detaining any Anchal article under the provisions of sub-section (1) shall forthwith send by Anchal to the addressee of such article notice of the fact of such detention.

(3) Government shall cause the contents of any Anchal article detained under sub-section (1) to be examined, and, if it appears to Government that the article contained any newspaper, book or other document, of the nature described in clause (a) or clause (b) of sub-section (1), may pass such orders as to the disposal of the article and its contents as they may deem proper, and, if it does not so appear, shall release the article and

its contents, unless the same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any article detained under the provisions of clause (a) of sub-section (1) may, within two months from the date of such detention, apply to Government for release of the same, and Government shall consider such application and pass such orders thereon as they may deem to be proper.

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter.

(4) In this section, "document" includes also any painting, drawing or photograph, or other visible representation.

Procedure for disposal by High Court of applications for release of newspapers and articles so detained.

28. Every application made under the second proviso to sub-section (3) of section 27 shall be heard and determined in the manner provided by sections 84 D to 84 F of the Code of Criminal Procedure (II of 1086) by a Full Bench of the High Court constituted in the manner provided by section 84 C of that Code.

Jurisdiction barred.

29. No order passed or action taken under section 27 shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (3) of that section.

## CHAPTER VI

### Registration and Value-payable Anchal

Registration of Anchal articles.

30. The sender of an Anchal article may, subject to the other provisions of this Act, have the article registered at the Anchal Office at which it is posted and require a receipt therefor; and Government may, by notification in the Cochin Government Gazette, direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of Anchal articles.

Power to make rules as to registration.

31. (1) Government may make rules as to the registration of Anchal articles.

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

- (a) declare in what cases registration shall be required;
  - (b) prescribe the manner in which the fees for registration shall be paid; and
  - (c) direct that twice the fee for registration shall be levied on the delivery of an Anchal article required to be registered on which the fee for registration has not been prepaid.
- (3) Anchal articles made over to the Anchal Office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Superintendent of Registration and Anchal may, by order, from time to time appoint.

32. Government may, by notification in the Cochin Government Gazette, direct that, subject to the other provisions of this Act and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of an Anchal article shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender:

Transmission by Anchal of Value-payable Anchal articles.

Provided that Government shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

*Explanation.*—Anchal articles sent in accordance with the provisions of this section may be described as “value-payable” Anchal articles.

33. (1) Government may make rules as to the transmission by Anchal of value-payable Anchal articles.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may—
- (a) declare what classes of Anchal articles may be sent as value-payable Anchal articles;
  - (b) direct that no Anchal article shall be so sent unless the sender declares that it is sent in execution

Power to make rules as to value-payable Anchal articles.

of a *bona fide* order received by him ;

- (c) limit the value to be recovered on the delivery of any value-payable article ;
  - (d) prescribe the form of declaration to be made by the senders of value-payable Anchal articles, and the time and manner of the payment of fees ;
  - (e) provide for the retention and repayment to the addressees in cases of fraud of money recovered on the delivery of any value-payable Anchal article ; and
  - (f) prescribe the fees to be charged for inquiries into complaints regarding the delivery of or payment for value-payable Anchal articles.
- (3) Anchal article shall be made over to the Anchal Office for the purpose of being sent as "value-payable" and shall be delivered, when so sent, at such times and in such manner as the Superintendent of Registration and Anchal may, by order, from time to time appoint.
- (4) No suit or other legal proceeding shall be instituted against Government or any officer of the Anchal Department in respect of anything done, or in good faith purporting to be done, under any rule made under clause (e) of sub-section (2).

**Power to give effect to arrangements with another State.**

34. (1) Where arrangements are in force with any other State for the transmission by Anchal of registered or value-payable Anchal articles, between Cochin State and that State, Government may make rules to give effect to such arrangements.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the form of declaration to be made by the senders of such Anchal articles as aforesaid; and
- (b) the fees to be charged in respect thereof.

## CHAPTER VII

### Undelivered Anchal articles

35. (1) Government may make rules as to the disposal of Anchal articles, which for any reason cannot be delivered (hereinafter referred to as "undelivered Anchal articles.") Power to make rules as to the disposal of undelivered Anchal articles.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may—
- (a) prescribe the period during which undelivered Anchal articles at an Anchal Office shall remain in that office; and
  - (b) provide for the publication of lists of undelivered Anchal articles, or of any class of undelivered Anchal articles.
- (3) Every undelivered Anchal article, after being detained at an Anchal Office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded free of further charge to the Anchal Office, at which it was posted, for return to the sender, or sent to the Office of the Superintendent of Registration and Anchal.
36. (1) Every Anchal article received at the Office of the Superintendent of Registration and Anchal under sub-section (3) of section 35 shall be dealt with as follows:— Disposal of undelivered Anchal articles at office of the Superintendent of Registration and Anchal.
- (a) if practicable, it shall be redirected and forwarded by Anchal to the addressee; or
  - (b) if it cannot be redirected and forwarded as aforesaid, it shall be opened by some officer, appointed

by the Superintendent of Registration and Anchal in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

- (2) If the name and address of the sender are so ascertained, it shall be returned by Anchal to the sender free of further charge or subject to such further charge as Government may, by rule, direct.

**Final disposal of undelivered Anchal articles**

37. Undelivered Anchal articles which cannot be disposed of under the foregoing provisions, shall be detained in the Office of the Superintendent of Registration and Anchal for such further period (if any), and shall be dealt with in such manner as Government may, by rule, direct :

Provided that—

- (a) letters and cards shall be destroyed;  
 (b) money or saleable property, not being of a perishable nature, found in any undelivered Anchal article, shall be detained for a period of one year in the Office of the Superintendent of Registration and Anchal, and, if on the expiration of that period no person has established his right thereto, shall, if money, be credited to the Anchal Department, and, if saleable property, be sold, the sale proceeds being credited to the Anchal Department.

## CHAPTER VIII

### Hundies

**Power to maintain hundi system and to make rules as to remittances thereby.**

38. (1) Government may provide for the remitting of small sums of money through the Anchal Office by means of hundies, and may make rules as to such hundies.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the limit of amount for which hundies may be issued;
- (b) the period during which hundies shall remain current; and
- (c) the rates of commission or the fees to be charged on hundies or in respect thereof.

39. (1) Subject to such conditions as Government may, by rules made under section 38, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the Anchal Office by means of a hundi may require that the amount of the hundi, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct;

Power of remitter to recall hundies or alter name of payee.

(2) If neither the payee nor the remitter of a hundi can be found, and if within the period of one year from the date of the issue of the hundi, no claim is made by such payee or remitter, the amount of such hundi shall not be claimable from Government.

40. (1) Where arrangements are in force with any other State, for the issue and payment through the Anchal Office of hundies between Cochin State and that State, Government may make rules to give effect to such arrangements.

Power to give effect to arrangements with another State.

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

- (a) the manner in which, and the condition subject to which, such hundies may be issued and paid in Cochin; and
- (b) the rates of commission to be charged thereon.

41. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

Recovery of hundies paid to the wrong person.

(a) any amount paid to him, in respect of a hundi by an officer of the Anchal

Department in excess of what ought to have been paid to him in respect thereof, or

- (b) the amount of a hundi paid by an officer of the Anchal Department to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable from the person so neglecting or refusing, as if it were an arrear of land revenue due from him.

**Exemption  
from  
liability in  
respect of  
Hundies.**

42. No suit or other legal proceeding shall be instituted against Government or any officer of the Anchal Department in respect of—

- (a) anything done under any rules made by Government under this chapter; or
- (b) the wrong payment of a hundi caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee; or
- (c) the payment of any hundi being refused or delayed by, or on account of, any accidental neglect, omission or mistake, by, or on the part of, an officer of the Anchal Department, or for any other cause whatsoever, other than the fraud or wilful act or default of such officer; or
- (d) any wrong payment of a hundi after the expiration of one year from the date of the issue of the hundi; or
- (e) any wrong payment or delay in payment of a hundi beyond the limits of Cochin by an officer of any Anchal Office not being one established by Government.



## CHAPTER IX

**Penalties and Procedure**

## OFFENCES BY OFFICERS OF THE ANCHAL DEPARTMENT

43. Whoever, being employed to carry or deliver any mail bag or any Anchal article in course of transmission by Anchal,—

Penalty for misconduct of person employed to carry or deliver mail bags or Anchal articles.

- (a) is in a state of intoxication while so employed, or
- (b) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or Anchal article as aforesaid is endangered, or
- (c) loiters or makes delay in the conveyance or delivery of any such mail bag or Anchal article as aforesaid, or
- (d) does not use due care and diligence safely to convey or deliver any such mail bag or Anchal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees.

44. Whoever, being employed to carry or deliver any mail bag or any Anchal article in course of transmission by Anchal, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for voluntary withdrawal from duty without permission or notice, of person employed to carry or deliver mail bags or Anchal articles.

45. Whoever, being employed to carry or deliver any Anchal article in course of transmission by Anchal and required while so employed to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered an Anchal article, which he has not visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for making false entry in register kept by person employed to carry or deliver Anchal articles.

46. Whoever, being an officer of the Anchal Department, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys or throws away, any Anchal article in course of transmission by Anchal or anything contained therein,

Penalty for theft, dishonest misappropriation, secretion, destruction,

or throwing  
away, of  
Anchal  
articles.

shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for  
opening,  
detaining or  
delaying  
Anchal  
articles.

47. Whoever, being an officer of the Anchal Department, contrary to his duty, opens, or causes or suffers to be opened, any Anchal article in course of transmission by Anchal, or wilfully detains or delays, or causes or suffers to be detained or delayed, any such Anchal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine or with both:

Provided that nothing in this section shall extend to the opening, detaining or delaying of any Anchal article under the authority of this Act or in obedience to the order in writing of Government, or the direction of a competent court.

Penalty for  
fraud in  
connection  
with official  
marks and  
for receipt of  
excess  
postage.

48. Whoever, being an officer of the Anchal Department,—

(a) fraudulently puts any wrong official mark on an Anchal article, or

(b) fraudulently alters, removes or causes to disappear any official mark which is on an Anchal article, or

(c) being entrusted with the delivery of any Anchal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for  
fraudulently  
preparing,  
altering,  
secreting or  
destroying  
Anchal Office  
documents.

49. Whoever, being an officer of the Anchal Department, entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for  
fraudulently  
sending un-  
paid Anchal  
articles.

50. Whoever, being an officer of the Anchal Department, sends by Anchal, or puts into any mail bag any Anchal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud Government of the postage on such Anchal article, shall be punishable with imprisonment for

a term which may extend to two years, and shall also be punishable with fine.

## OTHER OFFENCES

51. (1) Whoever—

- (a) conveys, otherwise than by Anchal, a letter within the exclusive privilege conferred on Government by section 4, 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,

Penalty for  
contraven-  
tion of  
section 4.

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.

52. (1) Whoever, in contravention of the provisions of section 5, carries, receives, tenders or delivers letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter.

Penalty for  
contraven-  
tion of  
section 5.

(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.

Penalty for breach of rules under section 14.

53. Whoever, being appointed to sell Anchal stamps—

(a) takes from any purchaser of any Anchal stamp or quantity of Anchal stamps a price higher than that fixed by any rule made under section 14, sub-section (3), clause (a), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; or

(b) commits a breach of any other rule made under section 14 shall be punishable with fine which may extend to two hundred rupees.

Penalty for contravention of section 17 or 18.

54. (1) Whoever, in contravention of the provisions of section 17 or section 18, sends or tenders or makes over in order to be sent by Anchal, any Anchal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) The detention in the Anchal Office of any Anchal article on the ground of its having been sent in contravention of the provisions of section 17 or section 18 shall not exempt the sender from any proceedings which might have been taken if the Anchal article had been delivered in due course of Anchal.

Penalty for defiling or injuring Anchal Office letter-boxes.

55. Whoever places in or against any letter-box provided by the Anchal Office for the reception of Anchal articles any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for affixing without authority thing to, or painting, tarring or disfiguring Anchal Office or Anchal Office letter-box.

56. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars, or in any way disfigures any Anchal Office or any letter-box provided by the Anchal Office for the reception of Anchal articles, shall be punishable with fine which may extend to fifty rupees.

57. Whoever, being required by this Act to make a declaration in respect of any Anchal article to be sent by Anchal or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and if the false declaration is made for the purposes of defrauding Government, with fine which may extend to five hundred rupees.

**Penalty for making false declaration.**

58. Whoever, except under the authority of this Act or of any other Act for the time being in force or in obedience to the order in writing of Government or the direction of a competent court, detains the mails or any Anchal article in course of transmission by Anchal, or on any pretence opens a mail bag in course of transmission by Anchal, shall be punishable with fine which may extend to two hundred rupees :

**Penalty for detaining mails or opening mail bag.**

Provided that nothing in this section shall prevent the detention of an officer of the Anchal Department carrying the mails or any Anchal article in course of transmission by Anchal, on a charge of having committed an offence declared to be cognisable by the Code of Criminal Procedure, (II of 1086), or any other law for the time being in force.

59. Whoever fraudulently retains, or wilfully secretes or makes away with or keeps or detains, or, when required by an officer of the Anchal Department, neglects or refuses to deliver up, any Anchal article in course of transmission by Anchal which ought to have been delivered to any other person, or a mail bag containing an Anchal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

**Penalty for retaining Anchal articles wrongly delivered or mail bags.**

60. Whoever, not being an officer of the Anchal Department, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened, any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both :

**Penalty for unlawfully diverting letters.**

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

## GENERAL

Penalty for abetting, or attempting to commit offences under the Act.

61. Whoever abets the commission of any offence punishable under this Act or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Property in cases of offences to be laid in the Anchal Office.

62. In every prosecution for an offence in respect of a mail bag or of any Anchal article sent by Anchal, it shall be sufficient, for the purpose of the charge, to describe the mail bag or Anchal article as being the property of the Anchal Department and it shall not be necessary to prove that the mail bag or Anchal article was of any value.

Authority for prosecutions under certain sections of the Act.

63. No court shall take cognisance of an offence punishable under any of the provisions of sections 45, 47, 48, clauses (a) and (b), 49, 50, 51, 52, 54, 57 and 58 of this Act, unless upon complaint made by order of or under authority from the Superintendent of Registration and Anchal.

CHAPTER X  
Supplemental

General powers to make rules and provisions as to rules under the Act.

64. (1) In addition to the powers hereinbefore conferred, Government may make rules to carry out any of the purposes and objects of this Act.
- (2) In making any rule under this Act, Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.
- (3) All rules made by Government under this Act shall be published in the Cochin Government Gazette, and on such publication shall have effect as if enacted in this Act.

Delegation of powers, other than rule-making powers, to Superintendent of Registration and Anchal.

65. Government may, by notification in the Cochin Government Gazette, authorise, either absolutely or subject to conditions, the Superintendent of Registration and Anchal to exercise any of the powers conferred upon Government by this Act, other than a power to make rules.

66. The enactments specified in the Schedule are hereby repealed. **Repeal of enactments.**

## SCHEDULE

1. Act I of 1067.
2. Amendment Act IV of 1114.

## THE WAR RISKS INSURANCE (EXTENDING) PROCLAMATION

(XIX of 1119)

### CONTENTS

#### Preamble

#### Sections

1. Short title and commencement.
2. Extension of period of insurance policies.

### THE WAR RISKS INSURANCE (EXTENDING) PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin  
on the 27th day of Edavam 1119, corresponding  
to the 9th day of June 1944*

[Published in the Cochin Government Gazette dated  
4th Mithunam 1119]

WHEREAS it is necessary to extend the period in respect of which policies of insurance under the War Risks (Factories) Insurance Proclamation, XXIV of 1117, have been issued under that Proclamation; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the War Risks Insurance (Extending) Proclamation, XIX of 1119. **Short title and commencement.**
- (2) It shall be deemed to have come into force with effect from the 31st day of March 1944.

Extension of  
period of  
insurance  
policies.

2. Where a policy of insurance has been issued under the War Risks (Factories) Insurance Scheme operated by the Government of India under their War Risks (Factories) Insurance Ordinance, 1942, in respect of any property insurable under the War Risks (Factories) Insurance Proclamation, XXIV of 1117, and the prescribed period in respect of which the policy was issued ends on the 31st day of March 1944, the policy shall, notwithstanding anything to the contrary in the policy, be deemed to be extended up to the 31st day of March 1945, and thereafter, if and so often as Government, by notification in the Cochin Government Gazette, direct that it be further extended to any subsequent date; and the said Scheme may provide for the rate or rates of premium to be payable under the policy during the period ending on the 31st day of March 1945, or during any subsequent period for which it may be extended under the provisions of this section.

**THE SETTLEMENT (AMENDMENT) PROCLAMATION  
(XX of 1119)**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 27th day of Edavam 1119, corresponding  
to the 9th day of June 1944*

[Published in the Cochin Government Gazette,  
dated 4th Mithunam 1119]

WHEREAS it is necessary to amend the Proclamation dated the 27th day of Kumbham 1080 corresponding to the 10th day of March 1905; We are pleased to command that for paragraph 25 of the aforesaid Proclamation, the following shall be substituted, namely.—

Rules issued  
by the Diwan  
to have the  
force of Pro-  
clamation.

“25. OUR Diwan may make rules for carrying into effect the provisions of this Proclamation and in particular for regulating or prohibiting the quarrying of stones in assigned lands and such rules on publication in OUR Gazette shall have the same force as this Proclamation.”



**THE COCHIN STATE FORCES (AMENDMENT)  
PROCLAMATION  
(XXI of 1119)  
CONTENTS**

**Preamble****Sections**

1. Short title and commencement.
2. Amendment of section 2.

**THE COCHIN STATE FORCES (AMENDMENT)  
PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin  
on the 9th day of Mithunam 1119  
corresponding to the 22nd day of June 1944*

[Published in the Cochin Government Gazette,  
dated 11th Mithunam 1119]

WHEREAS it is necessary to amend the Cochin State Preamble.  
Forces Proclamation, XIII of 1119; We are pleased to  
command as follows.—

1. This Proclamation may be called the Cochin Short title  
State Forces (Amendment) Proclamation, XXI of 1119 and com-  
and shall come into force at once. mencement

2. For Clause (c) of sub-section (2) of section 2 of the Amendment  
Cochin State Forces Proclamation, XIII of 1119, the of section 2  
following shall be substituted.—

“(c) prescribe the punishment for military offen-  
ces which may include imprisonment for a  
period not exceeding twenty-eight days  
with or without hard labour and confine-  
ment to lines for a term not exceeding  
twenty-eight days”.

**THE COCHIN STATE SOLDIERS (LITIGATION)  
AMENDMENT ACT  
(XVIII of 1119)  
CONTENTS**

**Preamble****Sections**

1. Short title and commencement.
2. Amendment of section 2.

**THE COCHIN STATE SOLDIERS(LITIGATION)  
AMENDMENT ACT**

*Promulgated by His Highness Sree Ravi Varma,  
Maharaja of Cochin*

*on the 9th day of Mithunam 1119*

*corresponding to the 22nd day of June 1944*

[Published in the Cochin Government Gazette  
dated 11th Mithunam 1119]

WHEREAS it is necessary further to amend the Cochin State Soldiers (Litigation) Act, I of 1116; We are hereby pleased to command as follows.—

**Preamble.**

1. This Act may be called the Cochin State Soldiers (Litigation) Amendment Act, XVIII of 1119, and shall come into force at once.

**Short title  
and com-  
mencement.**

2. For clause (b) of section 2 of the Cochin State Soldiers (Litigation) Act, I of 1116, the following shall be substituted, namely.—

**Amendment  
of section 2.**

“(b) ‘State Soldier’ means any member of the State Force or of any other Indian State Force or any person subject to the Indian Army Act, 1911, or the Indian Air Force Act, 1932, or any person to whom the provisions of the Indian Soldiers (Litigation) Act, 1925, for the time being apply by virtue of a direction of the Central Government of India under section 14 thereof”.

**THE COCHIN TRADE MARKS ACT**

**(XIX of 1119)**

**CONTENTS**

**Preamble**

**Sections**

**Chapter I—Preliminary**

1. Short title, extent and commencement.
2. Definitions.
3. Application of other laws not barred.

**Chapter II—The Register and conditions of registration**

4. The register of trade marks.
5. Registration to be in respect of particular goods.
6. Distinctiveness requisite for registration.
7. Limitation as to colour.
8. Prohibition of registration of certain matter.
9. Use of names of chemical elements barred.
10. Prohibition of registration of identical or similar trade mark.
11. Registration of parts of trade marks and of trade marks as a series.
12. Associated trade marks.
13. Registration subject to disclaimer.

**Chapter III—Procedure for and duration of registration**

14. Application for registration.
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16. Registration.
17. Jointly owned trade marks.
18. Duration and renewal of registration.
19. Effect of removal from register for failure to pay fee for renewal.

**Chapter IV—Effect of registration**

20. No action for infringement of unregistered trade mark.
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23. Registration to be *prima facie* evidence of validity.
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31. Restrictions on assignment or transmission where multiple exclusive rights would be created.
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37. Removal from register and imposition of limitations on ground of non-use.

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41. Application for registration as registered user.
42. Power to Registrar to vary or cancel registration as registered user.
43. Registered user not to have right of assignment or transmission.
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45. Use of trade mark for export trade, and use when form of trade connection changes.

#### **Chapter VII—Rectification and correction of the register**

46. Power to cancel or vary registration and rectify the register.
47. Correction of register.
48. Alteration of registered trade mark.
49. Adaptation of entries in register to amended or substituted classification of goods.

#### **Chapter VIII—Certification Trade Marks**

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51. Certification trade mark not to be registered in name of person trading in goods certified thereby.
52. Determination whether a mark is a certification trade mark.
53. Application for registration.
54. Consideration of application for Registration by Government.
55. Opposition to registration.
56. Deposit of regulations governing the use of a certification trade mark.
57. Right conferred by registration.
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60. Costs not to be awarded in certain cases.
61. Decisions of Government to be final.

#### **Chapter IX—Special provision for textile goods**

62. Restrictions on registration of piece goods.

#### **Chapter X—Offences and restraint of use of Royal Arms and State emblems**

63. Penalty for falsification of entries in register.
64. Penalty for falsely representing a trade mark as registered.
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#### **Chapter XI—Miscellaneous**

66. Procedure before the Registrar.
67. Procedure before Government.
68. Procedure in certain cases of option to apply to High Court or the Registrar.
69. Suits for infringement to be instituted before District Court.
70. Appearance of Registrar in proceedings involving rectification of register.

71. Evidence of entries in register and things done by Registrar.
72. Appeals.
73. Power to High Court to make rules.
74. Certificate of validity.
75. Trade usage, etc., to be taken into consideration.
76. Agents.
77. Fees.
78. Government to be bound.
79. Power to make reciprocal arrangements with other Governments.
80. Power of Government to make rules.
81. Power to Government to make provision for applications for registration before the coming into force of the remaining provisions of the Act.

### THE COCHIN TRADE MARKS ACT

*Passed by His Highness Sree Ravi Varma,  
Maharaja of Cochin,  
on the 9th day of Mithunam 1119 corresponding to  
the 22nd day of June 1944*

[Published in the Cochin Government Gazette,  
dated 25th Mithunam 1119]

WHEREAS it is expedient to provide for the registration and more effective protection of trade marks; It is hereby enacted as follows.—

#### CHAPTER I PRELIMINARY

1. (1) This Act may be called the Cochin Trade Marks Act, XIX of 1119. Short title,  
extent and  
commence-  
ment.
- (2) It extends to the whole Cochin State.
- (3) This section and section 81 shall come into force at once; the remaining provisions of the Act shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint in this behalf.
2. (1) In this Act, unless there is anything repugnant in the subject or context,— Definitions.
  - (a) “associated trade marks” means trade marks deemed to be, or required to be registered as, associated trade marks under this Act;

- (b) "certification trade mark" means a mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified and registrable as such under the provisions of Chapter VIII in respect of those goods in the name, as proprietor of the certification trade mark, of that person ;
- (c) "District Court" has the meaning assigned to it in the Cochin Code of Civil Procedure, XXIX of 1111 ;
- (d) "limitations" (with its grammatical variations) means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded in within Cochin State, or as to use in relation to goods to be exported to any market outside Cochin State ;
- (e) "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, or numeral or any combination thereof ;
- (f) "permitted use" means the use of a trade mark by a registered user thereof in relation to goods with which he is connected in the course of trade and in respect of which for the time being the trade mark remains registered and he is registered as a registered

user, being use such as to comply with any conditions or restrictions to which his registration is subject ;

- (g) "prescribed" means prescribed by rules made, in relation to proceedings before the High Court, by the High Court, and in other cases, by Government ;
  - (h) "registered" (with its grammatical variations) means registered under this Act ;
  - (i) "registered trade mark" means a trade mark which is actually on the register ;
  - (j) "registered user" means a person who is for the time being registered as such under section 41.
  - (k) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person ;
  - (l) "transmission" means transmission by operation of law, devolution on the personal representative of a deceased person and any other mode of transfer, not being assignment ;
  - (m) "tribunal" means the Registrar or, as the case may be, the Court before which the proceeding concerned is pending.
- (2) References in this Act to the use of a mark shall be construed as references to the use

of a printed or other visual representation of the mark, and references herein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in any other relation whatsoever to, such goods.

Application  
of other laws  
not barred.

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

## CHAPTER II

### THE REGISTER AND CONDITIONS FOR REGISTRATION

The register  
of trade  
marks.

4. (1) For the purposes of this Act there shall be established at the Patent Office a Trade Mark Registry, and a record called the Register of Trade Marks (in this Act referred to as the register) shall be kept thereat wherein shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of registered users, disclaimers, conditions, limitations, and such other matters relating to registered trade marks as may be prescribed, but there shall not be entered in the register any notice of any trust express, implied or constructive, nor shall any such notice be receivable by the Registrar.
- (2) Subject to the superintendence and direction of Government, the register shall be kept under the control and management of the Controller of Patents and Designs, who shall for the purposes of this Act be called the Registrar of Trade Marks and is in this Act referred to as the Registrar.
- (3) The register shall at all convenient times be open to the inspection of the public, subject to such conditions and restrictions as may be prescribed.

Registration  
to be in res-  
pect of  
particular  
goods.

5. (1) A trade mark may be registered only in respect of particular goods or classes of goods.



- (2) Any question arising as to the class within which any goods fall shall be determined by the Registrar whose decision in the matter shall be final.
6. (1) A trade mark shall not be registered unless it contains or consists of at least one of the following essential particulars, namely:— Distinctive-  
ness requisite  
for registra-  
tion.
- (a) the name of a company, individual, or firm, represented in a special or particular manner;
  - (b) the signature of the applicant for registration or some predecessor in his business;
  - (c) one or more invented words;
  - (d) one or more words having no direct reference to the character or quality of the goods, and not being, according to its ordinary signification, a geographical name or surname or the name of a sect, caste or tribe in India;
  - (e) any other distinctive mark, provided that a name, signature, or any word, other than such as fall within the descriptions in the above clauses, shall not be registrable except upon evidence of its distinctiveness.
- (2) For the purposes of this section, the expression "distinctive" means adapted, in relation to the goods in respect of which a trade mark is proposed to be registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) In determining whether a trade mark is adapted to distinguish as aforesaid, the tribunal may have regard to the extent to which—

- (a) the trade mark is inherently so adapted to distinguish, and
- (b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact so adapted to distinguish:

Provided that in the case of a trade mark which has been continuously used (either by the applicant for registration or by some predecessor in his business, and either in its original form or with additions or alterations not substantially affecting its identity) in relation to the same goods as those in relation to which registration is applied for, during a period from a date prior to the 1st day of Chingam 1114, to the date of application for registration, the Registrar shall not refuse registration by reason only of the fact that the trade mark is not adapted to distinguish as aforesaid, and may accept evidence of acquired distinctiveness as entitling the trade mark to registration.

**Limitation as to colour.**

7. (1) A trade mark may be limited wholly or in part to one or more specified colours, and any such limitation shall be taken into consideration by any tribunal having to decide on the distinctive character of the trade mark.

(2) So far as a trade mark is registered without limitation of colour it shall be deemed to be registered for all colours.

**Prohibition of registration of certain matter.**

8. No trade mark nor part of a trade mark shall be registered which consists of, or contains, any scandalous design, or any matter the use of which would—

- (a) by reason of its being likely to deceive or to cause confusion or otherwise, be disentitled to protection in a Court of justice; or
- (b) be likely to hurt the religious susceptibilities of any class of His Highness the Maharaja's subjects; or
- (c) be contrary to any law for the time being in force or to morality.

9. No word which is the commonly used and accepted name of any single chemical element or single chemical compound (as distinguished from a mixture) shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration shall, notwithstanding anything in section 24, be deemed for the purposes of section 46 to be an entry made in the register without sufficient cause or an entry wrongly remaining on the register, as the circumstances may require:

Use of names of chemical elements barred.

Provided that this section shall not apply to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

10. (1) Save as provided in sub-section (2), no trade mark shall be registered in respect of any goods or description of goods which is identical with a trade mark belonging to a different proprietor and already on the register in respect of the same goods or description of goods, or which so nearly resembles such trade mark as to be likely to deceive or cause confusion.

Prohibition of registration of identical or similar trade mark.

(2) In case of honest concurrent use or of other special circumstances which, in the opinion of the Registrar, make it proper so to do he may permit the registration by more than one proprietor of trade marks which are identical or nearly resemble each other in respect of the same goods or description of goods, subject to such conditions and limitations, if any, as the Registrar may think fit to impose.

(3) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks which are identical or nearly resemble each other, in respect of the same goods or description of goods, the Registrar may refuse to register any of them until their rights have been determined by a competent Court.

Registration of parts of trade marks and of trade marks as a series.

11. (1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and the part as separate trade marks.
- (2) Each such separate trade mark shall satisfy all the conditions applying to, and have all the incidents of, an independent trade mark.
- (3) Where a person claiming to be the proprietor of several trade marks in respect of the same goods or description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—
- (a) statements of the goods in relation to which they are respectively used or proposed to be used; or
  - (b) statements of number, price, quality, or names of places; or
  - (c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or
  - (d) colour;
- seeks to register those trade marks, they may be registered as a series in one registration.

Associated  
trade  
marks.

12. (1) Where a trade mark which is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark which is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may at any time require that the trade marks shall be entered on the register as associated trade marks.
- (2) Where a trade mark and any part thereof are, in accordance with the provisions of subsection (1) of section 11, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be,

and shall be registered as, associated trade marks.

(3) All trade marks registered in accordance with the provisions of sub-section (3) of section 11 as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(4) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by any other person in relation to any of the goods in respect of which it is registered, and may amend the register accordingly.

13. If a trade mark contains—

- (a) any part not separately registered as a trade mark in the name of the proprietor, or for the separate registration of which no application has been made, or
- (b) any matter common to the trade, or otherwise of a non-distinctive character,

Registration  
subject to  
disclaimer.

the tribunal, in deciding whether the trade mark shall be entered or shall remain on the register, may require, as a condition of its being on the register, that the proprietor shall either disclaim any right to the exclusive use of such part or of all or any portion of such matter, as the case may be, to the exclusive use of which the tribunal holds him not to be entitled, or make such other disclaimer as the tribunal may consider necessary for the purpose of defining the rights of the proprietor under the registration:

Provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

### CHAPTER III

#### PROCEDURE FOR, AND DURATION OF REGISTRATION

14. (1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it shall

Application  
for registra-  
tion.

apply in writing to the Registrar in the prescribed manner, and subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think fit.

- (2) In the case of a refusal or conditional acceptance the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat.
- (3) The tribunal may, at any time, whether before or after acceptance, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as it may think fit.

**Opposition  
to registra-  
tion.**

15. (1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted, together with the conditions and limitations, if any, subject to which it has been accepted, to be advertised in the prescribed manner :

Provided that the Registrar may cause an application to be advertised before acceptance if it relates to a trade mark to which clause (e) of sub-section (1) of section 6 applies, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do, and where an application has been so advertised the Registrar may, if he thinks fit, advertise it again when it has been accepted, but shall not be bound so to do.

- (2) Any person may, within the prescribed time from the date of the advertisement of an application, give notice in writing in the prescribed manner to the Registrar of opposition to the registration.
- (3) The Registrar shall serve in the prescribed manner a copy of the notice on the applicant, and within the prescribed time the applicant

shall send to the Registrar, in the prescribed manner, a counter-statement of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.

- (4) If the applicant sends such counter-statement, the Registrar shall serve in the prescribed manner a copy thereof on the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.
  - (5) If a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice, or an appellant against any order of the Registrar under section 14 or this section, neither resides nor carries on business in Cochin State, the tribunal may require him to give security for costs of the proceedings before it, and in default of such security being duly given may treat the opposition or application or appeal, as the case may be, as abandoned.
16. (1) When an application for registration of a <sup>Registration.</sup> trade mark has been accepted and either has not been opposed and the time for notice of opposition has expired, or having been opposed, has been decided in favour of the applicant, the Registrar shall, unless the application has been accepted in error, or unless Government otherwise direct, register the said trade mark, and the trade mark, when registered, shall be registered as of the date of the making of the said application, and that date shall, subject to any directions made under section 79 applicable to such trade mark, be deemed for the purposes of this Act to be the date of registration.
- (2) On the registration of a trade mark the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Patent Office.

- (3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

**Jointly owned  
trade marks.**

17. (1) Save as provided in sub-section (2), nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.
- (2) Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—
- (a) on behalf of both or all of them, or
  - (b) in relation to an article with which both or all of them are connected in the course of trade,
- those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

**Duration and  
renewal of  
registration.**

18. (1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section.
- (2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of the trade mark for a period of fifteen years from the date of expiration of the original registration or of the last renewal of registration, as the case may be (which date is in this section referred to as "the expiration of the last registration").



- (3) At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with the Registrar may remove the trade mark from the register, subject to such conditions (if any) as to its restoration to the register as may be prescribed.

19. Where a trade mark has been removed from the register for failure to pay the fee for renewal, it shall nevertheless, for the purpose of any application for the registration of another trade mark during one year next after the date of the removal, be deemed to be a trade mark already on the register, unless the tribunal is satisfied either—

**Effect of removal from register for failure to pay fee for renewal.**

- (a) that there has been no *bona fide* trade use of the trade mark which has been removed during the two years immediately preceding its removal; or
- (b) that no deception or confusion would be likely to arise from the use of the trade mark which is the subject of the application for registration by reason of any previous use of the trade mark which has been removed.

## CHAPTER IV

### EFFECT OF REGISTRATION

20. (1) No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark unless such trade mark has been continuously in use since before the 1st day of Chingam, 1114, by such person or by a predecessor in title of his and unless an application for its registration, made within five years from the commencement of this Act, has been refused; and the Registrar shall, on application in the prescribed manner,

**No action for infringement of unregistered trade mark.**

grant a certificate that such application has been refused.

- (2) Nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

Right  
conferred by  
registration.

21. Subject to the provisions of sections 22, 25 and 26, the registration of a person in the register as proprietor of a trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods and, without prejudice to the generality of the foregoing provision, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

(a) as being use as a trade mark; or

(b) to import a reference to some person having the right either as a proprietor or as registered user to use the trade mark or to goods with which such a person as aforesaid is connected in the course of trade.

No  
infringement  
in certain  
circum-  
stances.

22. (1) The right to the use of a trade mark given under section 21 by registration shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in, in any place, or in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations the registration does not extend.

(2) The said right to the use of a trade mark shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

(a) in relation to goods connected in the course of trade with the proprietor or a registered user of the

trade mark if, as to those goods or a bulk of which they form part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark; or

(b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the goods.

(3) The use of a registered trade mark, being one of two or more registered trade marks which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration as aforesaid, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

23. In all legal proceedings relating to a registered trade mark, the fact that a person is registered as proprietor thereof shall be *prima facie* evidence of the validity of the original registration of the trade mark and of all subsequent assignments and transmissions thereof.

Registration to be *prima facie* evidence of validity.

24. In all legal proceedings relating to a registered trade mark, the original registration of the trade mark shall after the expiration of seven years from the date of such original registration be taken to be valid in all respects

Registration to be conclusive as to validity after seven years.

unless such registration was obtained by fraud, or unless the trade mark offends against the provisions of section 8.

**Saving for  
vested rights.**

25. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date prior—

- (a) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his, or
- (b) to the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his,

whichever is the earlier, or to object (on such use being proved) to registration of that identical or nearly resembling trade mark in respect of those goods under sub-section (2) of section 10.

**Saving for  
use of name,  
address, or  
description  
of goods.**

26. No registration of a trade mark shall interfere with any *bona fide* use by a person of his own name or that of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business, or the use by any person of any *bona fide* description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in clause (b) of section 21 or in clause (b) of section 57.

**Words used  
as name or  
description  
of an article  
or substance.**

27. (1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use after the date of the registration of any words which the trade mark contains or of which it consists as the name or description of an article or substance:

Provided that, if it is proved either—

- (a) that there is a well-known and established use of the said words as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in

relation to goods connected in the course of trade with the proprietor or a registered user of the trademark or (in the case of a certification trade mark) goods certified by the proprietor; or

- (b) that the article or substance has been manufactured under a patent in force at or granted after the commencement of this section, that a period of two years or more after the cesser of the patent has elapsed, and that the said words are the only practicable name or description of the article or substance,—

the provisions of sub-section (2) shall apply.

- (2) Where the facts mentioned in clause (a) or clause (b) of the proviso to sub-section (1) are proved with respect to any words, then—

- (a) for the purposes of any proceedings under section 46—

(i) if the trade mark consists solely of such words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed to be an entry wrongly remaining on the register;

(ii) if the trade mark contains such words and other matter, the tribunal, in deciding whether the trade mark shall remain on the register, so far as

regards registration in respect of the article or substance in question and of any goods of the same description, may, in case of a decision in favour of its remaining on the register, require as a condition thereof that the proprietor shall disclaim any right to the exclusive use in relation to that article or substance and any goods of the same description, of such words, provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made;

(b) for the purposes of any other legal proceedings relating to the trade mark,—

(i) if the trade mark consists solely of such words, all rights of the proprietor under this Act or any other law to the exclusive use of the trade mark in relation to the article or substance in question or to any goods of the same description, or

(ii) if the trade mark contains such words and

other matter, all such rights of the proprietor to the exclusive use of such words, in such relation as aforesaid,

shall be deemed to have ceased on the date at which the use mentioned in clause (a) of the proviso to sub-section (1) first became well-known and established, or at the expiration of the period of two years mentioned in clause (b) of the said proviso.

## CHAPTER V

### ASSIGNMENT AND TRANSMISSION

28. The person for the time being entered in the register as proprietor of a trade mark shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for such assignment. **Power of registered proprietor to assign and give receipts**

29. Notwithstanding anything in any other law to the contrary, a registered trade mark shall, subject to the provisions of this Chapter, be assignable and transmissible whether in connection with the goodwill of a business or not, and in respect either of all of the goods in respect of which it is registered or of some only of those goods. **Assignability of registered trade marks.**

30. An unregistered trade mark shall be assignable and transmissible whether in connection with the goodwill of a business or not: **Assignability of unregistered trade marks.**

Provided that, except in connection with the goodwill of a business, assignment or transmission shall be permissible only if—

- (a) at the time of assignment or transmission of the unregistered trade mark it is used in the same business as a registered trade mark, and
- (b) the registered trade mark is assigned or transmitted at the same time and to the same person as the unregistered trade mark, and
- (c) the unregistered trade mark relates to goods in respect of which the registered trade mark is assigned or transmitted.

Restrictions on assignment or transmission where multiple exclusive rights would be created.

31. (1) Notwithstanding anything in sections 29 and 30, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist, whether under this Act or any other law, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade marks nearly resembling each other or of identical trade marks, if, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be likely to deceive or cause confusion:

Provided that an assignment or transmission shall not be deemed to be invalid under this subsection if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within Cochin State (otherwise than for export therefrom), or in relation to goods to be exported to the same market outside Cochin State.

- (2) The proprietor of a registered trade mark who proposes to assign it may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment would or would not be invalid under sub-section (1), and a certificate so issued shall, subject to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under sub-section (1) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a



certificate in favour of validity, only if application for the registration under section 35 of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

32. Notwithstanding anything in sections 29 and 30, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist whether under this Act or any other law an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold, or otherwise traded in, in any place in Cochin State and an exclusive right in another of these persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold, or otherwise traded in, in any other place in Cochin State:

**Restrictions on assignment or transmission when exclusive rights would be created in different parts of Cochin State.**

Provided that in any such case, on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or by a person who claims that a registered trade mark has been transmitted to him or to a predecessor in title of his since the commencement of this Act, the Registrar, if he is satisfied that in all the circumstances the use of the trade mark in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission, and an assignment or transmission so approved shall not, unless it is shown that the approval was obtained by fraud or misrepresentation, be deemed to be invalid under this section or section 31 if application for the registration under section 35 of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

33. Where an assignment in respect of any goods of a trade mark which is at the time of the assignment used in a business in those goods, is made after the commencement of this Act otherwise than in connection with the good-will of that business, the assignment shall not take effect unless the assignee, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, as the Registrar may allow, applies to the Registrar for directions

**Conditions for assignment otherwise than in connection with the good-will of a business.**

with respect to the advertisement of the assignment, and advertises it in such form and manner and within such period as the Registrar may direct.

Conditions  
for assign-  
ment and  
transmission  
of certifica-  
tion trade  
marks and  
associated  
trade marks.

34. (1) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of Government, for which application shall be made in writing in the prescribed manner through the Registrar.
- (2) Associated trade marks shall be assignable and transmissible only as a whole and not separately.

Registration  
of assign-  
ments and  
transmis-  
sions.

35. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register.
- (2) Except for the purposes of an appeal against a decision of the Registrar under sub-section (1) or of an application under section 46, a document or instrument in respect of which no entry has been made in the register in accordance with sub-section (1) shall not be admitted in evidence before a tribunal in proof of the title to a trade mark unless the tribunal otherwise directs.

## CHAPTER VI

### USE OF TRADE MARKS AND REGISTERED USERS.

Proposed  
use of trade  
mark by  
company to  
be formed.

36. (1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark, if the Registrar is satisfied that a company is about to

be formed and registered under the Indian Companies Act, 1913, as made applicable to Cochin and that the applicant intends to assign the trade mark to that company with a view to the use thereof in relation to those goods by the company.

- (2) The tribunal may, in a case to which sub-section (1) applies, require the applicant to give security for the costs of any proceedings relative to any opposition or appeal, and in default of such security being duly given may treat the application as abandoned.
- (3) Where in a case to which sub-section (1) applies, a trade mark in respect of any goods is registered in the name of an applicant who relies on intention to assign to a company, then, unless within such period as may be prescribed, or within such further period not exceeding six months as the Registrar may, on application being made to him in the prescribed manner, allow, the company has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.
37. (1) Subject to the provisions of section 38, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application in the prescribed manner by any person aggrieved to the High Court or to the Registrar, on the ground either—
- (a) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him or, in a case to which the provisions of section 36 apply, by the company concerned, and that there has in fact been no *bona fide* use of the trade mark

Removal  
from register  
and imposi-  
tion of  
limitations  
on ground of  
non-use.

in relation to those goods by any proprietor thereof for the time being up to a date one month before the date of the application; or

- (b) that to a date one month before the date of the application, a continuous period of five years or longer elapsed during which the trade mark was registered and during which there was no *bona fide* use thereof in relation to those goods by any proprietor thereof for the time being:

Provided that, except where the applicant has been permitted under sub-section (2) of section 10 to register an identical or nearly resembling trade mark in respect of the goods in question or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark, the tribunal may refuse an application made under clause (a) or clause (b) in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

- (2) Where in relation to any goods in respect of which a trade mark is registered—

(a) the circumstances referred to in clause (b) of sub-section (1) are shown to exist so far as regards non-use of the trade mark in relation to goods to be sold, or

otherwise traded in, in a particular place in Cochin State (otherwise than for export from Cochin State), or in relation to goods to be exported to a particular market outside Cochin State, and

- (b) a person has been permitted under sub-section (2) of section 10 to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be so sold, or otherwise traded in, or in relation to goods to be so exported, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark,

on application by that person in the prescribed manner to the High Court or to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as it thinks proper for securing that that registration shall cease to extend to such use.

- (3) An applicant shall not be entitled to rely for the purpose of clause (b) of sub-section (1) or of sub-section (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade and not to any intention to abandon or not to use the trade mark in relation to the goods to which the application relates.
38. (1) Where a trade mark consisting of any invented word has become so well-known as respects any goods in relation to which it is registered and has been used, that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then,

**Defensive registration of well-known trade marks.**

notwithstanding that the proprietor registered in respect of the first-mentioned goods does not use or propose to use the trade mark in relation to those other goods and notwithstanding anything in section 37, the trade mark may on application in the prescribed manner by such proprietor be registered in his name in respect of those other goods as a defensive trade mark and, while so registered, shall not be liable to be taken off the register in respect of those goods under the said section:

- (2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.
- (3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be, and shall be registered as, associated trade marks.
- (4) On application in the prescribed manner by any person aggrieved to the High Court or to the Registrar, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of sub-section (1) are no longer satisfied in respect of any goods in relation to which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark, or may be cancelled as respects any goods in relation to which it is registered as a defensive trade

mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in sub-section (1).

- (5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.
- (6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases:
39. (1) A person other than the proprietor of a trade mark may be registered as a registered user thereof in respect of all or any of the goods in respect of which it is registered (otherwise than as a defensive trade mark) and either with or without conditions or restrictions. **Registered users.**
- (2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed not to be use by a person other than the proprietor, for any purpose for which such use is material under this Act or any other law.
40. (1) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and if the proprietor refuses or neglects to do so within three months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant. **Power of registered user to take proceedings against infringement.**
- (2) Notwithstanding anything contained in any other law, a proprietor so added as defendant

shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

**Application  
for registra-  
tion as regis-  
tered user.**

41. (1) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed registered user shall make application in writing to the Registrar in the prescribed manner accompanied by an affidavit made by the proprietor, or by some person authorised to the satisfaction of the Registrar to act on his behalf,—

- (a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made ;
- (b) stating the goods in respect of which registration is proposed ;
- (c) stating any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter ;
- (d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof ;  
and by such further documents, information or evidence as may be required by the Registrar or as may be prescribed.



- (2) When the requirements of sub-section (1) have been complied with, if the Registrar is satisfied that in all the circumstances the use of the trade mark in respect of the proposed goods or any of them by the proposed registered user subject to any conditions or restrictions which the Registrar may think proper, would not be contrary to the public interest, the Registrar may register, subject as aforesaid, the proposed registered user as a registered user in respect of the goods as to which he is so satisfied.
- (3) The Registrar shall refuse an application under this section if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.
- (4) The Registrar shall, if so requested by an applicant, take steps for securing that information given for the purposes of an application under this section (other than matter entered in the register) is not disclosed to rivals in trade.
- (5) The Registrar shall issue notice in the prescribed manner—
- (a) of the registration of a person as a registered user, to any other registered user of the trade mark
  - ((b) of an application under section 42, to the registered proprietor, and each registered user (not being applicant) of the trade mark.

42. Without prejudice to the provisions of section 46, the registration of a person as a registered user—

- (a) may be varied by the Registrar as regards the goods in respect of which, or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark;
- (b) may be cancelled by the Registrar on the application in writing in the prescribed

Power to Registrar to vary or cancel registration as registered user.

manner of the registered proprietor or of the registered user or of any other registered user of the trade mark;

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, namely.—

(i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause or to be likely to cause, deception or confusion;

(ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for the registration, or that the circumstances have materially changed since the date of the registration;

(iii) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested;

(d) may be cancelled by the Registrar in respect of any goods in relation to which the trade mark is no longer registered.

Registered user not to have right of assignment or transmission.

Use of one of associated or substantially identical trade marks equivalent to use of another.

43. Nothing in this Act shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

44. (1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as it shall think right, accept use of a registered associated trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be

deemed to be also a use of any trade mark being a part thereof and registered in accordance with sub-section (1) of section 11 in the name of the same proprietor.

45. (1) The application in Cochin State of a trade mark to goods to be exported from Cochin State, and any other act done in Cochin State in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within Cochin State would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or any other law.
- (2) The use of a registered trade mark in relation to goods between which and the person using the mark any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the mark has been or is used in relation to goods between which and the person using the mark or any predecessor in his business different form of connection in the course of trade subsisted or subsists.

Use of trade mark for export trade, and use when form of trade connection changes.

## CHAPTER VII

### RECTIFICATION AND CORRECTION OF THE REGISTER

46. (1) On application in the prescribed manner by any person aggrieved to the High Court or to the Registrar, the tribunal may make such order as it may think fit for cancelling or varying the registration of a trade mark on the ground of any contravention of, or failure to observe a condition entered on the register in relation thereto.
- (2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may

Power to cancel or vary registration and to rectify the register.

apply in the prescribed manner to the High Court or to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as it may think fit.

- (3) The tribunal may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.
- (4) The High Court or the Registrar, of its or his own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub-section (2).
- (5) Any order of the Court rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

**Correction of register.**

47. (1) The Registrar may, on application made in the prescribed manner by the registered proprietor,—
  - (a) correct any error in the name, address or description of the registered proprietor of a trade mark;
  - (b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;
  - (c) cancel the entry of a trade mark on the register;
  - (d) strike out any goods or classes of goods from those in respect of which a trade mark is registered;
  - (e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark.

- (2) The Registrar may, on application made in the prescribed manner by a registered user of a trade mark, correct any error, or enter any change, in the name, address or description of the registered user.
48. (1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit. **Alteration of registered trade mark.**
- (2) The Registrar may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.
- (3) Where leave is granted under this section, the trade mark as altered shall be advertised in the prescribed manner, unless the application has already been advertised under sub-section (2).
49. (1) The Registrar shall not, in exercise of any power conferred on him under clause (a) of sub-section (2) of section 80, make any amendment of the register which would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made or of antedating the registration of a trade mark in respect of any goods: **Adaptation of entries in register to amended or substituted classification of goods.**
- Provided that this sub-section shall not apply when the Registrar is satisfied that compliance therewith would involve undue complexity and that the addition or antedating,

as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

- (2) A proposal so to amend the register shall be notified to the registered proprietor of the trade mark affected and advertised in the prescribed manner, and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of sub-section (1).

## CHAPTER VIII

### CERTIFICATION TRADE MARKS

Provisions of this Act applicable to certification trade marks.

50. Subject to the provisions of this Chapter, the other provisions of this Act except sections 6, 21, 22, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, and 43 and sub-section (2) of section 45 shall apply to certification trade marks as they apply to trade marks.

Certification trade mark not to be registered in name of person trading in goods certified thereby.

51. A mark shall not be registrable as a certification trade mark in the name of a person who carries on a trade in goods of the kind certified.

Determination whether a mark is a certification trade mark.

52. In determining whether a mark is adapted to distinguish in accordance with the provisions of clause (b) of sub-section (1) of section 2, the tribunal may have regard to the extent to which—

- (a) the mark is inherently so adapted to distinguish in relation to the goods in question; and
- (b) by reason of the use of the mark or of any other circumstances, the mark is in fact so adapted to distinguish in relation to the goods in question.

Application for registration.

53. (1) An application for the registration of a mark as a certification trade mark shall be made to the Registrar in writing in the prescribed

manner by the person proposed to be registered as the proprietor thereof, and accompanied by a draft of the regulations to be deposited under section 56.

- (2) The provisions of section 14 shall have effect in relation to an application under this section as they have effect in relation to an application under the said section, except that for references therein to acceptance of an application there shall be substituted references to authorisation to proceed with the application.
- (3) In dealing under the said provisions with an application under this section, the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section 14 and to any other considerations (not being matters within the competence of Government under section 54) relevant to applications under this section, including the desirability of securing that a certification trade mark shall comprise some indication that it is a certification trade mark.

54. When authorisation to proceed with an application under section 53 has been given, the Registrar shall forward the application to Government who shall consider the application with regard to the following matters, namely.—

**Consideration of application for Registration by Government.**

- (a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered ;
- (b) whether the draft of the regulations to be deposited under section 56 is satisfactory ;
- (c) whether in all the circumstances the registration applied for would be to the public advantage ;

and may either—

- (i) direct that the application shall not be accepted ; or
- (ii) direct the Registrar to accept the application and approve the said draft of the regulations either

without modification and unconditionally or subject to any conditions or limitations, or to any amendments or modification of the application or of the regulations, which it thinks requisite having regard to any of the said matters;

but, except in the case of a direction for acceptance and approval without modification and unconditionally, Government shall not decide the matter without giving to the applicant an opportunity of being heard :

Provided that Government may, at the request of the applicant made with the concurrence of the Registrar, consider the application with regard to any of the said matters before authorisation to proceed with the application has been given, so however that Government shall be at liberty to reconsider any matter on which it has given a decision under this proviso if any amendment or modification is thereafter made in the application or in the draft of the regulations.

Opposition  
to registra-  
tion.

55. (1) When an application has been accepted, the Registrar shall, as soon as may be thereafter, cause the application as accepted to be advertised in the prescribed manner, and the provisions of section 15 shall have effect in relation to the registration of the mark as if the application had been an application under section 14 :

Provided that, in deciding under the said provisions the tribunal shall have regard only to the considerations referred to in sub-section (3) of section 53, and a decision under the said provisions in favour of the applicant shall be conditional on the determination in his favour by Government under sub-section (2) of this section of any opposition relating to any of the matters referred to in section 54.

(2) When notice of opposition is given relating to any of the matters referred to in section 54, Government shall, after hearing the parties, if so required, and considering any



evidence, decide whether and subject to what conditions or limitations, or amendments or modifications, if any, of the application or of the regulations to be deposited under section 56, registration is, having regard to those matters, to be permitted.

56. (1) There shall be deposited at the Patent Office in respect of every mark registered as a certification trade mark regulations approved by Government for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the certification trade mark, and may contain any other provisions which Government may by general or special order require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorise the use of the certification trade mark in accordance with the regulations); and regulations so deposited shall be open to inspection in like manner as the register.
- (2) The regulations so deposited may on the application of the registered proprietor be altered by the Registrar with the consent of Government.
- (3) Government may cause such application to be advertised in any case where it appears to it expedient so to do, and where it does so, if within the time specified in the advertisement any person gives notice of opposition to the application, Government shall not decide the matter without giving the parties an opportunity of being heard.

Deposit of regulations governing the use of a certification trade mark.

57. Subject to the provisions of sections 25, 26 and 58, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the certification trade mark in relation to those goods, and, without prejudice to the generality of the foregoing provision, that

Right conferred by registration.

right shall be deemed to be infringed by any person who, not being the proprietor of the mark or a person authorised by him in that behalf under the regulations deposited under section 56, using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

- (a) as being use as a certification trade mark; or
- (b) to import a reference to some person having the right either as proprietor, or by his authorisation under the said regulations, to use the mark, or to goods certified by the proprietor.

No infringement in certain circumstances.

58. (1) The right to the use of a certification trade mark given under section 57 by registration shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which having regard to any such limitations, the registration does not extend.
- (2) The said right to the use of a certification trade mark shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—
- (a) in relation to goods certified by the proprietor of the mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the mark, or

(b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor:

Provided that clause (a) shall not apply to the case of use consisting of the application of any such mark as aforesaid to any goods, notwithstanding that they are such goods as are mentioned in that clause if such application is contrary to the said regulations.

(3) Where a certification trade mark is one of two or more registered certification trade marks which are identical or nearly resemble each other, the use of any of those marks in exercise of the right to the use of that mark given by registration, shall not be deemed to be an infringement of the right so given to the use of any other of those marks.

59. (1) Government may, on the application in the prescribed manner of any person aggrieved or on the recommendation of the Registrar, and after giving the proprietor an opportunity of opposing the application or recommendation, make such order as it thinks fit for expunging or varying any entry in the register relating to a certification trade mark, or for varying the deposited regulations, on any of the following grounds, namely.—

Cancellation  
or varying  
of registra-  
tion.

- (a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the mark is registered, to certify those goods;
- (b) that the proprietor has failed to observe any provision of the deposited regulations to be observed on his part;
- (c) that it is no longer to the public advantage that the mark should be registered;
- (d) that it is requisite for the public advantage that, if the mark remains registered, the regulations should be varied;

and neither the High Court nor the Registrar shall have any jurisdiction to make an order under section 46 on any of those grounds.

- (2) The Registrar shall rectify the register and the deposited regulations in such manner as may be requisite for giving effect to an order made under sub-section (1).

Costs not to be awarded in certain cases.

60. The Registrar shall have no power to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the mark.

Decisions of Government to be final.

61. Save as otherwise expressly provided in this Chapter, every decision of Government under this Chapter shall be final.

## CHAPTER IX

### SPECIAL PROVISION FOR TEXTILE GOODS

Restrictions on registration of piece goods.

- 62. In respect of textile goods being piece goods —
  - (a) no mark consisting of a line heading alone shall be registrable as a trade mark;
  - (b) a line heading shall not be deemed to be adapted to distinguish;
  - (c) the registration of a trade mark shall not give any exclusive right to the use of a line heading;

- (d) the registration of letters of numerals, or any combination thereof, shall be subject to such conditions and restrictions as may be prescribed.

## CHAPTER X

### OFFENCES AND RESTRAINT OF USE OF ROYAL ARMS AND STATE EMBLEMS

63. If any person makes, or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in the evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Penalty for falsification of entries in register.

64. (1) From such date, not being earlier than one year from the commencement of this Act, as Government may, by notification in the Cochin Government Gazette, appoint in this behalf, no person shall make any representation—

Penalty for false.y representing a trade mark as registered.

- (a) with respect to mark not being a registered trade mark, to the effect that it is a registered trade mark; or
  - (b) with respect to a part of a registered trade mark not being a part separately registered as a trade mark, to the effect that it is separately registered as a trade mark; or
  - (c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not in fact registered; or
  - (d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered in the register, the registration does not in fact give that right.
- (2) If any person contravenes any of the provisions of sub-section (1), he shall be

punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(3) For the purposes of this section, the use in Cochin State in relation to a trade mark of the word "registered", or of any other expression referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

(a) where that word or other expression is used in direct association with other words delineated in characters at least as large as those in which that word or other expression is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside Cochin State, being a country under the law of which the registration referred to is in fact in force; or

(b) where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (a); or

(c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside Cochin State and in relation solely to goods to be exported to that country.

**Restraint of  
use of Royal  
Arms and  
State  
emblems.**

65. If a person, without due authority, uses in connection with any trade, business, calling or profession—

(a) the Cochin Coat of Arms (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised so to use the Cochin Coat of Arms, or

- (b) the Royal Arms of His Majesty the King Emperor of India (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised so to use the Royal Arms, or
- (c) any device, emblem or title in such manner as to be calculated to lead to the belief that he is employed by, or supplies goods to, or is connected with, the Government of Travancore or the Government of His Majesty the King Emperor of India or the Government of India or any Provincial Government or any department of any such Government,

he may, at the suit of any person who is authorised to use such Arms or such device, emblem or title, or of the Registrar, be restrained by injunction from continuing so to use the same.

## CHAPTER XI

### MISCELLANEOUS

66. In all proceedings under this Act before the Registrar— **Procedure  
before the  
Registrar.**

- (a) the Registrar shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;
- (b) evidence shall be given by affidavit, provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to such evidence by affidavit;
- (c) the Registrar shall not exercise any power vested in him by this Act or the rules made thereunder adversely to any party duly appearing before him without (if required in writing within the prescribed time so to

do) giving such party an opportunity of being heard;

- (d) the Registrar may, save as otherwise expressly provided in this Act, and subject to any rules made in this behalf under section 80 make such orders as to costs as he considers reasonable, and any such order shall be executable as a decree of a Civil Court.

**Procedure  
Before  
Government.**

67. In all proceedings under this Act before Government, evidence shall be given by affidavit, provided that Government may, if they think fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit, and shall for that purpose have all the powers of a Civil Court referred to in clause (a) of section 66.

**Procedure in  
certain cases  
of option to  
apply to  
High Court  
or the  
Registrar.**

68. Where under this Act an applicant has the option of making an application either to the High Court or to the Registrar,—

- (a) if any suit or other proceedings concerning the trade mark in question is pending before the High Court or a District Court, the application shall be made to the High Court:
- (b) if in any other case the application is made to the Registrar, the Registrar may, if he thinks fit, refer the application at any stage of the proceedings to the High Court.

**Suits for  
infringement  
to be insti-  
tuted before  
District  
Court.**

69. No suit for the infringement of a trade mark or otherwise relating to any right in a trade mark shall be instituted in any Court inferior to a District Court having jurisdiction to try the suit.

**Appearance  
of Registrar  
in proceed-  
ings involv-  
ing rectifica-  
tion of  
register.**

70. (1) In any suit or other legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the tribunal.
- (2) Unless the tribunal otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the



proceedings before him relating to the matter in issue, or of the grounds of any decision given by him affecting it, or of the practice of the Patent Office in like cases, or of other matters relevant to the issues and within his knowledge as Registrar, and such statement shall be evidence in the suit or other proceeding.

- (3) The costs of the Registrar shall be in the discretion of the tribunal, but the Registrar shall not be ordered to pay the costs of any of the parties.

71. (1) A printed or written copy of any entry in the register, purporting to be certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence in all Courts in Cochin State and in all proceedings without further proof of production of the original.

Evidence of entries in register and things done by Registrar.

- (2) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be *prima facie* evidence of the entry having been made, and of the contents thereof, or of the matter or thing having been done or not done.

72. (1) Save as otherwise expressly provided in this Act, an appeal shall lie, within the period prescribed by Government, from any decision of the Registrar under this Act or the rules made thereunder to the High Court:

Appeals.

Provided that if any suit or other proceeding concerning the trade mark in question is pending before the High Court or a District Court, the appeal shall be made to the High Court.

- (2) In an appeal by an applicant for registration against a decision of the Registrar under section 13 or section 14 or section 15, it shall not be open, save with the express permission of the Court, to the Registrar or any party

opposing the appeal to advance grounds other than those recorded in the said decision or advanced by the party in the proceedings before the Registrar, as the case may be; and where any such additional grounds are advanced, the applicant for registration may on giving notice in the prescribed manner, withdraw his application without being liable to pay the costs of the Registrar or the parties opposing his application.

- (3) Subject to the provisions of this Act and of rules made thereunder, the provisions of the Cochin Code of Civil Procedure, XXIX of 1111, shall apply to appeals before the High Court under this Act.

**Power to High Court to make rules.**

73. The High Court may make rules consistent with this Act as to the conduct and procedure of all proceedings under this Act before it.

**Certificate of validity.**

74. If in any legal proceeding in which the validity of the registration of a trade mark comes into question, a decision is given in favour of the proprietor of the trade mark, the tribunal may grant a certificate to that effect, and if such a certificate is granted, then in any subsequent legal proceeding in which the said validity comes into question, the said proprietor on obtaining a final order or judgment in his favour shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full costs, charges and expenses as between legal practitioner and client.

**Trade usage, etc., to be taken into consideration.**

75. In any suit or other proceeding relating to a trade mark, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or get up legitimately used by other persons.

**Agents.**

76. Where by or under this Act any act, other than the making of an affidavit, is required to be done by any person, the act may, subject to prescribed conditions or in special cases with the consent of Government, be done, in lieu of by that person himself, by a duly authorised agent, being either a legal practitioner or a person registered in the prescribed manner as a trade marks agent.

77. There shall be paid in respect of applications and registration and other matters under this Act such fees as may be prescribed by Government. **Fees.**

78. The provisions of this Act shall be binding on Government. **Government to be bound.**

79. If at any time after the expiry of six months from the commencement of this section it is made to appear to Government that any Government outside Cochin State has made satisfactory provision for the protection within its territories of trade marks in respect of which an application for registration has been made in Cochin State, Government may, by notification in the Cochin Government Gazette, make provision with regard to trade marks in respect of which an application for registration has been made within the territories of that Government to enable any person who has applied within such territories for registration of a trade mark or his legal representative or assignee to obtain registration of the trade mark in Cochin State under this Act on his making an application for registration in Cochin State within such period as may be fixed in this behalf by the notification as if an application for registration under this Act had been made in respect of that trade mark at the date at which the application for registration was made within the territories of that Government. **Power to make reciprocal arrangements with other Governments.**

80. (1) Government may, subject to the condition of previous publication by notification in the Cochin Government Gazette, make rules to carry out the purposes of this Act. **Power of Government to make rules.**

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

(a) prescribe the classification of goods for the purpose of the registration of trade marks, and empower the Registrar to amend the register so far as may be necessary for the purpose of adapting the entries therein to any amended or substituted classification which may be prescribed;

- (b) require the making of duplicates of trade marks and other documents connected therewith;
- (c) provide for securing and regulating the publication, sale or distribution of copies of trade marks and other documents connected therewith;
- (d) prescribe additional matters to be entered in the register;
- (e) prescribe the conditions and restrictions subject to which the register may be inspected;
- (f) prescribe the form of certificates of registration;
- (g) prescribe the conditions under which a trade mark removed from the register may be restored under sub-section (3) of section 18;
- (h) prescribe the further documents, information or evidence to accompany an application under sub-section (1) of section 41;
- (i) regulate the awarding of costs by the Registrar under section 66;
- (j) prescribe the conditions subject to which an agent referred to in section 76 may act;
- (k) prescribe the fees to be paid under this Act;
- (l) prescribe the manner in which, in proceedings under this Act before Government or the Registrar, application shall be made, notices given and matters advertised;
- (m) prescribe times or periods required by this Act to be prescribed;
- (n) provide, generally, for regulating the business of the Trade Marks Registry and for regulating all things by this Act placed under the direction or control of Government or the Registrar.

81. Government may, by notification in the Cochin Government Gazette, provide such procedure as it considers expedient to enable intending applicants to deposit trade marks at the Patent Office before the coming into force of the remaining provisions of this Act:

Power to Government to make provision for applications for registration before the coming into force of the remaining provisions of Act.

Provided that the deposit of a trade mark under this section shall not affect any right, existing or accruing, in the trade mark.

## THE HOARDING AND PROFITEERING PREVENTION (AMENDMENT)

### PROCLAMATION

(XXII of 1119)

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*Promulgated by His Highness Sree Ravi Varma  
Maharaja of Cochin*

*on the 23rd day of Mithunam 1119  
corresponding to the 6th day of July 1944*

[Published in the Cochin Government Gazette,  
dated 25th Mithunam 1119]

**Preamble.**

WHEREAS it is necessary to amend the Hoarding and Profiteering Prevention Proclamation, VIII of 1119; WE are pleased to command as follows.—

**Short title and commencement.**

1. (1) This Proclamation may be called the Hoarding and Profiteering Prevention (Amendment) Proclamation, XXII of 1119.
- (2) It shall come into force at once.

**Amendment of section 2.**

2: In section 2 of the Hoarding and Profiteering Prevention Proclamation, VIII of 1119 (hereinafter referred to as the said Proclamation),—

- (a) to clause (d) the words “and includes an assistant inspector” shall be added;
- (b) after clause (f) the following clause shall be added, namely.—
- “(g) the expression ‘offer for sale’ shall be deemed to include a reference to an intimation by a person of the price proposed by him for a sale of an article, made by the publication of a price list, by exposing the article for sale in association with a mark indicating price, by the furnishing of a quotation, or otherwise howsoever”.

**Amendment of section 3.**

3. To sub-section (2) of section 3 of the said Proclamation the words “or for different classes of dealers or producers” shall be added.

**Amendment of section 4.**

4. (1) Section 4 of the said Proclamation shall be renumbered as sub-section (1) of the said section, and in the sub-section as so renumbered, in clause (c), after the words “offer for sale” the words “or otherwise dispose of” shall be inserted.
- (2) After sub-section (1) as so renumbered the following sub-section shall be added, namely.—
- “(2) Where a dealer or producer disposes of an article by having it sold by auction on his behalf, the auctioneer as well as the dealer or producer shall be liable to the punishment provided by sub-section (1) of section 13, if in any such sale there is a contravention of clause (c) of sub-section (1)”.

5. For sub-sections (2) and (3) of section 6 of the said Proclamation the following sub-sections shall be substituted, namely.— Amendment  
of section 6.

“(2) For the purposes of this section a consideration is unreasonable if, whether it is exclusively in money or not,—

(a) the purchaser is, as a condition of sale, required to purchase at the same time any other article;

(b) where the sale is by a dealer, the consideration exceeds the amount represented by the addition allowed by the normal trade practice in force on the 31st day of August 1939 to—

(i) the landed cost of the article, in the case of an article imported into Cochin State, or, where the article is delivered to the consignee elsewhere than at a port, that cost increased by any charges incurred for freight or other duties before delivery, or,

(ii) the price at which the producer sold the article, in the case of an article which is not imported;

(c) where the sale is by a producer, the consideration exceeds the amount represented by the addition allowed by the normal trade practice in force on the 31st day of August 1939 to the cost of production:

Provided that, where the addition allowed by such normal trade practice exceeds or is alleged to exceed 20 per cent, the dealer or producer, as the case may be, shall report the fact to the Director who may either sanction such addition or, for reasons to be recorded in writing, order its variation; and, unless such report has been made and the price charged is within the limits approved by the Director under this proviso, the dealer or producer, as the case may be, shall be deemed to sell for a consideration which is unreasonable.

(3) The Director may make or cause to be made a certificate stating the landed cost of any imported article dealt in by a dealer, and shall, on request made by any dealer, grant or cause to be granted to that dealer a certificate stating the landed cost of any such imported article.

(4) Where a dealer or producer disposes of an article by having it sold by auction on his behalf, the auctioneer as well as the dealer or producer shall be liable to the penalty provided by sub-section (1) of section 13, if in any such sale there is a contravention of sub-section (1)".

**Insertion of new section 9A.**

**Power of Director to order sale.**

6. After section 9 of the said Proclamation, the following section shall be inserted, namely.—

"9A. The Director may, by order in writing, direct any producer or dealer to sell to any specified person any specified article or articles in such quantity, within the limits as to quantity imposed by this Proclamation, as may be specified by the Director.

**Amendment of section 11.**

7. In section 11 of the said Proclamation, after sub-section (1), the following sub-section shall be inserted, namely.—

"(1A) The Director may, by order published in the Cochin Government Gazette, issue a direction under sub-section (1) generally to all dealers in or producers of a particular article or particular articles".

**Insertion of new section 13A.**

**Right of buyer to avoid prohibited transactions or to recover excess price.**

8. After section 13 of the said Proclamation, the following section shall be inserted, namely.—

"13A. (1) Where any person has been convicted of the offence specified in sub-section (1) of section 6, then,—

(a) if the prosecution was in respect of a sale, the buyer at that sale, and

(b) if the prosecution was in respect of a sale or an offer to sell or a disposal otherwise than by sale, the buyer under any sale of similar articles effected at the same



or a higher price in the course of that business in contravention of the provisions of sub-section (1) of section 6 before the date of the conviction,

may at his option—

- (i) either treat the sale as void, and recover from the seller, as money received by him for the use of the buyer, any amount paid by the buyer as consideration therefor, or
- (ii) affirm the sale but recover as aforesaid to the extent of any loss sustained by him by reason of the contravention, regard being had to any consideration received or to be received by him for a resale of the articles:

Provided that the buyer shall not be entitled to exercise the right conferred by clause (i) if any rights acquired by a third-party would be prejudiced thereby, or after the lapse of an unreasonable time from the date of the sale, or unless he tenders the articles to the seller in substantially the same state as that in which they were when the property passed to the buyer.

- (2) Any sum recoverable under this section shall be recoverable with interest thereon at the rate of 5 per cent per annum from the date when it was paid.
- (3) No person may exercise any right conferred by this section who is himself liable to punishment as an abettor of the contravention in question".

Insertion of  
new sections  
14A, 14B and  
14C.

Summary  
trials.

9. After section 14 of the said Proclamation, the following sections shall be inserted, namely.—

"14A. Notwithstanding anything contained in section 236 in Chapter XXII of the Code of Criminal Procedure, II of 1086, a Magistrate empowered to act under that section may try any offence punishable under this Proclamation in a summary way under the provisions of that chapter, unless the District Magistrate directs that the case should not be so tried.

Special rules  
of evidence.

14B. (1) In any prosecution for a contravention of the provisions of section 5 the burden of proving that the quantity of an article in the possession of an accused person was not in excess of the limits specified in that section shall lie on the accused person.

(2) In any prosecution for a contravention of the provisions of section 6, when the sale of or offer to sell or disposal of the article in question and the price at which it was made have been proved, then, if it is also proved that such price exceeded by more than 20 per cent the amount specified in sub-clause (i) or (ii) of clause (b) of sub-section (2) of section 6 or in clause (c) of that sub-section as the case may be, it shall lie on the accused person to prove that the sale price charged was within the limits approved by the Director under the proviso to the said sub-section.

(3) For the purposes of section 6 a certificate signed by or under authority from the Director as to the landed cost of any article shall be conclusive evidence of that landed cost.

14C. If the person contravening any provision of this Proclamation is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention".

Offences by corporations.

10. After section 17 of the said Proclamation, the following section shall be added, namely.—

Addition of new section 18.

"18. The provisions of this Proclamation shall not apply—

Exception of certain articles.

(a) to the possession or sale of any article intended for export from Cochin State by a person holding an export license for the export of that article.

(b) to the possession or sale of any article by a person discharging a contract entered into with Government where the possession or sale is in pursuance of that contract".

## THE COCHIN STATE FORCES (AMENDMENT) PROCLAMATION

(XXIII of 1119)

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2. Amendment of section 2.
3. Addition of a new section—

Laws to govern the Forces when serving outside:

## THE COCHIN STATE FORCES (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sri Ravi Varma,  
Maharaja of Cochin*

*on the 24th day of Mithunam 1119 corresponding  
to the 7th day of July 1944*

[Published in the Cochin Government Gazette,  
dated 25th Mithunam 1119]

**Preamble.**

WHEREAS it is deemed expedient further to amend the Cochin State Forces Proclamation, XIII of 1119; WE are pleased to command as follows.—

**Short title and commencement.**

1. This Proclamation may be called the Cochin State Forces (Amendment) Proclamation, XXIII of 1119, and it shall come into force at once.

**Amendment of section 2.**

2. In sub-section (2) of section 2 of the Cochin State Forces Proclamation, XIII of 1119, hereinafter referred to as the Proclamation—

(a) in clause (c) between the words “military offences” and “which”, the words “other than those tried by court-martial” shall be inserted, and

(b) in clause (d) the following shall be added at the end.—

“and the award of punishments by court-martial, not exceeding imprisonment for one year, rigorous or simple;”.

**Addition of a new section.**

3. After section 2 of the Proclamation, the following section shall be added, namely.—

**Laws to govern the Forces when serving outside.**

“3. OUR Government may, by notification in the Cochin Government Gazette, specify the military laws, subject to such conditions and restrictions as they may deem fit, which shall govern the members of the Cochin State Forces when such Forces are sent for service outside Cochin State”.

## APPENDIX

**1. THE DEFENCE OF INDIA (SECOND AMENDMENT)  
ORDINANCE (XLIV OF 1943)**

*[Law Department Notification No. 20, dated 2nd Makaram 1119  
(15th January 1944), published on page 326, Part I,  
Gazette dated 9th Makaram 1119]*

The following Ordinance, dated 2nd December 1943 of the Government of India in the Legislative Department (Ordinance No XLIV of 1943) making further amendments to the Defence of India Act, 1939 is published for general information.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose herein after appearing;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5 c. 2) the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Second Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 6, Act XXXV of 1939.*—In clause (5) of section 6 of the Defence of India Act, 1939 (XXXV of 1939)—

(a) for sub-clause (a) the following sub-clauses shall be substituted, namely.—

“(a) in section 53, for regulation (2) the following regulation had been substituted, namely.—

(2) Judgment of death shall not be passed on any prisoner unless all the officers present at the court martial, where the number is less than five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence”.

(b) in sub-section 2 of section 57A, for the word “commander” the words “substantive or acting commander” had been substituted;

(c) in section 58—

(i) in regulations (1) and (16) for the word “five” the word “three”, in regulation (7) for the words “the president is a captain” the words “the president is a substantive or acting commander”, in regulation (15) for the word “four” the word “two” had been substituted;

(ii) regulation (3) had been omitted”; and

(b) existing sub-clause (b) shall be relettered as sub-clause (d).

\*The Ordinance is in force *mutatis mutandis* in the State in virtue of clause 1 (1) of Proclamation VIII of 1115.

**2. COFFEE MARKET EXPANSION ACT, 1942**

*[Revenue Department Notification No. 132, dated 14th Mithunam 1119  
(27th June 1944), published in Supplement to Part I, Gazette  
dated 32nd Mithunam 1119]*

The Coffee Market Expansion Act, VII of 1942, as amended up to 25th March 1944 (passed by the Indian Legislature) is published below for general information.

This Act is in force in the State by virtue of the Coffee Market Expansion Act (Application) Proclamation, XXV of 1117.

## THE COFFEE MARKET EXPANSION ACT, 1942

(As amended up to 25th March 1944)

*Note.*—Amendments are shown in square brackets preceded by a figure and a letter which are abbreviations used to denote the following.—

I—Inserted by

A—Added by

O—Omitted by

S—Substituted by

1—The Coffee Market Expansion (Amendment) Act, 1943

2—The Coffee Market Expansion (Amendment) Act, 1944

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##### *S. 1.*

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I. 1.

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**ACT NO. VII OF 1942****[PASSED BY THE INDIAN LEGISLATURE]***Received the assent of the Governor-General on the 2nd March, 1942)*

**An Act to continue the provision made under Ordinance No. XIII of 1940 for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means**

WHEREAS it is expedient to continue the provision made under the Coffee Market Expansion Ordinance, 1940, for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means;

It is hereby enacted as follows.—

1. (1) *Short title, extent and duration.*—This Act may be called the Coffee Market Expansion Act, 1942.

(2) It extends to the whole of British India.

(3) It shall cease to be in force at the end of the twelve months commencing on the 1st day of July subsequent to the termination of the present hostilities.

2. *Declaration as to expediency of Central Government's control.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the coffee industry.

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

S. 1.

(a) "the Board" means the [Indian Coffee Board] constituted under section 4;

(b) "coffee" means the commodity derived from the fruit of the rubiaceae plant known by that name, and includes raw coffee, cured coffee, uncured coffee roasted coffee and prepared coffee;

(c) "Collector" means a Customs-collector as defined in clause (c) of section VIII of 1878. 3 of the Sea Customs Act, 1878, or a Collector of Land XIX of 1924. Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924, as the case may be;

(d) "curing" means the application to raw coffee of mechanical processes other than pulping for the purpose of preparing it for marketing;

(e) "curing establishment" means any place to which raw coffee is sent by a registered owner for curing, and includes any estate which the Board may declare to be a curing establishment for the purposes of this Act;

I. 2.

[(ee) "dealer" means a person carrying on the business of selling coffee, whether wholesale or by retail;]

(f) "estate" means an area administered as one unit which contains land planted with coffee plants;

(g) "Indian Coffee Cess Committee" means the Indian Coffee Cess XIV of 1935. Committee constituted under the Indian Coffee Cess Act, 1935;

(h) "internal sale quota" means that portion, stated in terms of bulk or weight, of the whole of the coffee produced by the estate in the year, which a registered estate is permitted under this Act to sell in the Indian market;

(i) "owner" includes any agent of an owner;

A. 1.

[a mortgagee in possession or a lessee;]

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

(k) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 14, and includes also any estate in respect of which an owner is required to be registered under the provisions of that sub-section;

(l) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 14;



(m) "surplus pool" means the stock of coffee accumulated by the Board out of the amounts delivered to the Board under section 25;

(n) "year" means the period of twelve months beginning with the 1st day of July and ending with the 30th day of June following.

4. (1) *Constitution of the Board.*—The Board constituted by the name of the Indian Coffee Market Expansion Board under section 4 of the Indian Coffee Market Expansion Ordinance, 1940,

XIII of 1940  
S. 1.  
shall be the [Indian Coffee Board] for the purpose of this Act.

I. 1.

[(2) The Board shall consist of—

(a) five persons representing the agricultural departments of the Provincial Governments of Madras and Coorg and of the Governments of the States of Mysore, Travancore and Cochin nominated, in the case of the States' Representatives, by the Government of the State concerned, and in the other cases, by the Central Government;

(b) eleven persons representing the coffee growing industry, namely.—

(i) three persons nominated by the Government of the Mysore State;

(ii) two persons nominated by the Central Government to represent Madras and Coorg, respectively;

(iii) three persons nominated by the United Planters' Association of Southern India;

(iv) one person nominated by the Coorg Planters' Association;

(v) one person nominated by the Mysore Planters' Association;

(vi) one person nominated by the Indian Planters' Association, Mysore;

(c) four persons representing the coffee trade interests, nominated by the Central Government;

(d) one person representing the Imperial Council of Agricultural Research, nominated by the Central Government;

(e) two persons nominated by the Central Government to represent.—

(i) the coffee growing industry in the Mysore State, and

(ii) the Shevaroy Planters' Association, Yercaud.

(3) Where a member of the Board dies, resigns or is removed or ceases to reside in India, or becomes incapable of acting, the Central Government may, on the recommendation of the authority or body which was entitled to make the first nomination under sub-section (2), or where such recommendation is not made within a reasonable time, then on its own initiative, nominate a person to fill the vacancy.]

S. 1.

[(4)] No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

5. *Incorporation of the Board.*—The Board shall be a body corporate by the

S. 1.

name of the [Indian Coffee Board] having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

6. *Vesting of property in the Board.*—So long as this Act remains in force all property, movable or immovable, of or belonging to the Indian Coffee Cess Committee shall vest in the Board and all debts and liabilities of the said Committee shall be transferred to the Board, and the officers and servants of the said Committee shall be officers and servants on the staff of the Board and the said Committee shall be suspended.

7. (1) *Chairman, committees, staff and agents.*—The chairman of the Board shall be elected by the Board from among the members of the Board:

Provided that the person who is at the commencement of this Act, the chairman of the Indian Coffee Market Expansion Board constituted under the Coffee Market Expansion Ordinance, 1940, shall be the first chairman of the Board.

XIII of 1940.

(2) The Board may appoint such committees for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under this Act.

(3) The Board may authorise agents to discharge on its behalf its functions in relation to the marketing, storing and curing of coffee.

8. (1) *Controller and Deputy Controller of Coffee.*—The Central Government shall appoint an officer, to be called the Controller of Coffee, to exercise such powers and perform such duties under the direction of the Board as may be prescribed by the Central Government.

(2) The Central Government may appoint an officer, to be called the Deputy Controller of Coffee, to exercise such powers and perform such duties of the Controller of Coffee as may be delegated to him by the Controller of Coffee with the previous sanction of the Central Government or as may be prescribed by the Central Government.

(3) The Controller of Coffee and the Deputy Controller of Coffee may be either salaried or unsalaried; if salaried, they shall be paid by the Board such salaries as may be fixed by the Central Government.

(4) The Board shall pay to the Controller of Coffee and the Deputy Controller of Coffee such allowances as may be fixed by the Central Government.

9. *Power of Board to make bye-laws.*—The Board may, with the previous sanction of the Central Government, make bye-laws consistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely,—

(a) the procedure to be followed at meetings of the Board and at committees

(b) the powers exercisable and the duties to be discharged by the chairman of the Board and the members of the staff of the Board;

(c) the travelling or other allowances which may be drawn by members of the Board;

(d) the appointment, promotion and dismissal of members of the staff of the Board, the creation and abolition of such appointments, and the terms of service of members of the staff of the Board;

(e) any other matter in respect of which bye-laws may be made under this Act or the rules made thereunder.

10. *Dissolution of the Board.*—When the Board is dissolved by reason of this Act having ceased to be in force, the unexpended balance of all money received by

XIII of 1940.

the Board under the Coffee Market Expansion Ordinance, 1940, or under this Act except money in the pool fund shall be disposed of in such manner as the Central Government may direct. The Central Government shall disburse the money in the pool fund in the same manner as the Board would have done had it continued to exist.

#### *Duties of Customs and of Excise*

11. *Duty of customs.*—A duty of customs shall be levied on all coffee produced in India and exported from British India at the rate of one rupee per hundredweight or at such lower rate as the Central Government may, on the recommendation of the Board, by notification in the official Gazette provide.

12. *Duty of excise.*—A duty of excise shall be levied at such rate not exceeding one rupee per hundredweight as may be fixed by the Central Government on the recommendation of the Board by notification in the official Gazette on all coffee, except coffee sold and delivered before the estate became subject to the provisions of sub-section (1) of section 14, which a registered estate is permitted by the internal sale quota allotted to it to sell in the Indian market, whether such coffee is actually sold or not, and on all coffee released for sale in India by the Board from the surplus pool.

13. *Payment of proceeds of duties to the Board and manner of realisation by the Board.*—(1) The proceeds of the duty of customs levied under section 11 and of the duty of excise levied under section 12 shall be paid to the Board for credit to the general fund of the Board.

(2) On the last day of each month, or as soon thereafter as may be convenient the Collector shall pay to the Board the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

(3) The Central Board of Revenue may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the duty of customs where coffee is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the duty of customs, of coffee which is subsequently to be imported into India.

(4) The duty of excise on coffee shall be payable by the registered owner of the estate producing the coffee and shall be realised by the Board by the deduction of the amount of the duty payable by such owner from any sum due to him on account of sales from the surplus pool. It shall be a first charge on such sum, and shall, if not capable of realisation by deduction as aforesaid, be paid to the Board by the registered owner within one month of demand by the Board or thereafter be recoverable from him as an arrear of land-revenue.

(5) The Board shall have power to adjudge by bulk the number of hundredweights contained in any quantity of uncured coffee.

(6) No action of the Board under this section shall be called in question by any court.

#### *Registration*

14. *Registration of owners of coffee estates.*—(1) Every person owning land planted with coffee plants aggregating not less than ten acres, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly

or only partly in British India, shall, unless it is already registered as required by this sub-section, before the expiration of one month from the date on which he first becomes subject to the provisions of this sub-section, apply to the registering officer appointed in this behalf by the Provincial Government to be registered as an owner and in respect of each estate owned by him.

(2) The Central Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall apply to persons owning land planted with coffee plants aggregating less than ten acres.

(3) A registration once made shall continue in force until it is cancelled by the registering officer.

(4) If any question arises whether an owner of an estate is or is not required to be registered under this section, the question shall be decided by the Controller of Coffee, subject to revision by the Central Government.

15. *Power of Provincial Government to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry into effect the provisions of section 14.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

### *Control of Sale, Export and Re-import of Coffee*

#### *S. 1.*

[16. *Fixation of prices for sale of coffee.*—(1) The Central Government may, after consultation with the Board, by notification in the official Gazette, fix the price or prices at which coffee may be sold wholesale or retail in the Indian market.

(2) No registered owner or licensed curer or dealer shall sell coffee wholesale or retail in the Indian market at a price or prices higher than the price or prices fixed under this section.]

17. *Sale of coffee in excess of internal sale quota.*—No registered owner shall, before the estate became subject to the provisions of sub-section (1) of section 14, sell or contract to sell in the Indian market coffee from any registered estate if by

#### *A. 1.*

such sale the internal sale quota allotted to that estate is exceeded: [nor shall a registered owner sell or contract to sell in the Indian market any coffee produced on his estate in any year for which no internal sale quota is allotted to the estate.]

Provided that nothing in this section shall apply to coffee sold from a registered estate in excess of the internal sale quota if such sale was in pursuance of a contract of sale entered into before the estate became subject to the provisions of sub-section (1) of section 14 and if after the estate became so subject no coffee has been sold from that estate in the Indian market except in pursuance of a contract of sale entered into before the estate became subject to the provisions of sub-section (1) of section 14.

18. *Sale of coffee how made.*—No registered owner shall sell coffee unless either—

(a) it has been cured at or is delivered to the buyer through a curing establishment licensed under section 28, or

(b) it is sold under and in accordance with the provisions of a licence procured from the Board under section 24.

19. *Storage or sale of coffee on or from unregistered estate.*—No owner of an estate not registered under this Act shall sell from or store on his estate or cause or permit to be sold from or stored on his estate any coffee not grown on the estate A. 1.

[and no owner of a registered estate shall sell from or store on his estate or cause or permit to be sold from or stored on his estate any coffee grown on any estate not registered under this Act.]

20. *Export of coffee.*—No coffee shall be exported from British India otherwise than by the Board or under an authorisation granted by the Board in the prescribed manner and in the prescribed cases, and the provisions of the Sea Customs Act, 1878, shall have effect as if the provision made by this section had been made by notification issued under section 19 of that Act:

VIII of 1878.

Provided that nothing herein contained shall apply to coffee despatched out of British India by post, or carried in a passenger's luggage for his personal use:

Provided further that the Central Government may exempt from the operation of this section, either absolutely or subject to conditions, the export of coffee from British India to an Indian State or to any foreign settlement bounded by India.

21. *Re-import of coffee exported from India.*—(1) No coffee which has been exported from India shall be re-imported into British India except under and in accordance with a permit granted by the Board.

(2) The Board may in any fit case grant such a permit and no charge shall be made therefor.

I. 1.

22. *Internal sale quota.*—(1) [Unless with the previous sanction of the Central Government the Board decides that no internal sale quotas shall be allotted,] the Board shall, as soon as may be, allot to each registered estate an internal sale quota for the year.

(2) The internal sale quota shall be a fixed percentage, common to all registered estates, of the probable total production of the estate in the year as estimated by the Board.

(3) The Board may at any time vary the internal sale quota by varying the fixed percentage common to all registered estates, or may express the whole or any part of the internal sale quota of an estate in terms of bulk instead of in terms of weight.

23. *Returns to be made by registered owners.*—(1) A registered owner shall furnish to the Board at the prescribed times and in the prescribed manner such returns as may be prescribed.

(2) If any registered owner fails to furnish the returns required under sub-I. 1. section (1) in respect of any estate, the Board may [without prejudice to any penalty to which the said owner is liable under section 37 A] refuse to allot an internal sale quota to that estate, or, where an internal sale quota has already been allotted, may cancel it.

(3) The Board may authorise an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

24. *License for sale of uncured coffee.*—The registered owner of any estate may, subject to the prescribed conditions and so long as the internal sale quota allotted to that estate will not be exceeded by the proposed sale, obtain from the Board a licence for the sale from that estate of uncured coffee.

25. *Surplus coffee and surplus pool.*—(1) All coffee produced by a registered estate in excess of the amount specified in the internal sale quota allotted to  
I. I.

that estate [or when no internal sale quotas have been allotted to estates, all coffee produced by the estate shall be delivered to the Board for inclusion in the surplus pool by the owner of the estate or by the curing establishment receiving the coffee from the estate.

I. I.

(2) Delivery shall be made to the Board in such places [at such times] and in such manner as the Board may direct, and such directions may provide for partial delivery to the surplus pool at any time whether or not at that time the internal sale quota has been exceeded; and the coffee delivered shall be such as to represent fairly in kind and quality the produce of the estate. The Board may reject any consignment offered for delivery which does not satisfy this requirement, but shall not reject any consignment merely for a defect in curing.

(3) Coffee delivered for inclusion in the surplus pool shall upon delivery to the Board remain under the control of the Board which shall be responsible for storage, curing where necessary, and marketing of the coffee.

(4) The Board shall, with the concurrence of the Controller of  
I. I.  
Coffee [from time to time] prepare a differential scale for the valuation of coffee, and shall in accordance with that scale classify the coffee in each consignment delivered for inclusion in the surplus pool according to its kind and quality, and shall make an assessment of its value based on its quantity, kind and quality.

O. I.

(5) The Board may, with the consent of a registered owner, [ ] treat as having been delivered for inclusion in the surplus pool any coffee from such estate which the registered owner may agree to have so treated.

(6) When coffee has been delivered or is treated as having been delivered for inclusion in the surplus pool, the registered owner whose coffee has been so delivered or is treated as having been so delivered shall retain no rights in respect of such coffee except his right to receive the payments referred to in section 34.

26 (1) *Sales of coffee by the board.*—The Board shall take all practical measures to market the coffee included in the surplus pool, and all sales thereof shall be conducted by or through the Board.

(2) The Board may purchase for inclusion in the surplus pool coffee not delivered for inclusion in it.

### *Curing of Coffee*

27. *Coffee to be cured in licensed curing establishments.*—No registered owner shall cause or allow coffee to be cured elsewhere than in a licensed curing establishment, whether the curing establishment is maintained by himself or by another person.

28. *Licensing of curing establishments.*—Every establishment for curing coffee shall obtain from the Board a licence to operate as such.

29. *Information to be supplied to the Board in connection with curing.*—(1) A registered owner when sending coffee to a curing establishment shall report to the

Board, separately for each estate from which coffee is sent, the amount of coffee sent and the curing establishment shall, in accordance with such instructions as may be issued by the Board and having regard to the internal sale quota of the

*I. 1.*

estate [where one has been allotted,] apportion each such consignment into two parts, one part consisting of coffee intended for internal sale and one part of coffee intended to be delivered for inclusion in the surplus pool and shall report

*A. 1.*

to the Board the amount of coffee in each such part. [Where no internal quotas have been allotted to estates, the curing establishment shall report merely the whole amount of coffee sent in each such consignment.]

(2) A registered owner curing coffee in a curing establishment maintained by himself shall supply to the Board the information specified in sub-section (1).

(3) A curing establishment which buys or receives uncured coffee from any person shall ascertain the estate on which the coffee was produced and shall report to the Board the quantity of coffee so obtained and the estate or estates from which it came.

(4) Every curing establishment shall maintain accounts in such forms as may be required by the Board and such accounts shall be open to inspection at any time by the Board or by an officer authorised in this behalf by the Board.

*Finance*

30. *Separate funds to be maintained by the Board.*—The Board shall maintain two separate funds, a general fund and a pool fund.

31. *General Fund.*—(1) To the general fund shall be credited all proceeds of the duty of customs and the duty of excise levied under section 11 and section 12, respectively, and all receipts including receipts for licences issued by the Board other than those to be credited under section 32 to the pool fund.

(2) The general fund shall be applied to meet the expenses of the Board, the cost of such measures as it may consider advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India, or for promoting agricultural and technological research in the interest of the coffee industry in India.

32. *Pool Fund.*—(1) To the pool fund shall be credited all sums realised by sales by the Board of coffee from the surplus pool.

(2) Subject to the provisions of sub-section (4) of section 13, the pool fund shall be applied only to—

(a) the making to registered owners of estates of payments proportionate to the value of the coffee delivered by them for inclusion in the surplus pool;

(b) the costs of storing, curing and marketing coffee deposited in and of administering the surplus pool.

(c) the purchase of coffee not delivered for inclusion in the surplus pool;

33. *Power to borrow.*—The board may, subject to any prescribed conditions, borrow on the security of the general fund or the pool fund for any purposes for which it is authorised to expend money from such fund, or on the security of the coffee delivered or treated as delivered for inclusion in the surplus pool for any purposes for which it is authorised to expend money from the pool fund.

34. *Payments to registered owners.*—(1) The Board shall at such times as it thinks fit make to registered owners who have delivered coffee for inclusion in the surplus pool such payments out of the pool fund as it may think proper.

(2) The sum of all payments made under sub-section (1) to any one registered owner shall bear to the sum of the payments made to all registered owners the same proportion as the value of the coffee delivered by him out of the year's crop to the surplus pool bears to the value of all coffee delivered to the surplus pool out of that year's crop.

*A. 1.* [Provided that in calculation the sum of all payments made under sub-section (1) and the value of the coffee delivered to the surplus pool out of the year's crop, respectively, any payment accepted by a registered owner as final payment in immediate settlement for coffee delivered by him for inclusion in the surplus pool and the value of any such coffee shall be excluded.]

#### *Penalties and Procedure*

35. *Failure to register.*—Any owner of a coffee estate who fails to apply for registration in accordance with section 14 shall be punishable with fine which may extend to one thousand rupees and to a further fine which may extend to five hundred rupees for each month after the first during which such failure continues.

36. *Contraventions of sections 16, 17, 18 and 19.*—(1) Any registered owner who contravenes the provisions of sub-section (2) of section 16, or section 17 or

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section 18, any licensed curer [or dealer] who contravenes the provisions of sub-section (2) of section 16, and any person who contravenes the provisions of section 19 shall be punishable with fine which may extend to one thousand rupees.

(2) When a registered owner is convicted under this section, the Board may thereafter deduct from any payment to be made under section 34 to such registered owner a sum equal to the value as estimated by the Board of any coffee unlawfully sold by him.

37. *Unlicensed curing establishment.*—If any curing establishment operates as such without a licence, the owner shall be punishable with fine which may extend to five hundred rupees.

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[37 A. *Contravention of section 23 (1)*—Any registered owner who fails to furnish the return required by sub-section (1) of section 23 as required by that sub-section shall be punishable with fine which may extend to one thousand rupees.]

38. *False returns.*—Any person who makes in any return to be furnished under section 23 or in any report to be made under section 29 any statement which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend, to one thousand rupees.

*I. 1.*

[38 A. *Contravention of section 25.*— Any registered owner or licensed curer who fails to deliver any coffee to the Board as required by or under sub-sections (1) and (2) of section 25 shall be punishable with fine which may extend to one thousand rupees, and the Court by which such person is convicted may order the confiscation and delivery to the Board of any coffee in respect of which the offence was committed.]

*I. 1.*

[38 B. *Powers to seize coffee withheld from inclusion in surplus pool.*—If the Board is satisfied that any coffee which is required under the provisions of



section 25 to be delivered for inclusion in the surplus pool is being or is likely to be disposed of otherwise than by such delivery, the Board may order the seizure of such coffee, and may authorise an officer of the Board to effect seizure thereof for delivery for inclusion in the surplus pool, and such authorisation shall be sufficient warrant for such officer to take all steps necessary to secure possession of the coffee.]

39. *Obstruction.*—Whoever obstructs any member or officer of the Board or any person authorised by the Board or by the Central Government in the discharge of any duty imposed on or entrusted to him under this Act, or who having control over or custody of any records fails to produce such records when required to do so or refuses information lawfully asked for by a member or officer of the Board or by a person authorised by the Board or by the Central Government to inspect such records or ask for such information shall be punishable with fine which may extend to one thousand rupees.

40. (1) *Cognizance of offences.*—No Court other than the Court of a Magistrate of the first class shall take cognizance of any offence punishable under this act:

(2) No Court shall take cognizance of an offence punishable under section 35 except on complaint made by an officer authorised in this behalf by the Provincial  
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Government [or of the offence specified in sub-section (2) of section 16 except on complaint made by an officer authorised in this behalf either by the Provincial Government or by the Board] or of an offence punishable under any other section except on complaint made with the previous sanction of the Central Government by an officer authorised in this behalf by the Board.

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[Provided that the Central Government may by notification in the official Gazette, direct that the previous sanction of the Central Government shall not be necessary for complaints in such cases or classes of cases as may be specified in the notification.]

### General

41. *Power of Board to determine amount of coffee sold by an estate.*—The Board shall have power to determine, after such inquiry as it thinks fit, the amount of coffee which has, up to the time when it first becomes subject to the provisions of sub-section (1) of section 14 been sold, or been sold and delivered in the year by any registered estate, and the amounts so determined shall be conclusive for the purposes of section 12 and section 17.

42. (1) *Control by the Central Government.*—All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The records of the Board shall be open to inspection at all reasonable time by any officer authorised in this behalf by the Central Government.

43. (1) *Appeals to the Central Government.*—Any person aggrieved by an order of the Board refusing a licence to or cancelling the licence of a curing establishment may, appeal to the Central Government.

(2) Any person making an appeal under this section shall pay a fee of five rupees which shall be credited to Central Revenue.

44. *Inspection of records.*—Any member of the Board, and any officer of the Board or other person authorised in this behalf by the Central Government or the Board, may enter any estate or any curing establishment,

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[or any place where coffee is stored or exposed for sale] and may require the production for his inspection of any records kept therein, or ask for any information

## O. 1.

relating to the production, storage or sale of coffee. [ ]

45. *Accounts of the Board.*—(1) The Board shall keep accounts in such manner as may be prescribed of all money received and expended by it.

(2) The accounts shall be kept separately for the general fund and the pool fund.

(3) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have power to disallow any item of expenditure which has, in their opinion, been incurred otherwise than in accordance with this Act.

(4) The Central Government may on the application of the Board allow any item of expenditure disallowed by the auditors under sub-section (3)

## O. 1.

46. *Inspection of records of the Board and obtaining of copies.*—Any registered owner [ ] may, subject to the prescribed conditions, inspect the records maintained by the Board and may on payment of the prescribed fee obtain copies of any proceedings or orders of the Board.

47. *Contracts.*—All contracts for the sale of coffee in so far as they are at variance with the provisions of this Act shall be void :

Provided that nothing contained in this section shall apply to contracts to which  
 XIII of 1940 under section 47 of the Coffee Market Expansion Ordinance,  
 1940, that Ordinance did not apply.

## I. 1.

[47. A. *Bar of legal Proceedings.*—No suit, prosecution or other legal proceeding shall lie against the Board or any officer of the Board for or in respect of anything in good faith done or intended to be done under this Act.]

48. *Power of the Central Government to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power rules may be made providing for all or any of the following matters, namely.—

(a) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed, and the filling of casual vacancies in the Board;

(b) the conduct of business by the Board and the number of members which shall form a quorum at a meeting;

(c) the maintenance by the Board of records of business transacted by the Board, and the submission of copies thereof to the Central Government;

(d) the preparation by the Board of estimates of annual receipts and expenditure.

(e) the manner in which the internal sale quota of coffee estates shall be determined;

(f) the manner in which the Board shall exercise its powers of buying and selling coffee in the Indian market;

(g) the appointment by the Board of agents;

(h) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued;

(i) the form of and the particulars to be contained in any returns or reports to be made to the Board under this Act;

(j) the form of, manner of application for, fees payable for, procedure in granting and conditions governing the licences and permits to be issued by the Board;

(k) any other matter except the matters referred to in section 15 which is to be or may be prescribed under this Act.

49. *Act XIV of 1935 to be deemed to be repealed.*—(1) So long as this Act remains in force the Indian Coffee Cess Act, 1935, shall be deemed to be repealed, without prejudice however to the continuing validity of any action taken by the Indian Coffee Cess Committee which is not inconsistent with the provisions of this Act.

(2) All rules made by the Central Board of Revenue under section 9 of the Indian Coffee Cess Act, 1935, shall, until replaced by rules made under sub-section (3) of section 13 of this Act, continue to have effect in respect of the duty of customs imposed by section 11 of this Act as they had effect in respect of the coffee cess imposed by that Act.

50. *Repeals and savings.*—(1) The Coffee Market Expansion Ordinance, 1940, the Coffee Market Expansion (Amendment) Ordinance, 1941, the Coffee Market Expansion (Second Amendment) Ordinance 1941, and the Coffee Market Expansion (Third Amendment) Ordinance, 1941, are hereby repealed.

(2) Without prejudice to the provisions of section 24 of the General Clauses Act, 1897.—

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(a) any trial or proceeding under the Coffee Market Expansion Ordinance, 1940, pending at the time of the repeal of the Ordinance may be continued and completed as if such trial or proceeding were a trial or proceeding under this Act;

(b) all registrations made, all licences issued and all other things done under the said Ordinance shall be deemed to have been made, issued or done under this Act.