

THE
ACTS AND PROCLAMATIONS
OF
COCHIN

**THE
ACTS AND PROCLAMATIONS
OF
COCHIN**

**Volume XIII
(1120 M.E.)**

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THE ACTS AND PROCLAMATIONS OF COCHIN

Volume XIII—(1120)

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ACTS AND PROCLAMATIONS

VOLUME XIII

1120

PROCLAMATION

(I of 1120)

EXTENDING THE TERM OF THE CHAIRMEN AND COUNCILLORS
OF CERTAIN MUNICIPALITIES

Promulgated by His Highness Sree Ravi Varma,

Maharaja of Cochin,

on the 25th day of August 1944, corresponding

to the 10th day of Chingam 1120

[Published in the Cochin Government Gazette, dated 24th Chingam 1120]

WHEREAS the term of office of the Chairmen and Councillors, of certain Municipalities will expire on the 1st day of Vrischigam 1120 and whereas it is deemed not expedient to conduct elections in the conditions brought about by the present emergency; We are hereby pleased to command that the term of office of the Chairmen and Councillors of the Municipalities of Ernakulam, Mattancheri Irinjalakkuda, Trichur and Tattamangalam which under the law now in force extends up to noon on the first day of Vrischigam 1120 shall stand extended up to noon on the 1st day of Vrischigam 1121 and the provisions of the Cochin Municipal Act, XVIII of 1113, shall have effect accordingly.

THE COCHIN BETEL NUTS, COFFEE AND TEA (EXCISE DUTY) PROCLAMATION

(II of 1120)

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THE COCHIN BETEL NUTS, COFFEE AND TEA (EXCISE DUTY) PROCLAMATION

*Promulgated by His Highness Sri Ravi Varma,
Maharaja of Cochin
on the 27th day of Chingam 1120 corresponding
to the 11th day of September 1944*

[Published in the Cochin Government Gazette,
dated 32nd Chingam 1120]

Short title,
extent and
commence-
ment.

Whereas it is expedient to impose and collect duties of excise on betel nuts, coffee and tea, WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the “Cochin Betel nuts, Coffee and Tea (Excise Duty) Proclamation, II of 1120.”
- (2) It extends to the whole of Cochin State.
- (3) It shall be deemed to have come into force on the 31st day of March 1944.

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

Definitions.

- (a) “broker” or “commission agent” means a person who in the ordinary course of business makes contracts for the sale or purchase of excisable goods for others;
- (b) “Commissioner” means Commissioner of Excise;
- (c) “curing” includes wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture;
- (d) “excisable goods” for the purposes of this Proclamation means goods specified in the First Schedule to this Proclamation as being subject to a duty of excise;
- (e) “factory” means any premises, including the precincts thereof, wherein or in any part of which excisable goods are manufactured, or wherein or in any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;
- (f) “manufacture” includes any process incidental or ancillary to the completion of a manufactured product;
- (g) “prescribed” means prescribed by rules made under this proclamation;
- (h) “sale” and “purchase” with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration;
- (i) “wholesale dealer” means a person who buys or sells excisable goods wholesale for the purpose of trade or manufacture and includes a broker or commission agent who in addition to making contracts for the sale or purchase of excisable goods for others, stocks such goods belonging to others as an agent for the purposes of sale.

Levy and collection of duty.

3. There shall be levied and collected with effect from the first day of April 1944, in such manner as may be prescribed duties of Excise on all excisable goods which are produced or manufactured in Cochin State at the rates set forth in the First Schedule.

Power of Government to impose customs duty on goods mentioned in the First Schedule.

4. Government may, by notification in the Cochin Government Gazette, impose on any excisable goods brought into Cochin State from the territory of any Indian State, not being territory which has been declared under section 5 of the Indian Tariff Act, 1934 to be foreign territory for the purposes of that section, a duty of customs equivalent to the duty imposed by this Proclamation on the like goods produced or manufactured in Cochin State.

Certain operations to be subject to licence.

5. Government may, by notification in the Cochin Government Gazette, provide that from such date as may be specified in the notification, no person shall, except under the authority and in accordance with the terms and conditions of a licence granted under this proclamation, engage in—

- (a) the production or manufacture or any process of the production or manufacture of any specified excisable goods or any specified component parts or ingredients of such goods or of specified containers of such goods, or
- (b) the wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage of any excisable goods specified in the Second Schedule.

Form and conditions licence.

6. Every licence under section 5 shall be granted for such area, if any, for such period, subject to such restrictions and conditions, and in such form and containing such particulars, as may be prescribed.

Offences and Penalties.

7. Whoever commits any of the following offences, namely.—

- (a) contravenes any of the provisions of a notification issued under section 5 or of a rule made under this Proclamation;
- (b) evades the payment of any duty payable under this Proclamation

- (c) fails to supply any information which he is required by rules made under this Proclamation to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information ;
- (d) attempts to commit or abets the commission of any of the offences mentioned in clauses (a) and (b) of this section ;

shall, for every such offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

8. Any court trying an offence under this Proclamation may order the forfeiture to Government of any goods in respect of which the Court is satisfied that an offence under this Proclamation has been committed, and may also order the forfeiture of any receptacles, packages, or coverings in which such goods are contained and the animals, vehicles, vessels or other conveyances used in carrying the goods, and any implements or machinery used in the manufacture of the goods.

Power of courts to order forfeiture.

9. In respect of duty and any other sums of any kind payable to Government under any of the provisions of this Proclamation or of the rules made thereunder, the Commissioner may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in his hands or under his disposal or control, or may recover the amount by attachment and sale of excisable goods belonging to such person; and if the amount payable is not so recovered he may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Diwan Peishkar and the Diwan Peishkar on receipt of such certificate shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

Recovery of sums due to Government.

10. Government may by notification in the Cochin Government Gazette declare that any of the provisions of the 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

Application of the provisions of Act, XII of 1109.

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 duties imposed by section 3.

**Power to
arrest.**

11. (1) Any officer duly empowered by Government in this behalf may arrest any person whom he has reason to believe to be liable to punishment under this Proclamation.
- (2) Any person accused or reasonably suspected of committing an offence under this Proclamation or any rules made thereunder who on demand of any officer duly empowered by Government in this behalf refuses to give his name and residence, or who gives a name or residence which such officer has reason to believe to be false, may be arrested by such officer in order that his name and residence may be ascertained.

**Power to
summon persons to give
evidence and
produce documents in
inquiries
under this
Proclamation.**

12. (1) The Commissioner shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which he is making for any of the purposes of this Proclamation. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.
- (2) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required.

Provided that the exemptions under section 103 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section.

- (3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of sections 179 and 240 of the Cochin Penal Code.

13. All officers of Police and all officers of Government engaged in the collection of land-revenue, and all village officers are hereby empowered and required to assist the Commissioner in the execution of this Proclamation.

Officers required to assist Commissioner.

14. Every owner or occupier of land, and the agent of any such owner or occupier, in charge of the management of that land, if contraband excisable goods are manufactured thereon, shall in the absence of reasonable excuse be bound to give notice of such manufacture to a Magistrate or to an officer of the Excise, Police, or Land Revenue Department, immediately the fact comes to his knowledge.

Owners or occupiers of land to report manufacture of contraband excisable goods.

15. Any owner or occupier of land, or any agent of such owner or occupier in charge of the management of that land, who wilfully connives at any offence against the provisions of this Proclamation or of any rules made thereunder shall for every such offence 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.

Punishment for connivance at offences.

16. All searches made under this Proclamation or any rules made thereunder and all arrests made thereunder shall be carried out in accordance with the provisions of the Code of Criminal Procedure, II of 1086, relating to searches and arrests made under that Code.

Searches and arrests how to be made.

17. Every person arrested under this Proclamation shall be forwarded without delay to the officer in charge of the nearest Police Station who shall either admit him to bail to appear before the Magistrate having jurisdiction or in default of bail forward him in custody to such Magistrate.

Disposal of persons arrested.

18. Any officer exercising powers under this Proclamation or under the rules made thereunder who—

Vexatious search, seizure, etc., by an officer.

- (a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place ;
- (b) vexatiously and unnecessarily detains, searches or arrests any person ;

- (c) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Proclamation;
- (d) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty;

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Proclamation shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both.

Procedure.

19. No prosecution for any offence under this Proclamation shall be instituted except with the previous sanction of—

- (a) Government in the case of offences under section 18; and
- (b) the Commissioner in all other cases.

Appeals.

20. Any person deeming himself aggrieved by any decision or order passed by the Commissioner under this Proclamation or the rules made thereunder may within thirty days from the date of such decision or order, appeal therefrom to Government.

Power of Government to make rules.

21. (1) Government may by notification in the Cochin Government Gazette make rules to carry into effect the purposes of this Proclamation.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—
- (i) provide for the assessment and collection of duties of excise, the authorities by whom functions under this Proclamation are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be

- payable and the recovery of duty not paid ;
- (ii) to regulate the removal of excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a licensed person, or a bonded warehouse, or to a market ;
 - (iii) provide for the appointment licensing, management and supervision of bonded warehouses and the procedure to be followed in entering goods into and clearing goods from such warehouses ;
 - (iv) provide for the distinguishing of goods which have been manufactured under licence, or materials which have been imported under licence, and of goods on which duty has been paid, or which are exempt from duty under this Proclamation ;
 - (v) provide for the issue of licences, and transport permits and the fees, if any, to be charged therefor ;
 - (vi) provide for the inspection of factories and conducting of searches ;
 - (vii) provide generally for carrying into effect the provisions of this Proclamation.
- (3) In making rules under this section, Government may provide that any person committing a breach of any rule shall, where no other penalty is provided by this Proclamation, be liable to a penalty not exceeding two thousand rupees and that any article in respect of which any such breach is committed shall be confiscated.

Power to
adjudication,

22. Where by the rules made under this Proclamation anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged by the Commissioner of Excise without limit by such other officer of the Excise Department as may be specially authorised in this behalf subject to such limit as may be prescribed.

Option to
pay fine in
lieu of
confiscation.

23. Wherever confiscation is adjudged under this Proclamation or the rules made thereunder, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

Bar of suits
and limita-
tion of suits
and other
legal pro-
ceedings.

24. (1) No suit shall lie against the Government or against any officer of Government in respect of any order, passed in good faith or any act in good faith done or ordered to be done under this Proclamation.

(2) No suit, prosecution, or other legal proceeding shall be instituted for anything done or ordered to be done under this Proclamation after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.

FIRST SCHEDULE

Item Number	Description of Goods	Rate of duty
1	Betel Nuts, cured— “Betel nut” means the fruit of the areca-palm (areca catechu), whether with or without husk, whether cured or uncured, but does not include the fruit while still attached to the tree.	Two annas per lb.
2	Coffee, cured— “Coffee” means the seed of the coffee tree (coffee) whether with or without husk, whether cured or uncured, but does not include the seed while still attached to the tree.	do.
3	Tea— “Tea” means the commodity known as tea made from the leaves of the plant <i>Camellia Thea</i> (linn) and includes green tea.	do.

SECOND SCHEDULE

- | | | |
|---------------|---|--|
| 1. Betel nuts | } | When supplied by a curer to a wholesale dealer whether directly or through a broker or a commission agent. |
| 2. Coffee | | |

**THE COCHIN EXTRADITION (AMEND-
MENT) ACT****(I of 1120)****CONTENTS****Preamble****Sections**

1. Short title and commencement.
2. Amendment to schedule.

THE COCHIN EXTRADITION (AMENDMENT) ACT

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

*on the 27th day of Chingam 1120, corresponding
to the 11th day of September 1944*

**[Published in the Cochin Government Gazette,
dated 32nd Chingam 1120]**

WHEREAS it is necessary further to amend the Cochin Extradition Act, X of 1093; It is hereby enacted as follows.— **Preamble.**

1. This Act may be called the Cochin Extradition (Amendment) Act, I of 1120 and shall come into force at once. **Short title and commencement.**

2. In the Schedule to the Cochin Extradition Act, X of 1093, for the figures "239" and "457" occurring in items 3 and 17 the figures "239A" and "457A" shall be substituted respectively. **Amendment to Schedule.**

**THE MILITARY SAFETY (POWERS OF
DETENTION) PROCLAMATION****(III of 1120)****CONTENTS****Preamble****Sections**

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2. Power to order detention.
3. Delegation of powers and functions.
4. Powers of arrest.
5. Custody pending the making of an order under section 2.
6. Saving as to orders.
7. Protection of action taken under this Proclamation.
8. Application of other laws not barred.

**THE MILITARY SAFETY (POWERS OF DETENTION)
PROCLAMATION**

*Promulgated by His Highness Sri Ravi Varma,
Maharaja of Cochin,
on the 9th day of Kanni 1120
corresponding to the 25th day of September 1944*

[Published in the Cochin Government Gazette,
dated 21st Kanni 1120]

Preamble.

WHEREAS an emergency has arisen which makes it necessary to empower Government and any officer to whom Government may delegate their powers in this behalf to place in detention and detain persons entering or having entered Cochin from territory for the time being occupied by the enemy, where such detention is necessary in the interests of military safety; We are hereby pleased to command as follows.—

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

1. (1) This Proclamation may be called the Military Safety (Powers of Detention) Proclamation III of 1120.

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

(3) It shall come into force at once.

**Power to
order deten-
tion.**

2. (1) OUR Government or an officer to whom Government have under section 3 delegated their powers in this behalf, if satisfied with respect to any person entering or having, whether before or after the commencement of this Proclamation, entered Cochin State from or after having been in territory for the time being occupied by the enemy that it is necessary in the interests of military safety that he should be detained, may make an order directing his detention.

(2) An order under sub-section (1) may be made for the detention of a person against whom there is subsisting an order of detention made under rule 26 of the Defence of India Rules as made applicable to Cochin.

(3) So long as there is in force in respect of any person an order made under sub-section (1), that person shall be liable to be removed to and detained in such place and under such conditions as to maintenance, discipline, and the punishment of offences and breaches of discipline, as Government or an officer to whom Government have under section 3 delegated their powers in this behalf may from time to time by general or special order specify.

(4) Any order made under the powers given by this section shall have effect notwithstanding anything inconsistent therewith contained in any other law.

3. OUR Government may by order direct that the powers conferred upon them by section 2 shall, in such circumstances and under such conditions if any, as may be specified in the order, be exercised by any officer nominated or designated in the order:

Delegation of powers and functions.

Provided that no order of detention made in exercise of powers delegated under this section shall remain in force for more than one year unless it is confirmed by the Government.

4. (1) Any police officer and any member of the forces of this State or of His Majesty may arrest without warrant any person found by him entering Cochin State from or after having been in territory for the time being occupied by the enemy, or any person having so entered Cochin State whom he has reason to believe to have so entered after the 1st day of June, 1943, without the knowledge of the military authorities of the operational area adjoining such territory.

Powers of arrest.

(2) A police officer making an arrest under this section shall at once cause the person arrested to be produced before a Magistrate who shall take steps to forward the person arrested in custody to the nearest military authority.

(3) A member of the forces of this State or of His Majesty, making any such arrest shall at once produce the person arrested before his immediate superior officer, who shall take steps to forward the person arrested in custody to an officer empowered under section 3 to make an order under sub-section (1) of section 2 for his detention.

5. Any person, arrested under sub-section (1) of section 4 may be kept in military custody until an officer empowered under section 3 to make an order of detention under sub-section (1) of section 2 has ordered his release or has made an order under sub-section (1) of section 2 for his detention.

Custody pending the making of an order under section 2.

6. No order made under this Proclamation shall be called in question by any Court.

Saving as to orders.

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

Protection of action taken under this Proclamation.

8. 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.

**THE CODE OF CRIMINAL PROCEDURE
(AMENDMENT) ACT**

(II of 1120)

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4. Insertion of new section 176 B.
5. Form of authorisation under second proviso to section 175 or 176.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT

*Promulgated by His Highness Sri Ravi Varma,
Maharaja of Cochin,
on the 4th day of October 1944 corresponding to the
18th day of Kanni 1120.*

[Published in the Cochin Government Gazette,
dated 21st Kanni 1120]

**Short title
and com-
mencement.**

WHEREAS it is expedient further to amend the Code of Criminal Procedure, II of 1086, for the purposes hereinafter appearing; It is hereby enacted as follows.—

**Amendment
of section
175.**

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, II of 1120 and shall come into force at once.

**Amendment
of section
176.**

2. To section 175 of the Code of Criminal Procedure, II of 1086 (hereinafter referred to as the said Code) the following further proviso shall be added, namely.—

“Provided further that, where the husband aggrieved by an offence under section 474 of the said Code, is serving in any of the armed forces of this State, or of His Majesty, under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 176B may, with the leave of the Court, make a complaint on his behalf”.

3. To section 176 of the said Code, the following further proviso shall be added, namely:—

“Provided further that where such husband is serving in any of the armed forces of this State, or of His Majesty, under conditions which are certified by his Commanding Officer, as precluding him from obtaining leave of absence to enable him to make a complaint in person, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 176B may, with the leave of the Court, make a complaint on his behalf”.

4. After section 176A of the said Code, the following section shall be inserted in Chapter XV, namely:—

Insertion of
new section
176B.

“176B. (1) The authorisation of a husband, given to another person to make a complaint on his behalf, under the second proviso to section 175, or the second proviso to section 176, shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by the Officer referred to in the said provisos, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot, for the time being, be granted to the husband.

Form of au-
thorisation
under second
proviso to
section 175
or 176.

(2) Any document purporting to be such an authorisation and complying with the provisions of sub-section (1), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine, and shall be received in evidence.

RESTRICTION AND DETENTION (AMENDMENT) PROCLAMATION

(IV of 1120)

CONTENTS

Preamble

Sections

1. Amendment of section 2.
2. Amendment of section 8.
3. Amendment of section 10.

**RESTRICTION AND DETENTION (AMENDMENT)
PROCLAMATION**

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

*on the 4th day of Thulam 1120, corresponding
to the 20th day of October 1944*

[Published in the Cochin Government Gazette,
dated 12th Thulam 1120]

WHEREAS it is necessary to amend the Restriction and Detention Proclamation, XVII of 1119; We are hereby pleased to command as follows.—

Amendment
of section 2.

1. After clause (h) of sub-section (1) of section 2 of the Restriction and Detention Proclamation, XVII of 1119, hereinafter referred to as the Proclamation, the following proviso shall be added, namely.—

“Provided that no order shall be made under clause (a) of this sub-section in respect of any subject of Cochin State.”

Amendment
of section 8.

2. For the proviso to section 8 of the Proclamation the following shall be substituted, namely.—

“Provided that Government may, after a further consideration of all the circumstances of the case and at any time within thirty days before the expiry of the said six months, direct by an endorsement on the original order or otherwise that the order shall continue in force and the order so extended shall continue in force for a further period of six months from the date on which but for such direction it would have ceased to be in force, and thereafter if and so often as it is again extended by a further similar direction made in the same manner.”

Amendment
of section 10.

3. In section 10 of the Proclamation,—

(i) For sub-section (1) the following shall be substituted, namely.—

“(1) No Court shall, except for the purposes of a prosecution for an offence punishable under sub-section (2), 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 any order referred to in that section has been made against any person, or of any particulars disclosed in connection therewith under that section, or of any representation made under that section against any order and notwithstanding anything contained in the Indian Evidence Act, 1872 as made applicable to Cochin, no Court shall be entitled to require

any public officer to produce before it, or disclose the substance of any such communication of grounds, particulars disclosed, or representation made."

(ii) In sub-section (2) between the words "contents" and "of" the words "or matter purporting to be contents" shall be inserted.

THE ENEMY AGENTS (AMENDMENT) PROCLAMATION

(V of 1120)
CONTENTS

Preamble

Sections

1. Short title and commencement
2. Amendment of section 1.
3. Amendment of section 3.
4. Amendment of section 9.
5. Amendment of section 11.
6. Insertion of a new section
14 A.—Copies of proceedings.

THE ENEMY AGENTS (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 6th day of Thulam 1120 corresponding
to the 22nd day of October 1944*

[Published in the Cochin Government Gazette,
dated 12th Thulam 1120]

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

1. This Proclamation may be called the Enemy Agents (Amendment) Proclamation, V of 1120 and shall come into force at once. **Short title and commencement.**

2. In section 1 of the Enemy Agents Proclamation XVIII of 1118 hereinafter referred to as the Proclamation sub-section (2) after the words "Cochin State" the words "and applies also to the subjects of Cochin State wherever they may be" shall be added. **Amendment of section 1.**

Amendment
of section 3.

3. In section 3 of the Proclamation, after the words "His Majesty's Forces", the words "or the Forces of a foreign power allied with His Majesty or of any Indian State" shall be inserted.

Amendment
of section 9.

4. To sub-section (2) of section 9 of the Proclamation, the following proviso shall be added, namely.—

"Provided that, where in the exercise of these powers the Judge reviewing the proceedings directs a retrial of the accused, or directs further evidence to be taken, the reviewing Judge may direct the retrial to be held or the further evidence to be taken by the Special Judge by whom the case was tried in the first instance, or by any other Special Judge, or by a Special Judge to be appointed for the purpose by Government."

Amendment
of section 11.

5. In section 11 of the Proclamation,—

(i) in sub-section (1) the words "whose name is entered in a list prepared in this behalf by Government or who is otherwise" shall be deleted; and

(ii) in sub-section (2) the words "whose name is entered in the list referred to in sub-section (1) or who is otherwise" shall be deleted.

Insertion of
a new section
14A.

6. After section 14 of the Proclamation, the following section shall be inserted, namely.—

Copies of
proceedings.

"14A. (1) Notwithstanding the provisions of the Code of Criminal Procedure, II of 1086, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, no person other than the accused or his pleader shall be entitled to be furnished with a copy of any part of the records of, or of any document relating to, any proceedings under this Proclamation.

(2) Any such copy furnished to the accused or his pleader shall be kept by the person to whom it was furnished in his personal custody and it shall be an offence punishable under section 16 for that person to show it to any person other than his pleader or his client as the case may be or to divulge its contents except in the course of the proceedings for the purpose of which it was obtained.

(3) Any such copy shall be returned to the authority from which it was obtained within ten days of the conclusion of the proceedings for the purpose of which it was furnished, and any failure so to do shall be punishable with the punishment provided for an offence under section 16".

**THE NATIONAL SERVICE (TECHNICAL PER-
SONNEL) AMENDMENT PROCLAMATION**

(VI of 1120)

CONTENTS

**Preamble
Sections**

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 7.
4. Amendment of section 11.
5. Amendment of section 12.
6. Amendment of section 13.
7. Amendment of section 14.

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

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 6th day of Thulam 1120 corresponding
to the 22nd day of October 1944*

[Published in the Cochin Government Gazette,
dated 12th Thulam 1120]

**Further to amend the National Service (Technical Personnel)
Proclamation, I of 1116**

WHEREAS an emergency has arisen which makes it necessary further to amend the National Service (Technical Personnel) Proclamation, I of 1116, for the purposes here-in-after appearing; We are pleased to command as follows.—

1. (1) This Proclamation may be called the National Service (Technical Personnel) Amendment Proclamation, VI of 1120.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In section 3 of the National Service (Technical Personnel) Proclamation, I of 1116 (here-in-after referred to as the said Proclamation), for the word "eighteen" the word "seventeen" shall be substituted.

Amendment
of section 3.

3. In sub-section (1) of section 7 of the said Proclamation,—

Amendment
of section 7.

(a) In clause (a), the words "other than a notified factory or a training establishment" shall be omitted;

(b) In clause (b),—

(i) after the word "direct", the word "any" shall be inserted;

(ii) the words "who are either unemployed or are not already employed in a notified factory, training

establishment or technical post under His Majesty", shall be omitted;

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

"(c) transfer technical personnel engaged in employment in the national service from one form or place of employment in such service to another within the limits of its jurisdiction, or to another form or place of employment in any factory or technical post under His Majesty in any part of British India".

**Amendment
of section 11.**

4. In section 11 of the said Proclamation,—

(a) in sub-section (1),—

(i) after the words "was employed" the words "otherwise than in a probationary or temporary capacity, shall be inserted;

(ii) in the proviso, after the words "Provided that", the words "if the employer refuses to reinstate such person, or denies his liability to reinstate such person or" shall be inserted;

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

"(3) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually released for or taken into employment in the national service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination of the employment takes place after the issue of an order of requirement by the Tribunal or Government for release of such person for employment in the national service or after the issue of a direction to such person under clause (d) of sub-section (1) of section 7."

**Amendment
of section 12.**

5. After sub-section (4) of section 12, of the said Proclamation, the following sub-section shall be inserted, namely.—

"(4A) At any meeting of the Special Tribunal, the Chairman and any other member of the Special Tribunal shall constitute a quorum."

**Amendment
of section 13.**

6. In section 13 of the said Proclamation,—

(a) in sub-section (2A), the word "suspend" shall be omitted;

(b) for sub-section (3), the following shall be substituted, namely.—

“(3) Subject to prescribed rules, no owner or manager of an industrial undertaking (including a notified factory) which has been required to post notices on its premises under sub-section (1) shall discharge or dismiss any person included in the definition of technical personnel unless he has previously obtained the permission in writing of the Tribunal, and, if any such owner or manager releases or removes from one industrial undertaking (including a notified factory) to another any such person, he shall give notice in writing of such release or removal to the Tribunal within such period as may be prescribed:

Provided that it shall not be necessary for the owner or manager of an (industrial undertaking including a notified factory) to obtain such permission to discharge or dismiss a person included in the definition of technical personnel if such person—

(a) was engaged on probation but has not been confirmed;

(b) was engaged for a period specified in his written agreement of service, if that period has expired;

(c) was engaged for the completion of a piece of work the nature of which was specified in writing at the time of his engagement and which has been completed;

(d) is certified by a medical practitioner specified by Government in this behalf to be physically unfit for the work or class of work in which he is engaged;

(e) has, in the opinion of the employer, been guilty of gross insubordination, habitual absence from work or any serious misconduct or has been convicted of any criminal offence; or

(f) is the subject of an adverse police report;

but in all such cases the owner or manager concerned shall give notice in writing to the Tribunal of the discharge or dismissal and the reasons therefor within twenty-four hours of the discharge or dismissal.”;

(c) after sub-section (3) as thus substituted, the following sub-section shall be inserted, namely.—

“(3A) In considering applications for the grant of permission under sub-section (2) or sub-section (3) the Tribunal shall be guided solely by the consideration whether in

its opinion the services of the person who wishes to leave his employment or training or whom the employer proposes to discharge or dismiss, as the case may be, can be employed most effectively in connection with work of national importance in his existing employment or training.”;

(d) after sub-section (4), the following sub-section and *Explanation* shall be added, namely.—

“(5) Nothing in this section shall affect the terms of any valid contract regulating the termination of employment of any person included within the definition of technical personnel, entered into between such person and his employer.

Explanation.—In this section—

(1) the word ‘discharge’ includes the trade term ‘lay off’ or temporary discharge for insufficiency of work, and

(2) the term ‘technical personnel’ includes “all technical personnel whether paid on a monthly, weekly, daily or any other basis”.

Amendment
of section 14.

7. In section 14 of the said Proclamation,—

(a) in sub-section (1), for the words and figures “provisions of section 13” the following words, figures and brackets shall be substituted, namely,—

“provisions of sub-section (2) of section 7, sub-section (5) of section 10 and section 13”;

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

“(1A) No Court shall take cognisance of any offence punishable under this Proclamation, except with the previous sanction in writing,—

(a) in the case of failure to comply with any summons, requirement, direction or order of the Tribunal, the Special Tribunal or Government, of the Tribunal, the Special Tribunal or Government whose summons, requirement, direction or order has not been complied with;

(b) in the case of contravention of the provisions of sub-section (5) of section 10, of Government; and

(c) in any other case, of the Tribunal within the limits of whose jurisdiction the offence was committed.

(1B) Notwithstanding anything contained in the Code of Criminal Procedure, II of 1950, an offence under this Proclamation shall be cognisable”.

**KARAIMA SERVICES (AMENDMENT)
PROCLAMATION****(VII of 1120)**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 27th day of Thulam 1120,
corresponding to the 12th day of November 1944.*

**[Published in the Cochin Government Gazette
dated 3rd Vrischigam 1120]**

WHEREAS it is necessary to amend the Proclamation dated 13th Edavam 1094 relating to Karaima services; We are hereby pleased to command as follows.—

In the Proclamation dated 13th Edavam 1094 relating to Karaima services, the following amendments shall be made.—

(1) For the words “Our Devaswams” where it occurs for the first time, the words “incorporated and unincorporated Devaswams under the management of Our Government”, and for the words “Our Devaswams” occurring in other places the words “the said Devaswams” shall be substituted respectively.

(2) Between the words “and other emoluments attached thereto;” and “We are hereby pleased to command”, the following words shall be inserted.—

“and whereas We deem it necessary that Avakasams, Adithoons and certain other emoluments payable by the said Devaswams shall not be liable to attachment or sale by courts of law;”

(3) Delete the words “We are further pleased to command” occurring between “and” and “that”.

(4) The following shall be added as a separate paragraph.—

“We are further pleased to command that notwithstanding any law for the time being in force, the Avakasams, Adithoons and other emoluments which Government may from time to time by notification in the Cochin Government Gazette specify in this behalf, shall not be liable to attachment by courts of law.”

THE COCHIN LIVE-STOCK IMPROVEMENT ACT
(III of 1120)
CONTENTS

Preamble**Sections**

1. Short title, extent and commencement.
2. Definitions.
3. Appointment of Director.
4. Bulls which have attained a certain age to be licensed.
5. Refusal and revocation of licenses.
6. Surrender of licence.
7. Inspection of bulls.
8. Power to order castration of bulls.
9. Duty to inform owner of contents of notice, or order of castration.
10. Production of licence.
11. Penalties.
12. Power of licensing officer to castrate bulls.
13. Power of licensing officer, etc., to inspect or mark bulls and enter premises.
14. Duty of officers to report offences, etc.
15. Cognizance of offences.
16. Officers to be public servants.
17. Bar of certain proceedings.
18. Limitation for certain suits and prosecutions.
19. Revision.
20. Power to make rules.

THE COCHIN LIVE-STOCK IMPROVEMENT ACT

*Passed by His Highness the
Maharaja of Cochin
on the 27th day of Thulam 1120 corresponding to
the 12th day of November 1944*

[Published in the Cochin Government Gazette
dated 3rd Vrischigam 1120]

Preamble.

WHEREAS it is expedient to provide for the improvement of live-stock in Cochin State; It is hereby enacted as follows.—

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

1. (1) This Act may be called the Cochin Live-Stock Improvement Act, III of 1120.
- (2) It extends to the whole of Cochin State.
- (3) This section shall come into force at once, and Government may from time to time by notification in the Cochin Government Gazette apply all or any of the remaining provisions of this Act to the whole or any portion of Cochin State from such date and for such period, if any, as may be specified in the notification, and may cancel or modify any such notification.

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

- (a) “bull” includes a buffalo-bull;
- (b) “cow” includes a buffalo-cow and a heifer;
- (c) “Director” means the officer appointed by Government as the Director of Veterinary Services for Cochin State and includes any other person on whom the powers or duties of the Director under this Act have been conferred or imposed under section 3;
- (d) “licence” means a licence granted under section 4;
- (e) “licensing officer” means the Director or any other officer or person authorised to grant licences under section 4;
- (f) “prescribed” means prescribed by rules made under this Act;
- (g) a person is said to “keep a bull” if he owns the bull or has the bull in his possession or custody; and
- (h) a bull is said to be “castrated” if it is rendered incapable of propagating its species.

3. Government may by general or special order **Appointment of Director.** confer or impose on any person all or any of the powers or duties of a Director under this Act.

4. (1) No person shall keep a bull which has attained the prescribed age except under and in accordance with the terms, conditions and restrictions of a licence granted under this section, unless it is effectively castrated. **Bulls which have attained a certain age to be licensed**

Explanation.—Where a person keeps more than one bull, he shall obtain a separate licence in respect of each bull.

- (2) Every licence under this section shall be granted by the Director or any officer or person authorised by him by general or special order. It shall be in such form, for such period, and subject to such terms, conditions and restrictions as may be prescribed.

No fee shall be charged for the grant of the licence.

5. (1) Subject to such rules as may be prescribed, **Refusal and revocation of licences.** the licensing officer may refuse to grant or

may revoke a licence in respect of any bull if in his opinion the bull appears to be—

- (a) of defective or inferior conformation and consequently likely to beget defective or inferior progeny, or
 - (b) suffering from an incurable, contagious or infectious disease or from any other disease rendering the bull unsuitable for breeding purposes, or
 - (c) of a breed which it is undesirable to propagate in the area in which it is kept.
- (2) The licensing officer may also revoke a licence granted in respect of any bull kept within his jurisdiction (whether such licence was granted by himself or by any other officer) if in his opinion—
- (a) the licence was granted under circumstances of which the licensing officer was not aware at the time of granting the licence, or
 - (b) there has been a breach of any of the terms, conditions or restrictions of the licence.
- (3) If a licence is revoked under this section, the officer revoking the licence shall give notice thereof to the person keeping the bull or to the person stated in the licence to be the owner of the bull. The notice shall set out the grounds for the revocation.
- (4) No person shall be entitled to any compensation for the refusal or revocation of any licence under this section.

Surrender of licence.

6. A licence granted in respect of a bull shall be surrendered without delay to the licensing officer, if—

- (a) the period specified in the licence expires, or
- (b) the licence is revoked under this Act, or
- (c) the bull dies, or is certified by the prescribed officer to have been effectively castrated by a method and in a manner approved by the Director.

7. The licensing officer may by order require any person keeping a bull to submit it for inspection by himself or by any officer or person deputed by him for the purpose, at any reasonable time, either at the place where the bull is kept for the time being or at any other reasonable place specified in the order, and thereupon it shall be the duty of the person keeping the bull to submit it for inspection accordingly, and render all reasonable assistance in connection with such inspection to the officer concerned.

Inspection of bulls.

8. (1) The licensing officer may by order require any person keeping a bull which in his opinion has attained the prescribed age, and in respect of which no licence is for the time being in force under this Act, to have it castrated, within one month from the date of the service of the order, by a method and in a manner approved by the Director and specified in the order.

Power to order castration of bulls.

(2) Such castration shall be performed or caused to be performed by the licensing officer free of charge, unless the owner or other person keeping the bull desires to make his own arrangements for complying with the order.

9. If any notice or order is served under section 5, section 7, or section 8 on any person who is not the owner of the bull, it shall be the duty of that person forthwith to take all reasonable steps to inform the owner of the contents of such notice or order, and if he fails to do so, he shall be liable to indemnify the owner against any loss the owner may sustain by reason of such failure.

Duty to inform owner of contents of notice, or order of castration.

10. It shall be the duty of any person who for the time being keeps a bull in respect of which a licence has been obtained and is in force, to produce such licence—

Production of licence.

(a) within a reasonable time, at any place where the bull is for the time being, on demand made by a licensing officer or an officer of the Veterinary Department not below the rank of Veterinary Assistant Surgeon, or an officer of the Agricultural Department not below the rank of Agricultural Inspector, or an officer of the Revenue Department not below the rank of Revenue Inspector, or such other officer as may be authorised in

this behalf by Government by general or special order, or

- (b) before a cow is served by the bull, on demand made by the person in charge of the cow.

Penalties.

11. Whoever—

- (a) keeps a bull in contravention of this Act or of any rule or order made thereunder, or of any terms, conditions or restrictions of a licence, or
 (b) neglects or fails to submit a bull for inspection when required to do so under section 7, or
 (c) neglects or fails to comply with an order served under section 8, or
 (d) neglects or fails to produce a licence when required to do so under section 10,

shall be punishable with fine which may extend to fifty rupees and in the case of second or any subsequent offence with fine which may extend to one hundred rupees.

Power of licensing officer to castrate bulls.

12. (1) If a person who keeps a bull neglects or fails to submit it for inspection, or to have it castrated when required to do so under section 7, or section 8 the licensing officer may direct that the bull shall be castrated by a method and in a manner approved by the Director and marked with a prescribed mark in the prescribed manner, free of charge.

- (2) (a) If it is not known in whose ownership, possession or custody a bull is for the time being and the fact cannot be ascertained after an inquiry in the prescribed manner, the licensing officer may seize the bull or cause it to be seized, and if he is of opinion that the bull has attained the prescribed age and is unsuitable for breeding purposes on any of the grounds specified in sub-section (1) of section 5 may direct that the bull shall be castrated by a

method and in a manner approved by the Director and marked with a prescribed mark in the prescribed manner, free of charge.

(b) Every bull seized under clause (a) shall, after it has been castrated and marked as aforesaid where necessary, be sold by public auction or sent to a pinjrapole or infirmary recognised by Government in this behalf.

(c) In case the owner of any bull seized under clause (a) appears before the licensing officer within such time as may be prescribed in this behalf and proves to the satisfaction of such officer that the bull is owned by him—

(i) in case the bull has been sold by public auction, the proceeds of such sale shall be paid to the owner after deducting therefrom the costs, charges and expenses incurred for the maintenance and sale of the bull; and

(ii) in any other case, the bull shall be delivered to the owner on payment of the costs, charges and expenses incurred for its maintenance.

(d) The costs, charges and expenses referred to in sub-clauses (i) and (ii) of clause (c) shall be determined in the prescribed manner.

Power of licensing officer, etc., to inspect or mark bulls and enter premises.

13. For the purposes of this Act, a licensing officer or any officer or person authorised by him in this behalf shall have power at all reasonable times—

- (a) to inspect any bull;
- (b) to mark any bull with a prescribed mark in the prescribed manner; and
- (c) subject to such conditions and restrictions, if any, as may be prescribed, to enter any premises or other place where he has reason to believe that a bull is kept.

Duty of officers to report offences, etc.

14. It shall be the duty of all village officers and servants and of all officers of the Veterinary, Agricultural and Revenue Departments—

- (a) to give immediate information to the nearest licensing officer of the commission of any offence, or of the intention or preparation to commit any offence punishable under this Act, which may come to their knowledge;
- (b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about or likely to be committed; and
- (c) to assist any licensing officer in carrying out the provisions of this Act.

Cognizance of offences.

15. No Magistrate shall take cognizance of any offence under this Act except upon a complaint made by a licensing officer or any person authorized by such officer in this behalf.

Officers to be public servants.

16. The Director, every licensing officer, all officers and persons authorised by the Director or a licensing officer under this Act, and all village officers and servants, shall be deemed to be public servants within the meaning of section 15 of the Cochin Penal Code.

Bar of certain proceedings.

17. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of Government for any act done or purporting to be done under this Act without the previous sanction of Government.

- (2) No officer or servant of Government shall be liable in respect of any such act in any Civil or Criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

18. No suit shall be instituted against Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of Government in respect of any act done or purporting to be done under this Act unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of. **Limitation for certain suits and prosecutions.**

19. Government may at any time either *suo motu* or on application, call for and examine the record of any order passed by, or any proceedings recorded by, any officer or person under this Act, for the purpose of satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings, and may pass such order in reference thereto as they think fit. **Revision.**

Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

20. (1) Government may make rules to carry out the purposes of this Act. **Power to make rules.**
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—
- (a) all matters expressly required or allowed by this Act to be prescribed;
 - (b) the circumstances in which duplicates of licences may be granted, the fees which may be charged for the grant of such duplicates, and the conditions, restrictions and limitations subject to which they may be granted;
 - (c) the powers to be exercised and the duties to be performed by officers appointed under this Act, and the procedure of such officers; and

- (d) the service of notices and orders issued under this Act.
- (3) In making a rule under sub-section (1) or sub-section (2), Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to fifty rupees.
- (4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.
- (5) All rules made under this section shall be published in the Cochin Government Gazette and upon such publication shall have effect as if enacted in this Act.

PROCLAMATION ABOLISHING THE SENTENCE OF DEATH IN RESPECT OF CERTAIN OFFENCES UNDER THE COCHIN PENAL CODE

(VIII of 1120)

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin
on the 26th day of November 1944 corresponding
to the 11th day of Vrischigam 1120.*

[Published in the Cochin Government Gazette Extraordinary dated 11th Vrischigam 1120]

WHEREAS We deem it expedient to abolish the sentence of death in respect of certain offences under the Cochin Penal Code; We are hereby pleased to command that notwithstanding the provisions contained in the Cochin Penal Code, I of 1059, no sentence of death shall, hereafter, be passed under sections 180, 281, 285 and 376 of the said Code and that these sections shall have effect as if sentences of death are not provided therein.

2. We are further pleased to command that references in the Cochin Penal Code, I of 1059 and in the Cochin Code of Criminal Procedure, II of 1086, to an offence punishable with death or an offence which is capital or other references to indicate an offence punishable with death shall be construed as if they are references also to an offence punishable with imprisonment for life under sections 180, 281, 285 and 376 of the Cochin Penal Code.

THE COCHIN COCOANUT COMMITTEE ACT

(IV of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Imposition of cocoanut cess.
4. Appointment of officers.
5. Functions of the Committee.
6. Delivery of monthly returns.
7. Collections of cess by collector.
8. Finality of assessment and recovery of unpaid duty.
9. Power to inspect mills and take copies of records and accounts.
10. Information acquired to be confidential.
11. Application of proceeds of duty.
12. Power of Government to make rules.

THE COCHIN COCOANUT COMMITTEE ACT

Promulgated by His Highness Sree Ravi Varma,

Maharaja of Cochin,

on the 17th day of Vrischigam 1120 corresponding

to the 2nd day of December 1944

[Published in the Cochin Government Gazette, dated
17th Vrischigam 1120]

WHEREAS it is expedient to collaborate with the Preamble.
Government of India in their Scheme for the improvement
and development of the cultivation, marketing and utilization
of coconuts in India; We are hereby pleased to command
as follows.—

1. (1) This Act may be called the Cochin Coconut Short title,
extent and
commen-
cement.
Committee Act, IV of 1120.

(2) It extends to the whole of Cochin State and
shall come into force at once.

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

(a) "Collector" means, in reference to copra con-
sumed in a mill in Cochin State, any officer appointed by
Government to perform the duties of a Collector under
this Act;

(b) "the Committee" means, the Committee con-
stituted by the Government by notification in the Cochin
Government Gazette;

(c) "mill" means any place in which copra is crushed for the extraction of oil, which is a factory as defined in section 2 of the Cochin Factories Act, II of 1113.

(d) "prescribed" means prescribed by rules made under this Act.

**Imposition of
coconut cess.**

3. There shall be levied and collected, as a cess for the purposes of this Act, on all copra consumed in any mill in Cochin State, whether produced in or imported from outside the State, a duty of excise at such rate, not exceeding four annas per cwt., as Government may, by notification in the Cochin Government Gazette fix in this behalf.

**Appointment
of officers.**

4. Government may, on the recommendation of the Committee appoint an officer or officers to discharge under the direction of the Committee such duties as may be prescribed and such officer or officers shall be paid by the Committee such salary and allowances as may be fixed by Government.

**Functions of
the Com-
mittee.**

5. It shall be the duty of the Committee to promote the improvement and development of the cultivation and marketing of coconuts and their utilization for the production of copra, coconut oil and coconut poonac and for such other purposes as the Committee may think fit—

(a) by undertaking, assisting or encouraging agricultural, industrial, technological and economic research;

(b) by the supply of technical advice to growers;

(c) by encouraging the adoption of improved methods of cultivation;

(d) by carrying on such propaganda in the interests of the coconut industry as may be necessary;

(e) by collecting statistics from growers, dealers, millers and other sources on all relevant matters bearing on the industry;

(f) by fixing grade standards of copra and its products;

(g) by recommending the maximum and minimum prices to be fixed for copra;

(h) by advising on all matters which require attention for the development of the industry;

(i) by improving the marketing of coconuts in Cochin State and abroad and suggesting suitable measures to prevent unfair competition; and

(j) by adopting any other measures or performing any other duties which it may be required by Government to adopt or perform or which it may itself think necessary or advisable in order to carry out the purposes of this Act.

6. (1) The owner of every mill shall furnish to the Collector, on or before the 7th day of each month according to the English calendar a return stating the total amount of copra consumed in the mill during the preceding month, together with such further information in regard thereto as may be prescribed:

**Delivery of
monthly
returns.**

Provided that no returns shall be required in regard to copra consumed before the commencement of this Act.

(2) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

7. (1) On receiving any return made under section 6 the Collector shall assess the amount of the duty payable under section 3 in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within thirty days of the service of the notice.

**Collection of
duty by
Collector.**

(2) If the owner of any mill fails to furnish in due time the return referred to in sub-section (1) of section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount, if any, payable by him in such manner, as may be prescribed, and the provisions of sub-section (1) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner:

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the duty at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return.

(3) A notice under sub-section (1) may be served on the owner of a mill either by post or by delivering it or tendering it to the owner or his agent at the mill.

8. (1) An assessment made in accordance with the provisions of section 7 shall not be questioned in any court.

**Finality of
assessment
and recovery
of unpaid
duty.**

(2) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (1) of that section, apply to Government for the cancellation or modification of the assessment and, on such application, Government may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(3) Any sum recoverable under section 7 may be recovered as an arrear of land-revenue.

Power to inspect mills and take copies of records and accounts.

9. (1) The Collector or any officer empowered by general or special order of Government in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

(2) The collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(3) Where any officer other than the Collector proposes to examine under sub-section (2) any record or account containing the description or formulae of any trade process, the owner of the mill may give to the said officer, for transmission to the Collector, a written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector.

Information acquired to be confidential.

10. (1) All such copies and extracts and all information acquired by the Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential.

(2) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of Government, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine:

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

11. (1) On the last day of each month, according to the English calendar or as soon thereafter as may be convenient the proceeds of the duty recovered during that month shall after deduction of the expenses, if any, of collection and recovery be paid to the Committee.

Application of proceeds of duty.

(2) Subject to such conditions as may be prescribed the said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may subject to the control of the Government decide to undertake in the exercise of the functions specified in section 5.

12. Government may make rules for the purpose of carrying into effect the provisions of this Act.

Power of Government to make rules.

THE WAR RISKS (GOODS) INSURANCE (AMENDMENT) PROCLAMATION

(IX of 1120)

CONTENTS

Preamble

Sections

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

THE WAR RISKS (GOODS) INSURANCE (AMENDMENT) PROCLAMATION

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

on the 17th day of Vrischigam 1120

corresponding to the 2nd day of December 1944

[Published in the Cochin Government Gazette, dated
2nd Dhanu 1120]

WHEREAS it is necessary further to amend the War Risks (Goods) Insurance Proclamation, XXVII of 1117; We are hereby pleased to command as follows:—

Preamble.

1. (1) This Proclamation may be called the War Risks (Goods) Insurance (Amendment) Proclamation, IX of 1120.

Short title and commencement.

(2) It shall come into force at once.

**Amendment
to section 2.**

2. In clause (c) of section 2 of the War Risks (Goods) Insurance Proclamation, XXVII of 1117—

(a) Sub-clauses (ii), (iii), (iv) and (v) shall be renumbered as sub-clauses (iii), (iv), (v) and (vi) respectively;

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

“(ii) any explosion or fire which involves any explosives or munitions or other dangerous things required for war purposes and which happens or is caused by, through, or in connection with the manufacture, storage or transportation of any such explosives, munitions or other dangerous things”; and

(c) in sub-clause (iii) as hereinbefore renumbered, for the word “aforesaid” the following shall be substituted, namely:—

“is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii)”.

THE COCHIN EXTRADITION (AMENDMENT) ACT

(V of 1120)

CONTENTS**Preamble****Sections**

1. Short title and commencement.
2. Amendment to Schedule.

THE COCHIN EXTRADITION (AMENDMENT) ACT

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

*on the 29th day of Vrischigam 1120, corresponding
to the 14th day of December 1944*

[Published in the Cochin Government Gazette, dated
8th Dhanu 1120]

WHEREAS it is necessary further to amend the Cochin Extradition Act, X of 1093; It is hereby enacted as follows.—

**Short title
and com-
mencement.**

1. This Act may be called the Cochin Extradition (Amendment) Act, V of 1120 and shall come into force on such date as Government may by notification in the Cochin Government Gazette specify in this behalf.

**Amendment
to Schedule.**

2. In the Schedule to the Cochin Extradition Act, X of 1093, the following shall be added as item No. 24, namely.—

“24. Desertion from the Cochin State Forces”.

THE COCHIN TAPIOCA PRODUCTS (EXCISE DUTY) PROCLAMATION

(X of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Levy and collection of duty.
4. Power of Government to impose customs duty on goods mentioned in the Schedule.
5. Certain operations to be subject to licence.
6. Form and conditions of licence.
7. Offences and Penalties.
8. Power of Courts to order forfeiture.
9. Recovery of sums due to Government.
10. Application of the provisions of Act XII of 1109.
11. Power to arrest.
12. Power to summon persons to give evidence and produce documents in inquiries under this Proclamation.
13. Officers required to assist Director.
14. Owners or occupiers of land to report manufacture of contraband exciseable goods.
15. Punishment for connivance at offences.
16. Searches and arrests how to be made.
17. Disposal of persons arrested.
18. Vexatious search, seizure, etc., by an officer.
19. Procedure.
20. Appeals
21. Power of Government to make rules.
22. Power to adjudication.
23. Option to pay fine in lieu of confiscation.
24. Bar of suits and limitation of suits and other legal proceedings.

THE COCHIN TAPIOCA PRODUCTS (EXCISE DUTY) PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 8th day of Dhanu 1120 corresponding
to the 22nd day of December 1944*

[Published in the Cochin Government Gazette, dated 8th
Dhanu 1120];

WHEREAS it is expedient to impose and collect duties of excise on tapioca sago, tapioca flakes and other products manufactured from tapioca; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Cochin Tapioca Products (Excise Duty) Proclamation, X of 1120.

Short title,
extent and
commence-
ment.

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

(3) It shall come into force at once.

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

- (a) “broker” or “commission agent” means a person who in the ordinary course of business makes contracts for the sale or purchase of excisable goods for others;
- (b) “Director” means the Director of Food Supplies;
- (c) “excisable goods” for the purposes of this Proclamation means goods specified in the Schedule to this Proclamation as being subject to a duty of excise and other goods which may from time to time be notified in the Cochin Government Gazette as excisable goods for the purposes of this Proclamation;
- (d) “factory” means any premises, including the precincts thereof, wherein or in any part of which excisable goods are manufactured, or wherein or in any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;
- (e) “manufacture” includes any process incidental or ancillary to the completion of a manufactured product;
- (f) “prescribed” means prescribed by rules made under this Proclamation;
- (g) “sale” and “purchase” with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration;
- (h) “wholesale dealer” means a person who buys or sells excisable goods wholesale for the purpose of trade or manufacture and includes a broker or commission agent who in addition to making contracts for the sale or purchase of excisable goods for others,

stocks such goods belonging to others as an agent for the purpose of sale.

3. There shall be levied and collected in such manner as may be prescribed duties of excise on all excisable goods which are produced or manufactured in Cochin State at the rates set forth in the Schedule.

Levy and collection of duty.

4. Government may, by notification in the Cochin Government Gazette, impose on any excisable goods brought into Cochin State from the territory of any Indian State, not being territory which has been declared under section 5 of the Indian Tariff Act, 1934 to be foreign territory for the purposes of that section, a duty of customs equivalent to the duty imposed by this Proclamation on the like goods produced or manufactured in Cochin State.

Power of Government to impose customs duty on goods mentioned in the Schedule.

5. Government may, by notification in the Cochin Government Gazette, provide that, from such date as may be specified in the notification, no person shall, except under the authority and in accordance with the terms and conditions of a licence granted under this Proclamation, engage in the production or manufacture or any process of the production or manufacture of any excisable goods or any specified component parts or ingredients of such goods or of specified containers of such goods, or the wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage of such excisable goods.

Certain operations to be subject to licence.

6. Every licence under section 5 shall be granted for such area, if any, for such period, subject to such restrictions and conditions, and in such form and containing such particulars, as may be prescribed.

Form and conditions of licence.

7. Whoever commits any of the following offences, namely.—

Offences and Penalties.

- (a) contravenes any of the provisions of a notification issued under section 5 or of a rule made under this Proclamation ;
- (b) evades the payment of any duty payable under this Proclamation ;

- (c) fails to supply any information which he is required by rules made under this Proclamation to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;
- (d) attempts to commit or abets the commission of any of the offences mentioned in clauses (a) and (b) of this section;

shall, for every such offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Power of courts to order forfeiture.

8. Any court trying an offence under this Proclamation may order the forfeiture to Government of any goods in respect of which the court is satisfied that an offence under this Proclamation has been committed, and may also order the forfeiture of any receptacles, packages, or coverings in which such goods are contained and the animals, vehicles, vessels or other conveyances used in carrying the goods, and any implements or machinery used in the manufacture of the goods.

Recovery of sums due to Government

9. In respect of duty and any other sums of any kind payable to Government under any of the provisions of this Proclamation or of the rules made thereunder, the Director may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in his hands or under his disposal or control, or may recover the amount by attachment and sale of excisable goods belonging to such person; and if the amount payable is not so recovered he may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Diwan Peishkar and the Diwan Peishkar on receipt of such certificate shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

Application of the provisions of Act XII of 1109.

10. Government may by notification in the Cochin Government Gazette declare that any of the provisions of the 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 duties imposed by section 3.

11. (1) Any officer duly empowered by Government in this behalf may arrest any person whom he has reason to believe to be liable to punishment under this Proclamation. ^{Power to arrest.}
- (2) Any person accused or reasonably suspected of committing an offence under this Proclamation or any rules made thereunder who on demand of any officer duly empowered by Government in this behalf refuses to give his name and residence, or who gives a name or residence which such officer has reason to believe to be false, may be arrested by such officer in order that his name and residence may be ascertained.
12. (1) The Director shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which he is making for any of the purposes of this Proclamation. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned. ^{Power to summon persons to give evidence and produce documents in inquiries under this Proclamation.}
- (2) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements, and to produce such documents and other things as may be required.

Provided that the exemptions under section 103 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section.

(3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of sections 179 and 240 of the Cochin Penal Code.

Officers re-
quired to
assist Dire-
ctor.

13. All officers of Police and all officers of Government engaged in the collection of land-revenue, and all village officers are hereby empowered and required to assist the Director in the execution of this Proclamation.

Owners or
occupiers of
land to re-
port manu-
facture of
contraband
excisable
goods.

14. Every owner or occupier of land, and the agent of any such owner or occupier, in charge of the management of that land, if contraband excisable goods are manufactured thereon, shall in the absence of reasonable excuse be bound to give notice of such manufacture to a Magistrate or to an officer of the Food Supplies, Police, or Land Revenue Department, immediately the fact comes to his knowledge.

Punishment
for conni-
vance at
offences.

15. Any owner or occupier of land, or any agent of such owner or occupier in charge of the management of that land, who wilfully connives at any offence against the provisions of this Proclamation or of any rules made thereunder shall for every such offence 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.

Searches and
arrests how
to be made.

16. All searches made under this Proclamation or any rules made thereunder and all arrests made thereunder shall be carried out in accordance with the provisions of the Code of Criminal Procedure, II of 1086, relating to searches and arrests made under that Code.

Disposal of
persons
arrested.

17. Every person arrested under this Proclamation shall be forwarded without delay to the officer in charge of the nearest Police Station who shall either admit him to bail to appear before the Magistrate having jurisdiction or in default of bail forward him in custody to such Magistrate.

Vexatious
search,
seizure, etc.,
by an officer.

18. Any officer exercising powers under this Proclamation or under the rules made thereunder who—

- (a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place;
- (b) vexatiously and unnecessarily detains, searches or arrests any person;

- (c) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Proclamation;
- (d) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty,

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Proclamation shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both.

19. No prosecution for any offence under this Proclamation shall be instituted except with the previous sanction of— Procedure.

- (a) Government in the case of offences under section 18; and
- (b) the Director in all other cases.

20. Any person deeming himself aggrieved by any decision or order passed by the Director under this Proclamation or the rules made thereunder may, within thirty days from the date of such decision or order, appeal therefrom to Government. Appeals.

21. (1) Government may by notification in the Cochin Government Gazette make rules to carry into effect the purposes of this Proclamation, Power of Government to make rules.

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

- (i) provide for the assessment and collection of duties of excise, the authorities by whom functions under this Proclamation are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be

payable and the recovery of duty not paid;

- (ii) regulate the removal of excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a licensed person, or a bonded warehouse, or to a market;
 - (iii) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering goods into and clearing goods from such warehouses;
 - (iv) provide for the distinguishing of goods which have been manufactured under licence, or materials which have been imported under licence, and of goods on which duty has been paid, or which are exempt from duty under this Proclamation;
 - (v) provide for the issue of licences, and transport permits and the fees, if any, to be charged therefor;
 - (vi) provide for the inspection of factories and conducting of searches;
 - (vii) provide generally for carrying into effect the provisions of this Proclamation.
- (3) In making rules under this section, Government may provide that any person committing a breach of any rule shall, where no other penalty is provided by this Proclamation, be liable to a penalty not exceeding two thousand rupees and that any article in respect of which any such breach is committed shall be confiscated.

1120: Pro. XI] *Regarding qualificatisns for the Planters' 47*
Constituency

22. Where by the rules made under this Proclamation anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged by the Director without limit, by such other officer of the Food Supplies Department as may be specially authorised in this behalf subject to such limit as may be prescribed. Power to adjudication.

23. Wherever confiscation is adjudged under this Proclamation or the rules made thereunder, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit. Option to pay fine in lieu of confiscation.

24. (1) No suit shall lie against the Government or against any officer of Government in respect of any order passed in good faith or any act in good faith done or ordered to be done under this Proclamation. Bar of suits and limitation of suits and other legal proceedings.

(2) No suit, prosecution, or other legal proceeding shall be instituted for anything done or ordered to be done under this Proclamation after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.

SCHEDULE

Item Number	Description of Goods	Rate of duty
1	Tapioca sago	Four annas per lb.
2	Tapioca flakes	do.

**PROCLAMATION EXCLUDING LANDS HELD FOR
 THE CULTIVATION OF CASHEWNUT IN
 RECKONING THE MINIMUM EXTENT
 PRESCRIBED AS QUALIFICATION
 FOR AN ELECTOR FOR THE
 PLANTERS' CONSTITUENCY**

(XI of 1120)

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

*on the 7th day of Makaram 1120, corresponding
 to the 20th day of January 1945*

[Published in the Cochin Government Gazette, dated
 7th Makaram 1120]

WHEREAS doubts have been raised whether the holding of lands for the purpose of cultivating cashewnut shall qualify a person for

being an elector for the Planters' Constituency of the Cochin Legislative Council; WE are hereby pleased to command as follows:—

1. That lands held for the purpose of cultivating cashewnut shall not be reckoned for the purpose of calculating the minimum extent of 75 acres prescribed under paragraph 10 of Schedule II of the Cochin Legislative Council Electoral Rules for the purpose of qualifying a person to be an elector for the Planters' Constituency.

2. That the Revising Authorities appointed for the disposal of claims, objections and corrections to the Preliminary Electoral Rolls of the Cochin Legislative Council published in the month of Vrischigam 1120 shall, on objection being taken before them on or before the 15th day of Makaram 1120 that in respect of a person whose name has been included in the Planters' Constituency of the said Rolls, lands held for the purpose of cultivating cashewnut have been reckoned for calculating the minimum extent of 75 acres prescribed under paragraph 10 of Schedule II of the Cochin Legislative Council Electoral Rules, after notice to the person to the inclusion of whose name objection has been taken, enquire into the objection. If the Revising Authorities, on such enquiry, are satisfied that the person to the inclusion of whose name objection has been taken is not qualified to be an elector for the Planters' Constituency of the Cochin Legislative Council on the ground that the lands held by him for the purpose of cultivating cashewnut have been reckoned for calculating the minimum extent, as aforesaid, they shall, notwithstanding anything to the contrary contained in any other law or order, allow the objection and direct the removal of the name of such person from the Electoral Rolls of the Planters' Constituency.

Explanation.—The publication of the notice referred to above in the Cochin Government Gazette by the Chairman of the Revising Authority shall be sufficient service for the purpose of this paragraph.

3. That the Revising Authorities shall, notwithstanding anything to the contrary contained in any other law or order, reject the claims preferred before them for the inclusion in the Electoral Rolls, for the Planters' Constituency of the names of persons who have the minimum extent of 75 acres prescribed under paragraph 10 of Schedule II of the Cochin Legislative Council Electoral Rules only by reckoning lands held by them for purposes of cashewnut cultivation.

4. That the decision of the Revising Authorities shall be final and shall not be questioned in any civil court or in any enquiry by Commissioners appointed by Government to inquire into Election Petitions.

5. That OUR Government may by notification in the Cochin Government Gazette withdraw this Proclamation.

**PROCLAMATION ASSUMING MANAGEMENT OF
CERTAIN PROPERTIES BELONGING TO
THAIKKAT ILLOM, TRICHUR TALUK**

(XII of 1120)

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin
on the 16th day of Makaram 1120, corresponding
to the 29th day of January 1945*

[Published in the Cochin Government Gazette
dated 21st Makaram 1120]

WHEREAS all the members of the Eledath Thaikkat Illom in Edakkunni Village, Trichur Taluk, have requested OUR Government to assume management of certain items of immovable properties belonging to 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 Eledath Thaikkat Illom and situate in the Villages of Narakkal and Elankunnapuzha (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 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.

THE ALLIED FORCES (EXEMPTION FROM LOCAL TAXATION) AMENDMENT PROCLAMATION

(XIII of 1120)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Insertion of section 2 A—Application to Nepalese Contingent.

THE ALLIED FORCES (EXEMPTION FROM LOCAL TAXATION) AMENDMENT PROCLAMATION

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

*on the 2nd day of February 1945 corresponding to
the 20th day of Makaram 1120*

[Published in the Cochin Government Gazette,
dated 28th Makaram 1120]

WHEREAS it is necessary to amend the Allied Forces (Exemption from Local Taxation) Proclamation, XII of 1119; We are hereby pleased to command as follows.—

Short title and commencement.

1. This Proclamation may be called the Allied Forces (Exemption from Local Taxation) Amendment Proclamation, XIII of 1120, and it shall come into force at once.

Insertion of section 2A.

2. After section 2 of the Allied Forces (Exemption from Local Taxation) Proclamation, XII of 1119, the following section shall be inserted, namely:—

Application to Nepalese Contingent.

“2A. The provisions of this Proclamation shall apply to the Nepalese Contingent maintained in Cochin State as they apply to a force maintained in Cochin State by an Authority to which this Proclamation applies, and to the members of the said Contingent as they apply to the members of the said force”.

THE COCHIN MUNICIPAL (AMENDMENT) ACT

(VI of 1120)

CONTENTS

Preamble

Sections

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

THE COCHIN MUNICIPAL (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 20th day of Makaram 1120 corresponding to
the 2nd day of February 1945*

[Published in the Cochin Government Gazette,
dated 28th Makaram 1120]

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

Short title
and com-
mencement.

1. This Act may be called the Cochin Municipal (Amendment) Act, VI of 1120 and shall come into force at once.

Amendment
of section 13.

2. For sub-section (1) of section 13 of the Cochin Municipal Act, XVIII of 1113, the following shall be substituted, namely.—

“(1) A Commissioner shall be appointed by Government in the case of each Municipality whose annual income is above seventy-five thousand rupees and in the case of any other Municipality notified by Government in this behalf. Every notification issued under this sub-section shall specify the reasons therefor.”

THE COCHIN LOCAL AUTHORITIES ENTERTAINMENTS TAX (AMENDMENT) ACT

(VII of 1120)

CONTENTS

Preamble
Sections

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

THE COCHIN LOCAL AUTHORITIES ENTERTAINMENTS TAX (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 20th day of Makaram 1120 corresponding to
the 2nd day of February 1945*

[Published in the Cochin Government Gazette,
dated 28th Makaram 1120]

WHEREAS it is necessary to amend the Cochin Local Authorities Entertainments Tax Act, VIII of 1114; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Local Authorities Entertainments Tax (Amendment) Act, VII of 1120 and shall come into force at once.

2. In section 3 of the Cochin Local Authorities En- **Amendment**
 entertainments Tax Act, VIII of 1114,— **of section 3.**

(i) sub-section (2) shall be deleted; and

(ii) for item (i) under sub-section (3) the following shall be substituted, namely.—

“(i) is not more than two annas Three pies.

(i-a) is more than two annas but Six pies”
 is less than six annas.

THE COCHIN PREVENTION OF FOOD ADULTERATION (AMENDMENT) ACT

(VIII of 1120)

CONTENTS

Preamble

Sections

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

THE COCHIN PREVENTION OF FOOD ADULTERATION (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
 on the 25th day of Makaram 1120 corresponding to
 the 7th day of February 1945.*

[Published in the Cochin Government Gazette,
 dated 28th Makaram 1120]

WHEREAS it is expedient to amend the Cochin **Preamble.**
 Prevention of Food Adulteration Act (XIV of 1109); It is
 hereby enacted as follows.—

1. (a) This Act may be called the Cochin Prevention **Short title**
 of Food Adulteration (Amendment) Act, **and com-**
 VIII of 1120. **mencement.**

(b) It shall come into force at once.

2. In the definition of the term “food” in section 2 **Amendment**
 of the Cochin Prevention of the Food Adulteration Act, **of section 2.**
 XIV of 1109, for the words “food or drink” the words
 ‘food, drink or chewing’ shall be substituted.

THE COCHIN CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT

(IX of 1120)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Addition of a new section—Power to issue direction of the nature of Habeas Corpus.

THE COCHIN CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 28th day of Makaram 1120 corresponding to
the 10th day of February 1945*

[Published in the Cochin Government Gazette
dated 28th Makaram 1120]

WHEREAS it is expedient to amend the Cochin Code of Criminal Procedure (Act II of 1086); It is hereby enacted as follows.—

Short title and com- mencement.

1. This Act may be called the Cochin Code of Criminal Procedure (Amendment) Act. IX of 1120. It shall come into force at once.

Addition of a new section.

2. In Part VIII of the Cochin Code of Criminal Procedure, after section 391 add the following.—

“CHAPTER XXXVI A

Directions of the nature of Habeas Corpus

Power to issue direc- tions of the nature of a Habeas Corpus.

391 A. (1) The High Court may, whenever it thinks fit, direct—

- (a) that a person within Cochin State be brought up before the High Court to be dealt with according to law;
- (b) that a person illegally or improperly detained in public or private custody in Cochin State be set at liberty;
- (c) that a prisoner detained in any Jail situate within Cochin State be brought before the High Court to be there examined as a witness in any matter pending or to be enquired into in such Court;

(d) that a prisoner detained as aforesaid be brought before a court-martial or any judicial tribunal acting under the authority of Government for trial or to be examined touching any matter pending before such court-martial or tribunal respectively; and

(e) that a prisoner within Cochin State be removed from one custody to another for the purpose of trial.

(2) The High Court may from time to time frame rules to regulate the procedure in cases under this section."

THE COCHIN LAND CONSERVANCY (AMENDMENT) ACT

(X of 1120)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of section 6 A.

THE COCHIN LAND CONSERVANCY (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 28th day of Makaram 1120 corresponding to
the 10th day of February 1945*

[Published in the Cochin Government Gazette
dated 28th Makaram 1120]

WHEREAS it is expedient further to amend the Preamble. Cochin Land Conservancy Act, IV of 1096 as amended by the Cochin Land Conservancy (Amendment) Act, XXIV of 1113; It is hereby enacted as follows.—

1. This Act may be called the Cochin Land Conservancy (Amendment) Act, X of 1120, and it shall come into force at once. Short title and commencement.

2. In sub-section (1) of section 6 A of the Cochin Land Conservancy Act, IV of 1096, for the words "on either side of the public roads situate in Cochin-Kanayannur Taluk and Cranganur Taluk" the words "on either side of public roads" shall be substituted. Amendment of section 6 A.

THE COCHIN COMPANIES ACT (XI of 1120)

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THE COCHIN COMPANIES ACT

*Passed by His Highness the Maharaja of Cochin on
the 28th day of Makaram 1120, corresponding
to the 10th day of February 1945*

[Published in the Cochin Government Gazette
dated 28th Makaram 1120]

WHEREAS it is expedient to consolidate and amend
the law relating to Trading Companies and other Associa-
tions; It is hereby enacted as follows.—

PART I**PRELIMINARY**

1. (1) This Act may be called the Cochin Companies Act, XI of 1120. Short title,
commence-
ment and
extent.

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

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

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

(i) "articles" means the articles of association of a company as originally framed or as altered by special resolution, including so far as they apply to the company, the regulations contained (as the case may be) in Table A in the First Schedule annexed to the Cochin Companies Act, IV of 1080 or in Table A in the First Schedule annexed to the Indian Companies Act, 1913 as made applicable to Cochin State or in Table A annexed to this Act.—

(ii) "company" means a company formed and registered under this Act or an existing company:

(iii) "the Court" means the Court having jurisdiction under this Act:

(iv) "debenture" includes debenture stock:

(v) "director" includes any person occupying the position of a director by whatever name called:

(vi) "existing company" means a company formed and registered under the Cochin Companies Act, IV of 1080: or under the Indian Companies Act 1913, as made applicable to Cochin State:

(vii) "Insurance company" means a company that carries on the business of insurance either solely or in common with any other business or businesses:

(viii) "manager" means a person who subject to the control and direction of the directors has the management of the whole affairs of a company, and includes a director or any other person occupying the position of a manager by whatever name called and whether under a contract of service or not:

(ix) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement and includes any person, firm or company occupying such position by whatever name called.

Explanation.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act.

(x) "memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Act:

(xi) "officer" includes any director, [managing agent] manager or secretary but, save in sections 289, 290 and 291, does not include an auditor:

(xii) "prescribed" means, as respects the provisions of this Act relating to the winding up of companies, prescribed by rules made by the High Court, and, as respects the other provisions of this act, prescribed by the Government.

(xiii) "private company" means a company which by its articles—

(a) restricts the right to transfer the shares, if any; and

(b) limits the number of its members to fifty not including persons who are in the employment of the company; and

(c) prohibits any invitation to the public to subscribe for the shares, if any, or debentures of the company:

Provided that where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this definition, be treated as a single member;

(xiv) "public company" means a company incorporated under this Act or under the Cochin Companies Act, IV of 1080, or under the Indian Companies Act, 1913, as made applicable to Cochin State, which is not a private company;

(xv) "prospectus" means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of a company but shall not include any trade advertisement which shows on the face of it that a formal prospectus has been prepared and filed;

(xvi) "the registrar" means a registrar or assistant registrar performing under this Act the duty of registration of companies: and

(xvii) "share" means share in the share capital of the company, and includes stock except when a distinction between stock and shares is expressed or implied.

(2) Where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee and whether that other company is a company within the meaning of this Act or not, and

(a) the amount of the shares so held is at the time when the accounts of the holding company are made up more than fifty per cent of the issued share capital of that other company or such as to entitle the company to more than fifty per cent of the voting power in that other company, or

(b) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company, that other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression "subsidiary company" in this Act means a company in the case of which the conditions of this sub-section are satisfied and includes a subsidiary company of such company:

Provided that where a company the ordinary business of which includes the lending of money holds shares in another company as security only, no account shall, for the purpose of determining under this section whether that other company is a subsidiary company, be taken of the shares so held.

**Jurisdiction
of the Courts.**

3. (1) The Court having jurisdiction under this Act shall be the District Court having jurisdiction in the place at which the registered office of the company is situate.

(2) For the purposes of jurisdiction to wind up companies, the expression "registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong Court.

PART II

CONSTITUTION AND INCORPORATION

**Prohibition
of partner-
ships exceed-
ing certain
number.**

4. (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking unless it is registered as a company under this Act, or is formed in

pursuance of the Indian Companies Act, 1913, or some other Indian law or of an Act of Parliament, or of Royal Charter or Letters Patent.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act or is formed in pursuance of the Indian Companies Act, 1913 or some other Indian law or of an Act of Parliament or of Royal Charter or Letters Patent.

(3) This section shall not apply to a joint family carrying on joint family trade or business and where two or more such joint families form a partnership, in computing the number of persons for the purposes of this section, minor members of such families shall be excluded.

(4) Every member of a company, association or partnership carrying on business in contravention of this section shall be personally liable for all liabilities incurred in such business.

(5) Any person who is a member of a company, association or partnership formed in contravention of this section shall be punishable with fine not exceeding one thousand rupees.

Memorandum of Association

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either—

Mode of forming incorporated Company.

(i) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares); or

(ii) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being

wound up (in this Act termed a company limited by guarantee); or

(iii) a company not having any limit on the liability of its members (in this Act termed an unlimited company).

Memorandum of company limited by shares.

6. In the case of a company limited by shares—

(1) the memorandum shall state—

(i) the name of the company, with “Limited” as the last word in its name;

(ii) the place where the registered office of the company is to be situate;

(iii) the objects of the company;

(iv) that the liability of the members is limited;

(v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount :

(2) no subscriber of the memorandum shall take less than one share:

(3) each subscriber shall write opposite to his name the number of shares he takes.

Memorandum of company limited by guarantee.

7. In the case of a company limited by guarantee—

(1) the memorandum shall state—

(i) the name of the company, with “Limited” as the last word in its name;

(ii) the place where the registered office of the company is to be situate;

(iii) the objects of the company;

(iv) that the liability of the members is limited;

(v) that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount:

(2) if the company has a share capital—

(i) the memorandum shall also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;

(ii) no subscriber of the memorandum shall take less than one share;

(iii) each subscriber shall write opposite to his name the number of shares he takes.

8. In the case of an unlimited company—

(1) the memorandum shall state—

(i) the name of the company;

(ii) the place where the registered office of the company is to be situate;

(iii) the objects of the company;

(2) if the company has a share capital—

(i) no subscriber of the memorandum shall take less than one share;

(ii) each subscriber shall write opposite to his name the number of shares he takes.

9. The memorandum shall—

(a) be printed,

(b) be divided into paragraphs numbered consecutively, and

(c) be signed by each subscriber (who shall add his address and description) in the presence of at least one witness who shall attest the signature.

10. A company shall not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act:

Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition.

11. (1) A company shall not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the registrar requires.

(2) If a company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned company may, with the sanction of the registrar, change its name,

Memorandum of unlimited company.

Printing and signature of memorandum.

Restriction on alteration of memorandum.

Name of company and change of name.

(3) Except with the previous consent in writing of the Government no company shall be registered by a name which—

(a) contains any of the following words, namely, "Maharaja", "Highness", "Elayaraja", "Valiamma Thampuram", "Crown", "Emperor", "Empire", "Empress", "Federal", "Imperial", "King", "Queen", "Royal", "State", "Reserve Bank", "Bank of Bengal", "Bank of Madras", "Bank of Bombay", or any word which suggests or is calculated to suggest the patronage of His Highness or His Majesty or of any member of the Roayl Family or of the Ruling Family of Cochin or any connection with Government or His Majesty's Government or any department thereof, or

(b) contains the word "Municipal" or "Chartered" or any word which suggests or is calculated to suggest connection with any municipality or other local authority or with any society or body incorporated by Royal Charter:

Provided that nothing in this sub-section shall apply to companies registered before the 1st day of Vrischigam 1097 corresponding to the 16th day of November 1921.

(4) Any company may, by special resolution and subject to the approval of the Government signified in writing, under the hand of the Secretary to Government, change its name.

(5) Where a company changes its name, the registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case. On the issue of such a certificate, the change of name shall be complete.

(6) The change of a name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company; and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Alteration of
memo-
randum.

12. (1) Subject to the provisions of this Act, a company, may by special resolution, alter the provisions of its memorandum so as to change the place of the registered office from the jurisdiction of one District Court to that of

another, or with respect to the objects of the company, so far as may be required to enable it—

(a) to carry on its business more economically or more efficiently; or

(b) to attain its main purpose by new or improved means; or

(c) to enlarge or change the local area of its operations; or

(d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(e) to restrict or abandon any of the objects specified in the memorandum; or

(f) to sell or dispose of the whole or any part of the undertaking of the company; or

(g) to amalgamate with any other company or body of persons.

(2) The alteration shall not take effect until and except in so far as it is confirmed by the Court on petition.

(3) Before confirming the alteration, the Court must be satisfied—

(a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

13. The Court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

Power of Court when confirming alteration.

14. The Court shall, in exercising its discretion under sections 12 and 13, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors,

Exercise of discretion by Court.

and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company may be expended in any such purchase.

Procedure on confirmation of the alteration.

15. (1) A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within three months from the date of the order, be filed by the company with the registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

(2) Where the alteration involves a transfer of the registered office from the jurisdiction of one District Court to that of another, a certified copy of the order confirming such change shall be filed by the company with the registrar in each of such places, and each of such registrars shall register the same, and shall certify under his hand the registration thereof, and the registrar for the place from which such office is transferred shall send to the registrar for the other place all documents relating to the company registered or filed in his office.

(3) The Court may by order at any time extend the time for the filing of documents with the registrar under this section for such period as the Court thinks proper.

Effect of failure to register within three months.

16. No such alteration shall have any operation until registration thereof has been duly effected in accordance with the provisions of section 15, and if such registration is not effected within three months next after the date of the order of the Court confirming the alteration, or within such further time as may be allowed by the Court in accordance with the provisions of section 15, such alteration and order and all proceedings connected therewith shall, at the expiration of such period of three months or such further time, as the case may be, become absolutely null and void:

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

Articles of Association

17. (1) There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company. Registration of articles.

(2) Articles of association may adopt all or any of the regulations contained in Table A in the First Schedule, and shall in any event be deemed to contain regulations identical with or to the same effect as regulation 57, regulation 67, regulation 72, regulations 79, 80, 81, 82 and 83, regulation 96, regulation 98, regulation 106, regulation 108, and regulations 113, 114, 115, 116 and 117 contained in that table.

Provided that regulations 79, 80, 81, 82 and 83 shall not be deemed to be included in the articles of any private company except a private company which is the subsidiary company of a public company:

Provided further that regulation 108 shall be deemed to require that a statement of the reasons why of the whole amount of any item of expenditure which may in fairness be distributed over several years, only a portion thereof is charged against the income of the year, shall be shown in the profit and loss account, unless the company in general meeting shall determine otherwise.

(3) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered.

(4) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered; for the purpose of enabling the registrar to determine the fees payable on registration.

18. In the case of a company limited by shares and registered after the commencement of this Act, if articles Application of Table A.

are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in the First Schedule, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Form and signature of articles.

19. Articles shall—

(a) be printed;

(b) be divided into paragraphs numbered consecutively; and

(c) be signed by each subscriber of the memorandum (who shall add his address and description) of association in the presence of at least one witness who must attest the signature.

Alteration of articles by special resolution.

20. Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

Effect of alteration in memorandum or articles.

21. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company :

Provided that this section shall not apply in any case where the member agrees in writing either before or after the alteration is made to be bound thereby:

General Provisions

Effect of memorandum and articles.

22. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member and contained a covenant on the part of each member, his heirs, and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company:

23. The memorandum and the articles (if any) shall be filed with the registrar for the place in which the registered office of the company is stated by the memorandum to be situate, and he shall retain and register them.

Registration of memorandum and articles.

24. (1) On the registration of the memorandum of a company, the registrar shall certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited.

Effect of registration.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

25. (1) A certificate of incorporation given by the registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act.

Conclusiveness of certificate of incorporation.

(2) A declaration by an advocate, or pleader entitled to appear before the High Court who is engaged in the formation of a company, or by a person named in the articles as a director, manager or secretary of the company, of compliance with all or any of the said requirements shall be filed with the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

26. (1) Every company shall send to every member, at his request and within fourteen days thereof on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

Copies of memorandum and articles to be given to members.

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding ten rupees.

Alteration of memorandum or articles to be noted in every copy.

27. (1) Where an alteration is made in the memorandum or articles of a company, every copy of the memorandum or articles issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum or articles which are not in accordance with the alteration, it shall be liable to a fine not exceeding ten rupees for each copy so issued and every officer of the company who is knowingly and wilfully in default shall be liable to the like penalty.

Associations not for Profit

Power to dispense with "Limited" in name of charitable and other companies.

28. (1) Where it is proved to the satisfaction of the Government that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and applies or intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members the Government may, by license under the hand of the Secretary to Government, direct that the association be registered as a company with limited liability, without the addition of the word "Limited" to its name, and the association may be registered accordingly.

(2) A license by the Government under this section may be granted on such conditions and subject to such regulations as the Government thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Government so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "Limited" as any part of its name, and of publishing its name, and of sending lists of members to the registrar.

(4) A licensee under this section may at any time be revoked by the Government, and upon revocation the registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section:

Provided that, before a license is so revoked, the Government shall give to the association notice in writing of its intention, and shall afford the association an opportunity of submitting a representation in opposing to the revocation.

Companies limited by Guarantee

29. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the 1st day of Vrischigam 1097 corresponding to the 16th day of November 1921, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void. Provision as to companies limited by guarantee.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution of any company limited by guarantee and registered after the 1st day of Vrischigam 1097 corresponding to the 16th day of November 1921 purporting to divide the undertaking of the company into shares or interests, shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

PART III

SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS

Distribution of Share Capital

30. (1) The shares or other interest of any member in a company shall be moveable property, transferable in manner provided by the articles of the company. Nature of shares.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

31. A certificate, under the common seal of the company, specifying any shares or stock held by any member, shall be *prima facie* evidence of the title of the member to the shares or stock therein specified. Certificate of shares or stock.

32. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become mem- Definition of 'member'.

bers of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Register of members.

33. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars.—

(i) the names and addresses, and the occupations, if any, of the members and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(ii) the date at which each person was entered in the register as a member;

(iii) the date at which any person ceased to be a member.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Index of members of company.

34. (1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall within fourteen days after the date on which any alteration is made in the register of members make any necessary alteration in the index.

(2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(3) If default is made in complying with this section, the company and every officer of the company who is knowingly, and wilfully in default shall be liable to a fine not exceeding fifty rupees.

Annual list of members and summary.

35. (1) Every company having a share capital shall within eighteen months from its incorporation and thereafter once at least in every year make a list of all persons

who, on the day of the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company.

(2) The list shall state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or (in the case of the first return) of the incorporation of the company by persons who are still members and persons who have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars.—

(a) the amount of the share capital of the company, and the number of the shares into which it is divided;

(b) the number of shares taken from the commencement of the company up to the date of the return;

(c) the amount called up on each share;

(d) the total amount of calls received;

(e) the total amount of calls unpaid;

(f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any shares or debentures, since the date of the last return or so much thereof as has not been written off at the date of the return;

(g) the total number of shares forfeited;

(h) the total amount of shares or stock for which share-warrants are outstanding at the date of the return;

(i) the total amount of share-warrants issued and surrendered respectively since the date of the last return;

(j) the number of shares or amount of stock comprised in each share-warrant;

(k) the names and addresses of the persons who at the date of the return are the directors of the company and of the persons (if any) who at the said date are the managers or managing agents of

the company, and the changes in the personnel of the directors, managers and managing agents since the last return together with the dates on which they took place; and

(1) the total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act.

(3) The above list and summary shall be contained in a separate part of the register of members, and shall be completed within twenty-one days after the day of the first or only ordinary general meeting in the year, and the company shall forthwith file with the registrar a copy signed by a director or by the manager or the secretary of the company, together with a certificate from such director, manager or secretary that the list and summary state the facts as they stood on the day aforesaid.

(4) A private company shall send with the annual return required by sub-section (1) a certificate signed by a director or other officer of the company that the company has not, since the date of the last return or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and where the annual return discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under sub-clause (b) of clause 13 of sub-section (1) of section 2 are not to be included in reckoning the number of fifty.

(5) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits, the default shall be liable to the like penalty.

Trust not
to be entered
on register.

36. No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar.

Transfer of
shares.

37. (1) An application for the registration of the transfer of shares in a company may be made either by the transferor or the transferee, provided that where such application is made by the transferor no registration shall in the case of partly paid shares be effected unless the

company gives notice of the application to the transferee and subject to the provisions of sub-section (7) the company shall, unless objection is made by the transferee within two weeks from the date of receipt of the notice, enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for registration was made by the transferee.

(2) For the purposes of sub-section (1) notice to the transferee shall be deemed to have been duly given if despatched by prepaid post to the transferee at the address given in the instrument of transfer and shall be deemed to have been delivered in the ordinary course of post.

(3) It shall not be lawful for the company to register a transfer of shares in or debentures of the company unless the proper instrument of transfer duly stamped and executed by the transferor and the transferee has been delivered to the company along with the scrip:

Provided that, where it is proved to the satisfaction of the directors of the company that an instrument of transfer signed by the transferor and transferee has been lost, the company may, if the directors think fit on an application in writing made by the transferee and bearing the stamp required by an instrument of transfer, register the transfer on such terms as to indemnity as the directors may think fit.

(4) If a company refuses to register the transfer of any shares or debentures, the company shall, within two months from the date on which the instrument of transfer was lodged with the company, send to the transferee and the transferor notice of the refusal.

(5) If default is made in complying with sub-section (4) of this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

(6) Nothing in sub-section (3) shall prejudice any power of the company to register as share-holder or debenture-holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

(7) Nothing in this section shall prejudice any power of the company under its articles to refuse to register the transfer of any shares.

Transfer by
legal repre-
sentative.

38. A transfer of the share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer.

Inspection
of register of
members.

39. (1) The register of members, commencing from the date of the registration of the company and the index of members shall be kept at the registered office of the company, and except when closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions, as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on payment of one rupee, or such less sum as the company may prescribe, for each inspection. Any such member or other person may make extracts therefrom.

(2) Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Act, or any part thereof, on payment of six annas for every hundred words or fractional part thereof required to be copied and the company shall cause any copy so required by any person to be sent to that person within a period of ten days, exclusive of non-working days and days on which the transfer books of the company are closed, commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal or default continues and the Court may by an order compel an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them.

40. A company may, on giving seven days' previous notice by advertisement in some newspaper circulating in the place in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole forty-five days in each year but not exceeding thirty days at a time.

Power to close register.

41. (1) If—

(a) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members of a company; or

Power of Court to rectify register.

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The Court may either refuse the application, or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved, and may make such order as to costs as it in its discretion thinks fit.

(3) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for rectification of the register:

Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal from the decision on such an issue shall lie in the manner directed by the Cochin Code of Civil Procedure, XXIX of 1111, on the grounds mentioned in section 85 of that Code.

42. In the case of a company required by this Act to file a list of its members with the registrar, the Court, when making an order for rectification of the register, shall, by its order, direct notice of the rectification to be filed with the registrar within a fortnight from the date of the completion of the order.

Notice to registrar of rectification of register.

Register to be evidence.

43. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

Power for company to keep branch register.

44. (1) A company having a share capital may, if so authorised by its articles, cause to be kept in the United Kingdom a branch register of members (in this Act called a British register).

(2) The company shall within one month from the date of the opening of any British register, file with the registrar notice of the situation of the office where such register is kept and, in the event of any change in the situation of such office or of its discontinuance, shall within one month from the date of such change or discontinuance, as the case may be file notice of such change or discontinuance.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Regulations as to British register.

45. (1) A British register shall be deemed to be part of the company's register of members (in this section called the principal register).

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept; except that the advertisement before closing the register shall be inserted in some newspaper circulating in the locality wherein the British register is kept.

(3) The company shall transmit to its registered office in Cochin State a copy of every entry in its British register as soon as may be after the entry is made; and shall cause to be kept at such office duly entered up from time to time, a duplicate of its British register, and the duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a British register shall, during the continuance of that registration, be registered in any other register.

(5) The company may discontinue to keep any British register, and thereupon all entries in that register shall be transferred to the principal register.

(6) Subject to the provision of this Act, any company may, by its articles, make such regulations as it may think fit respecting the keeping of a British register.

(7) The provisions of section 44 and sub-sections (1) to (6) of this section shall apply in relation to Burma as they apply in relation to the United Kingdom.

(8) In the application of the said provisions to Burma, references to a British register shall be construed as references to a Burma register.

46. (1) A company limited by shares, if so authorised by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share-warrant.

Issue of share-warrants to bearer.

(2) Nothing in this section shall apply to a private company.

47. A share-warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

Effect of share-warrant.

48. The bearer of a share-warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share-warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

Registration of name of bearer of share-warrant.

49. The bearer of a share-warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles, except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

Position of bearer of share-warrant.

Entries in register when share-warrant issued.

50. (1) On the issue of a share-warrant, the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely.—

(i) the fact of the issue of the warrant;

(ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number; and

(iii) the date of the issue of the warrant.

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully continues or permits the default shall be liable to the like penalty.

Surrender of share-warrant.

51. Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Act to be entered in the register of members; and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

Power of company to arrange for different amounts being paid on shares.

52. A company, if so authorised by its articles, may do any one or more of the following things, namely.—

(1) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;

(2) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him although no part of that amount has been called up;

(3) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Power of company limited by shares to alter its share capital.

53. (1) A company limited by shares, if so authorised by its articles, may alter the conditions of its memorandum as follows (that is to say), it may—

(a) increase its share capital by the issue of new shares of such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(c) convert all or any of its paid-up shares into stock and re-convert that stock into paid-up shares of any denomination ;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived ;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section must be exercised by the company in general meeting,

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

(4) The company shall file with the registrar notice of the exercise of any power referred to in clause (d) or clause (e) of sub-section (1) within 15 days from the exercise thereof.

54. (1) Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares or converted any of its shares into stock, or reconverted stock into shares, it shall within fifteen days of the consolidation and division, conversion or re-conversion, file notice with the registrar of the same, specifying the share consolidated and divided, or converted, or the stock re-converted.

Notice to registrar of consolidation of share capital, conversion of shares into stock, etc.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

55. Where a company having a share capital has converted any of its shares into stock, and filed notice of the conversion with the registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock ; and the register of members of the company, and the list of

Effect of conversion shares into stock.

members to be filed with the registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Act.

Notice of increase of share capital or of members.

56. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall file with the registrar, in the case of an increase of share capital, within fifteen days after the passing of the resolution authorising the increase, and in the case of an increase of members within 15 days after the increase was resolved on or took place, notice of the increase of capital or members, and the registrar shall record the increase.

(2) The notice to be given as aforesaid shall include particulars of the classes of shares affected and the conditions (if any) subject to which the new shares are to be issued.

(3) If a company makes a default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty,

Reduction of Share Capital

Restrictions on purchase by company or loans by company for purchase of its own shares.

57. (1) No company limited by shares shall have power to buy its own shares or the shares of a public company of which it is a subsidiary company unless the consequent reduction of capital is effected and sanctioned in the manner provided by sections 58 to 69.

(2) No company limited by shares other than a private company, not being a subsidiary company of a public company, shall give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company.

Provided that nothing in this section shall be taken to prohibit, where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business.

(3) If a company acts in contravention of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding one thousand rupees.

(4) Nothing in this section shall affect the right of a company to redeem any shares issued under section 136.

58. (1) Subject to confirmation by the Court, a company limited by shares, if so authorised by its articles may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power) may—

Reduction of share capital.

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act called a resolution for reducing share capital.

59. Where a company has passed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

Application to Court for confirming order.

60. On and from the passing by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from the making of the order confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced" as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company :

Addition to name of company of "and reduced".

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if it thinks expedient,

dispense altogether with the addition of the words "and reduced".

Objections by creditors and settlement of list of objecting creditors.

61. (1) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital, or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts, or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

Power to dispense with consent of creditor on security being given for his debt

62. Where a creditor entered on the list of creditors whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may, direct, the following amount (that is to say),—

(i) if the company admits the full amount of his debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;

(ii) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

Order confirming reduction.

63. The Court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has been determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

64. (1) The registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and on the filing with him of a certified copy of the order and of a minute (approved by the Court) showing, with respect to the share capital of the company as altered by the order, the amount of the share capital, the number of shares into which it is to be divided and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute. **Registration of order and minute of reduction.**

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

65. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and shall be embodied in every copy of the memorandum issued after its registration. **Minute to form part of memorandum.**

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

66. (1) A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount, if any, which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute: **Liability of members in respect of reduced shares.**

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings

for reduction, or of their nature and effect with respect to his claim not entered on the list of creditors, and after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of his debt or claim, then—

(i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt, or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and

(ii) if the company is wound up, the Court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on concealment of name of creditor.

67. If any officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any officer of the company abets any such concealment or misrepresentation as aforesaid, every such officer shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Publication of reasons for reduction.

68. In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

69. A company limited by guarantee and registered after the 1st day of Vrischigam 1097 corresponding to the 16th day of November 1921 may, if it has a share capital and is so authorised by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Act.

Variation of Shareholders' Rights

70. (1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorising the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than ten per cent of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the Court to have the variation cancelled, and where any such application is made the variation shall not have effect unless and until it is confirmed by the Court.

Rights of holders of special classes of shares.

(2) An application under this section must be made within fourteen days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the Court, after hearing the applicant and any other persons who apply to the Court to be heard and appear to the Court to be interested in the application, may, if it is satisfied having regard to all the circumstances of the case that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.

(4) The decision of the court on any such application shall be final.

(5) The company shall within 15 days after the service on the company of any order made on any such application forward a copy of the order to the registrar and, if default is made in complying with this provision, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding fifty rupees.

(6) The expression "variation" in this section includes "abrogation" and the expression "varied" shall be construed accordingly.

Registration of Unlimited Company as Limited

Registration of unlimited company as limited.

71. (1) Subject to the provisions of this section, any company registered as unlimited may register under this Act as limited or any company already registered as a limited company may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations, or contracts incurred or entered into by, to, with or on behalf of, the company before the registration, and those debts, liabilities, obligations and contracts may be enforced in manner provided by Part VIII of this Act in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section, the registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company; but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

Power of unlimited company to provide for reserve share capital on re-registration.

72. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely.—

(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which its capital is so increased shall be capable of being called up except in the event and for the purposes of the company being wound up;

(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Reserve Liability of Limited Company

Reserve liability of limited company.

73. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Unlimited Liability of Directors

74. (1) In a limited company the liability of the directors or of any director may, if so provided by the memorandum, be unlimited.

Limited company may have directors with unlimited liability.

(2) In a limited company in which the liability of any director is unlimited, the directors of the company (if any) and the member who proposes a person for election or appointment to the office of director shall add to that proposal a statement that the liability of the person holding that office will be unlimited and the promoters and officers of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director or proposer makes default in adding such a statement, or if any promotor or officer of the company makes default in giving such a notice, he shall be liable to a fine not exceeding one thousand rupees and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

75. (1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or of any director.

Special resolution of limited company making liability of directors unlimited.

(2) Upon the passing of any such special resolution, the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

PART IV

MANAGEMENT AND ADMINISTRATION

Office and Name

76. (1) A company shall as from the day on which it begins to carry on business, or as from the twenty-eighth day after the date of its incorporation, whichever is the earlier, have a registered office to which all communications and notices may be addressed.

Registered office of company.

(2) Notice of the situation of the registered office and of any change therein shall be given within twenty-eight days after the date of the incorporation of the company or of the change, as the case may be, to the registrar who shall record the same

(3) The inclusion in the annual return of a company of the statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this section.

(4) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which it so carries on business.

Publication of name by a limited company.

77. Every limited company—

(a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible and in English and Malayalam characters;

(b) shall have its name engraven in legible characters on its seal;

(c) shall have its name mentioned in legible English and Malayalam characters in all bill-heads and letter paper and in all notices, advertisements and other official publications of the company, and in all bill of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

Penalties for non-publication of name.

78. (1) If a limited company does not paint or affix and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding fifty rupees for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every officer of the company, who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

(2) If any officer of a limited company, or any person on its behalf, uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorises the issue of any bill-head, letter paper, notice, advertisement or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, hundi, promissory note, endorsement, cheque or order for money or goods, or issues or authorises to be issued any bill of parcels, invoice, receipt or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding

five hundred rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

79. (1) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication shall also contain a statement in an equally prominent position and in equally conspicuous characters of the amount of the capital which has been subscribed and the amount paid up.

Publication of authorised as well as subscribed and paid-up capital.

(2) Any company which makes default in complying with the requirements of this section and every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding one thousand rupees.

Meeting and Proceedings

80. (1) A general meeting of every company shall be held within eighteen months from the date of its incorporation and thereafter once at least in every calendar year and not more than fifteen months after the holding of the last preceding general meeting.

Annual general meeting.

(2) If default is made in holding a meeting in accordance with the provisions of this section, the company and every director or manager of the company who is knowingly and wilfully a party to the default shall be liable to a fine not exceeding five hundred rupees.

(3) If default is made as aforesaid, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

81. (1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called the statutory meeting.

Statutory meeting of company.

(2) The directors shall, at least twenty-one days before the day on which the meeting is held, forward a report (in this Act referred to as the statutory report) certified as required by this section to every member of the company.

(3) The statutory report shall be certified by not less than two directors of the company or by the chairman of the directors if authorised in this behalf by the directors and shall state—

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;

(c) an abstract of the receipts of the company and of the payments made thereout up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company showing separately any commission or discount paid on the issue or sale of shares;

(d) the names, addresses and descriptions of the directors, auditors, managing agents and managers, if any, and secretary of the company and the changes, if any, which have occurred since the date of the incorporation;

(e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification;

(f) the extent to which underwriting contracts, if any, have been carried out;

(g) the arrears, if any, due on calls from directors, managing agents and managers; and

(h) the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares to any director, managing agent or manager or a partner of the managing agent if the managing agent is a firm or if the managing agent is a private company a director thereof.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares and to the receipts and payments

of the company, be certified as correct by the auditors of the company.

(5) The directors shall cause a copy of the statutory report certified as required by this section to be delivered to the registrar for registration forthwith after the sending thereof to the members of the company.

(6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) If a petition is presented to the court in manner provided by Part V for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the court may instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

(10) In the event of any default in complying with the provisions of this section every director of the company who is guilty of or who knowingly and wilfully authorises or permits the default shall be liable to a fine not exceeding five hundred rupees.

(11) This section shall not apply to a private company.

82. (1) Notwithstanding anything in the articles, the directors of a company which has a share capital shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid forthwith

Calling of
extra-
ordinary
general
meeting on
requisition.

proceed to call an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not proceed within twenty-one days from the date of the requisition being so deposited to cause a meeting to be called, the requisitionists, or a majority of them in value, may themselves call the meeting, but in either case any meeting so called shall be held within three months from the date of the deposit of the requisition.

(4) Any meeting called under this section by the requisitionists shall be called in the same manner, as nearly as possible, as that in which meetings are to be called by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration for their services to such of the directors as were in default.

Provisions
as to meet-
ings and
Votes.

83. (1) The following provisions shall have effect with respect to meetings of a company other than a private company not being a subsidiary of a public company and the procedure thereat, notwithstanding any provision made in the articles of the company in this behalf:—

(a) a meeting of a company other than a meeting for the passing of a special resolution may be called by not less than fourteen days' notice in writing; but with the consent of all the members entitled to receive notice of some particular meeting that meeting may be convened by such shorter notice and in such manner as those members may think fit;

(b) notice of the meeting of a company with a statement of the business to be transacted at the meeting shall be served on every member in the manner in which notices are required to be served by Table A and for the purpose of this clause the expression "Table A" means that

table as for the time being in force; but the accidental omission to give notice to, or the non-receipt of notice by, any member shall not invalidate the proceedings at any meeting;

(c) five members present in person or by proxy, or the chairman of the meeting, or any member or members holding not less than one-tenth of the issued capital which carries voting rights shall be entitled to demand a poll: Provided that in the case of a private company if not more than seven members are personally present, one member, and if more than 7 members are personally present, two members shall be entitled to demand a poll;

(d) an instrument appointing a proxy, if in the form set out in regulation 68 of Table A, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instruments by the articles; and

(e) any share-holder whose name is entered in the register of shareholders of the company shall enjoy the same rights and be subject to the same liabilities as all other shareholders of the same class.

(2) The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf:—

(a) two or more members holding not less than one-tenth of the total share capital, paid up or, if the company has not a share capital, not less than five per cent in number of the members of the company may call a meeting;

(b) in the case of a private company two members and in the case of any other company five members personally present shall be a quorum;

(c) any member elected by the members present at a meeting may be chairman thereof;

(d) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each hundred rupees of stock held by him, and in any other case every member shall have one vote;

(e) on a poll votes may be given either personally or by proxy;

(f) the instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a

corporation, either under seal or under the hand of an officer or an attorney duly authorised; and

(g) a proxy must be a member of the company.

(3) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called or to conduct the meeting of the company in manner prescribed by the articles or this Act, the Court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the Court thinks fit, and where any such order is given may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

Representa-
tion of com-
panies at
meetings of
other com-
panies of
which they
are members.

84. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Extraordin-
ary and
special
resolutions.

85. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice specifying the intention to propose the resolution as a special resolution has been duly given :

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed

a declaration of the chairman on a show of hands that the resolution is carried shall unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed a poll may be demanded.

(5) In a case where, if a poll is demanded, it may in accordance with the articles be taken in such manner as the chairman may direct; it may, if the chairman so directs, be taken at the meeting at which it is demanded.

(6) When a poll is demanded in accordance with this section, in computing the majority on the poll, reference shall be had to the number of votes to which each member is entitled by the articles of the company, or under this Act.

(7) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles, or under this Act.

86. (1) A copy of every special and extraordinary resolution shall, within fifteen days from the passing thereof be printed or type-written and duly certified under the signature of an officer of the company and filed with the registrar who shall record the same.

Registration
and copies of
special and
extraordi-
nary
resolutions.

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the date of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member at his request, on payment of one rupee or such less sum as the company may direct.

(4) If a company makes default in so filing with the registrar a copy of a special or extraordinary resolution, it shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(5) If a company makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member when required by this section a copy of a

special resolution, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(6) Every officer of a company who knowingly and wilfully authorises or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

Minutes of
proceedings
of general
meetings
and of its
directors.

87. (1) Every company shall cause minutes of all proceedings of general meetings and of its directors to be entered in books kept for that purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly called and held, and all proceedings had thereat to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

(4) The books containing the minutes of proceedings of any general meeting of a company held after the 19th day of Meenam 1112 (1st April 1937), shall be kept at the registered office of the company and shall during the business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose so that no less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(5) Any member shall at any time after seven days from the meeting be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any minutes referred to in sub-section (4) at a charge not exceeding six annas for every hundred words.

(6) If any inspection required under sub-section (4) of this section is refused or if any copy required under sub-section (5) of this section is not furnished within the time specified in sub-section (5) the company and every officer of the company who is knowingly and wilfully in default shall be liable in respect of each offence to a fine not

exceeding twenty-five rupees and to a further fine to twenty-five rupees for every day during which the default continues.

(7) In the case of any such refusal or default, the Court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

Directors

88. (1) Every company shall have at least three directors. **Directors obligatory.**

(2) This section shall not apply to a private company except a private company being a subsidiary company of a public company.

89. (1) In default of and subject to any regulations in the articles of a company other than a private company— **Appointment of directors.**

(i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed;

(ii) the directors of the company shall be appointed by the members in general meeting; and

(iii) any casual vacancy occurring among the directors may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director.

(2) Notwithstanding anything contained in the articles of a company other than a private company not less than two-thirds of the whole number of directors shall be persons whose period of office is liable to determination at any time by retirement of directors in rotation.

Provided that nothing herein contained shall apply to a company incorporated before the 19th day of Meenam 1112 (1st April 1937) where by virtue of the articles of the company the number of directors whose period of office is liable to determination at any time by retirement of directors in rotation falls below the two-thirds proportion mentioned in this section.

Restrictions
on appoint-
ment or
advertise-
ment of
director.

90. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company or in relation to any intended company or in any statement in lieu of prospectus filed by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the filing of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorised in writing—

(i) signed and filed with the registrar a consent in writing to act as such director; and

(ii) save in the case of companies not having a share capital, either signed the memorandum for a number of shares not less than his qualification (if any) or taken from the company and paid or agreed to pay for his qualification shares or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares (if any) or made and filed with the registrar an affidavit to the effect that a number of shares, not less than his qualification (if any), are registered in his name.

(2) On the application for registration of the memorandum and articles, if any, of a company the applicant shall file with the registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding five hundred rupees.

(3) This section shall not apply to a private company or a company which was a private company before becoming a public company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business.

Qualification
director.

91. (1) Without prejudice to the restrictions imposed by section 90, it shall be the duty of every director who is by the articles required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) If, after the expiration of the said period or shorter time, any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding fifty

rupees for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director.

92. The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification: Provided that nothing in this section shall be deemed to give validity to acts done by a director after the appointment of such director has been shown to be invalid. **Validity of acts of directors**

93. (1) If any person being an undischarged insolvent acts as director or managing agent or manager of any company, he shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand rupees or to both. **Ineligibility of bankrupt to act as director.**

(2) In this section the expression "company" includes a company incorporated outside Cochin State which has an established place of business within Cochin State.

94. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company: **Assignment of office by directors.**

Provided that the exercise by a director of a power to appoint an alternate or substitute director to act for him during an absence of not less than three months from the place in which meetings of the directors are ordinarily held, if done with the approval of the board of directors, shall not be deemed to be an assignment of office within the meaning of this section:

Provided always that any such alternate or substitute director shall *ipso facto* vacate office if and when the appointor returns to the place in which meetings of the directors are ordinarily held.

95. Save as provided in this section, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company or any person **Avoidance of provisions relieving liability of directors.**

(whether an officer of the company or not) employed by the company as auditor from or indemnifying him against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void:

Provided that—

(a) nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force, and

(b) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under section 352 of this Act in which relief is granted to him by the Court.

**Loans of
directors.**

96. (1) No company shall make any loan or guarantee any loan made to a director of the company or to a firm of which such director is a partner (or to a private company of which such director is a member or director).

(2) In the event of any contravention of sub-section (1) any director of the company who is a party to such contravention shall be punishable with fine which may extend to five hundred rupees, and if default is made in repayment of the loan or in discharging the guarantee shall be liable jointly and severally for the amount unpaid.

(3) This section shall not apply to a private company (except a private company which is a subsidiary company of a public company) or to a banking company.

**Director not
to hold office
or profit.**

97. No director or firm of which such director is a partner or private company of which such director is a director shall without the consent of the company in general meeting hold any office of profit under the company except that of a managing director or manager or a legal or technical adviser or a banker:

Provided that nothing herein contained shall apply to a director elected or appointed before the 19th day of Meenam 1112 (1st April 1937), in respect of any office of profit under the company held by him at that date.

Explanation.—For the purposes of this section the office of managing agent shall not be deemed to be an office of profit under the company.

98. Except with the consent of the directors, a director of the company, or the firm of which he is a partner or any partner of such firm, or the private company of which he is a member or director, shall not enter into any contracts for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract or agreement for such sale, purchase or supply entered into before the 19th day of Meenam 1112 (1st April 1937).

Sanction of directors necessary for certain contracts.

99. (1) The company may by extraordinary resolution remove any director, whose period of office is liable to determination at any time by retirement of directors in rotation, before the expiration of his period of office and may by ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected director. A director so removed shall not be re-appointed a director by the board of directors.

Removal of directors.

(2) This section shall not apply to directors elected or appointed before the 19th day of Meenam 1112 (1st April 1937).

100. The directors of a public company or of a subsidiary company of a public company shall not, except with the consent of the company concerned in general meeting,—

Restrictions on powers of directors.

(a) sell or dispose of the undertaking of the company;

(b) remit any debt due by a director.

101. (1) The office of a director shall be vacated if—

Vacation of office of director.

(a) he fails to obtain within the time specified in sub-section (1) of section 91 or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment, or

(b) he is found to be of unsound mind by a Court of competent jurisdiction, or

(c) he is adjudged an insolvent, or

(d) he fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made, or

(e) he or any firm of which he is a partner or any private company of which he is a director without the sanction of the company in general meeting accepts or holds any office or profit under the company other than that of a managing director or manager or a legal or technical adviser or a banker, or

(f) he absents himself from three consecutive meetings of the directors or from all meetings of the directors for a continuous period of three months whichever is the longer without leave of absence from the board of directors, or

(g) he or any firm of which he is a partner or any private company of which he is a director accepts a loan, or guarantee from the company in contravention of section 96, or

(h) he acts in contravention of section 98.

(2) Nothing contained in this section shall be deemed to preclude a company from providing by its articles that the office of director shall be vacated on grounds additional to those specified in this section.

**Register of
directors,
managers
and manag-
ing agents.**

102. (1) Every company shall keep at its registered office a register of its directors, managers and managing agents containing with respect to each of them the following particulars, that is to say.—

(a) in the case of an individual, his present name in full, any former name or surname in full, his usual residential address, his nationality and, if that nationality is not the nationality of origin, his nationality of origin and his business occupation, if any, and if he holds any other directorship or directorships the particulars of such directorship or directorships ;

(b) in the case of a corporation, its corporate name and registered or principal office; and the full name, address and nationality of each of its directors; and

(c) in the case of a firm, the full name, address and nationality of each partner, and the date on which each became a partner.

(2) The company shall within the periods respectively mentioned in this sub-section send to the registrar a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors, managers or managing agents or in any of the particulars contained in the register.

The period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company and the period within which he said notification of a change is to be sent shall be fourteen days from the happening thereof.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of one rupee or such less sum as the company may impose for each inspection.

(4) If any inspection required under this section is refused or if default is made in complying with sub-section (1) or sub-section (2) of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine of fifty rupees.

(5) In the case of any such refusal, the Court on application made by the person to whom inspection has been refused and upon notice to the company may by order direct an immediate inspection of the register.

Managing Agents

103. (1) No managing agent shall, after the 19th day of Meenam 1112 (1st April 1937), be appointed to hold office for a term of more than twenty years at a time.

Duration of appointment of managing agents.

(2) Notwithstanding anything to the contrary contained in the articles of a company or in any agreement with the company a managing agent of a company appointed before the 19th day of Meenam 1112 (1st April 1937), shall not continue to hold office after the expiry of twenty years from the said date unless then reappointed thereto or unless he has been reappointed thereto before the expiry of the said twenty years.

(3) A managing agent whose office is terminated by virtue of the provisions of sub-section (2) shall upon such termination be entitled to a charge upon the assets of the company by way of indemnity for all liabilities or obligations properly incurred by the managing agent on behalf of the company subject to existing charges and encumbrances, if any.

(4) The termination of the office of a managing agent by virtue of the provisions of sub-section (2) shall not take effect until all moneys payable to the managing agent for loans made to or remuneration due up to the date of such termination from the company are paid.

(5) Nothing in this section shall apply to a private company which is not the subsidiary company of a public company.

Conditions applicable to managing agents.

104. Notwithstanding anything to the contrary contained in the articles of the company or in any agreement with the company—

(a) a company may, by resolution passed at a general meeting of which notice has been given to the managing agent in the same manner as to members of the company, remove a managing agent if he is convicted of an offence in relation to the affairs of the company punishable under the Cochin Penal Code, and being under the provisions of the Code of Criminal Procedure, II of 1086, non-bailable; and for the purposes of this clause, where the managing agent is a firm or company an offence committed by a member of such firm or a director of or an officer holding a general power of attorney from such company shall be deemed to be an offence committed by such firm or company :

Provided that a managing agent shall not be liable to be removed under the provisions hereof if the offending member, director or officer, as aforesaid is expelled or dismissed by the managing agent within thirty days from the date of his conviction or if his conviction is set aside on appeal ;

(b) the office of a managing agent shall be vacated if he is adjudged insolvent ;

(c) a transfer of his office by a managing agent shall be void unless approved by the company in general meeting :

Provided that in the case of a managing agent's firm a change in the partners thereof shall not be deemed to operate as a transfer of the office of managing agent, so long as one of the original partners shall continue to be a partner of the managing agent's firm. For the purpose of this proviso "original partners" shall mean, in the case of managing agents appointed before the 19th day of Meenam 1112 (1st April 1937), partners who were partners at that date and in the case of managing agents appointed after

that date, partners who were partners at the date of the appointment;

(d) a charge or assignment of his remuneration or any part thereof effected by a managing agent shall be void as against the company;

(e) if a company is wound up either by the Court or voluntarily, any contract of management made with a managing agent shall be thereupon determined without prejudice, however, to the right of the managing agent to recover any moneys recoverable by the managing agent from the company: Provided that where the Court finds that the winding up is due to the negligence or default of the managing agent himself the managing agent shall not be entitled to receive any compensation for the premature termination of his contract of management; and

(f) the appointment of a managing agent, the removal of a managing agent and any variation of a managing agent's contract of management made after the commencement of this Act, shall not be valid unless approved by the company by a resolution at a general meeting of the company notwithstanding anything to the contrary in section 97:

Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth.

105. (1) Where any company appoints a managing agent after 19th day of Meenam 1112 corresponding to 1st April 1937 the remuneration of the managing agent shall be a sum based on a fixed percentage of the net annual profits of the company, with provision for a minimum payment in the case of absence of or inadequacy of profits, together with an office allowance to be defined in the agreement of management.

Remuneration of managing agent.

(2) Any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company.

(3) For the purposes of this section "net profits" means the profits of the company calculated after allowing for all the usual working charges, interest on loans and advances, repairs and outgoings, depreciation bounties or subsidies received from Government or from a public

body, profits by way of premium on shares sold, profits on sale proceeds of forfeited shares, or profits from the sale of the whole or part of the undertaking of the company but without any deduction in respect of income-tax or super-tax or any other tax or duty on income or revenue or for expenditure by way of interest on debentures or otherwise on capital account or on account of any sum which may be set aside in each year out of the profits for reserve or any other special fund.

(4) This section shall not apply to a private company except a private company which is the subsidiary company of a public company or to any company whose principal business is the business of insurance.

Loans to
managing
agents.

106. (1) No company shall make to a managing agent of the company or to any partner of the firm, if the managing agent is a firm, or to any member or director of the private company, if the managing agent is a private company, any loan out of moneys of the company or guarantee any loan made to a managing agent.

(2) Nothing contained in this section shall apply to any credit held by a managing agent in a current account maintained subject to limits previously approved by the board of directors by the company with the managing agent for the purposes of the company's business.

(3) In the event of any contravention of subsection (1) any director of the company who is a party to the making of the loan or giving of the guarantee shall be punishable with fine which may extend to five hundred rupees, and if default is made in repayment of the loan or discharging the guarantee shall be liable jointly and severally for the amount unpaid.

(4) Nothing in this section shall apply to a private company except a private company which is the subsidiary company of a public company.

(5) Except with the consent of three-fourths of the directors present and entitled to vote on the resolution, a managing agent of the company, or the firm of which he is a partner, or any partner of such firm, or, if the managing agent is a private company, a member or director thereof, shall not enter into any contract for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract for such sale, purchase or supply entered into before the 19th day of Meenam 1112 (1st April 1937).

107. (1) No company incorporated after the 19th day of Meenam 1112 (1st April 1937), which is under the management of a managing agent shall make any loan to or guarantee any loan made to any company under management by the same managing agent, and no company shall after the commencement of this Act except by way of renewal of an existing loan or guarantee given make any loan to or guarantee any loan made to any such company:

Loans to or by companies under the same management.

Provided that nothing herein contained shall apply to loans made or guarantees given by a company to or on behalf of a company under its own management or loans made by or to a company to or by a subsidiary company thereof or to guarantees given by a company on behalf of a subsidiary company thereof.

(2) In the event of any contravention of the provisions of this section, any director or officer of the company making the loan or giving the guarantee who is knowingly and wilfully in default shall be liable to a fine not exceeding one thousand rupees and shall be jointly and severally liable for any loss incurred by the company in respect of such loan or guarantee.

108. A company other than an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities, shall not purchase shares or debentures of any company under management by the same managing agent, unless the purchase has been previously approved by a unanimous decision of the board of directors of the purchasing company.

Purchase by company of shares of company under same managing agent.

109. A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company, and any delegation of any such power by a company to a managing agent shall be void.

Restriction on managing agent's powers of management.

110. A managing agent shall not on his own account engage in any business which is of the same nature as and directly competes with the business carried on by a company under his management or by a subsidiary company of such company.

Managing agent not to engage in business competing with the business of managed company.

Limit on number of directors appointed by managing agent.

111. Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors.

Contracts

Form of contracts.

112. (1) Contracts on behalf of a company may be made as follows (that is to say).

(i) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(ii) any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to this section shall be effectual in law and shall bind the company and its successors and all other parties thereto, their heirs, or legal representatives, as the case may be.

Bills of exchange and promissory notes.

113. A bill of exchange, hundi or promissory note shall be deemed to have been made, drawn, accepted or endorsed on behalf of a company if made, drawn, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority, express or implied.

Execution of deeds.

114. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place either in or outside Cochin State; and every deed signed by such attorney, on behalf of the company, and under his seal, where sealing is required, shall bind the company, and have the same effect as if it were under its common seal.

Power for company to have official seal for use abroad.

115. (1) A company whose objects require or comprise the transaction of business beyond the limits of Cochin State may, if authorised by its articles, have for use in any territory, district or place not situate in Cochin

State, an official seal which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

(2) A company having such an official seal may by writing under its common seal, authorise any person appointed for the purpose in any territory, district or place not situate in Cochin State to affix the same to any deed or other document to which the company is party in that territory, district or place.

(3) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

(5) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

116. (1) Every director who is directly or indirectly concerned or interested in any contract or arrangement entered into by or on behalf of the company shall disclose the nature of his interest at the meeting of the directors at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or the making of the contract or arrangement.

Disclosure
of interest by
director.

Provided that a general notice that a director is a director or a member of any specified company or is a member of any specified firm, and is to be regarded as interested in any subsequent transaction with such firm or company, shall as regards any such transaction be sufficient disclosure within the meaning of this sub-section and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

(3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection by any member of the company at the registered office of the company during business hours.

(4) Every officer of the company who knowingly and wilfully acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees.

**Prohibition
of voting by
interested
director.**

117. (1) No director shall, as a director, vote on any contract or arrangement in which he is either directly or indirectly concerned or interested nor shall his presence count for the purpose of forming a quorum at the time of any such vote; and if he does so vote, his vote shall not be counted:

Provided that the directors or any of them may vote on any contract of indemnity against any loss which they or any one or more of them may suffer by reason of becoming or being sureties or surety for the company.

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

(3) This section shall not apply to a private company:

Provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company.

**Disclosure
to members
in case of
contract
appointing a
manager.**

118. (1) Where a company enters into a contract for the appointment of a manager or managing agent of the company in which contract any director of the company is directly or indirectly concerned or interested, or varies any such existing contract, the company shall within twenty-one days from the date of entering into the contract or the varying of the contract, send an abstract of the terms of such contract or variation, as the case may be, together with a memorandum clearly indicating the nature of the

interest of the director in such contract, or in such variation, to every member; and the contract shall be open to the inspection of any member at the registered office of the company.

(2) If a company makes default in complying with the requirements of sub-section (1), it shall be liable to a fine not exceeding one thousand rupees; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

119. (1) Every manager or other agent of a company other than a private company not being the subsidiary company of a public company who enters into a contract for or on behalf of the company in which contract the company is an undisclosed principal shall, at the time of entering into the contract, make a memorandum in writing of the terms of the contract, and specify therein the person with whom it has been made.

Contracts by agents of company in which company is undisclosed principal.

(2) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company and send copies to the directors and such memorandum shall be filed in the office of the company and laid before the directors at the next directors' meeting.

(3) If any such manager or other agent makes default in complying with the requirements of this section—

(a) the contract shall, at the option of the company, be void as against the company; and

(b) such manager or other agent shall be liable to a fine not exceeding two hundred rupees.

Prospectus

120. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

Filing of prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be filed for registration with the registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding fifty rupees for every day from the date of the issue of the prospectus until a copy thereof is so filed.

Specific
requirements
as to parti-
culars of
prospectus.

121. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state—

(a) the contents of the memorandum, with the names, descriptions and addresses of the signatories and the number of shares subscribed for by them respectively; and the number of founders or management or deferred shares (if any) and the nature and extent of the interest of the holders in the property and profits of the company and the number of redeemable preference shares intended to be issued with the date or, where no date is fixed, the period of notice required and the proposed method of redemption; and

(b) the number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors; and

(c) the names, descriptions and addresses of the directors or proposed directors and of the managers or proposed managers and managing agents or proposed managing agents (if any) and any provision in the articles or in any contract as to the appointment of managers or managing agents and the remuneration payable to them; and

(d) the minimum subscription on which directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on the shares so allotted; and

(e) the number and amount of shares and debentures which within the two preceding years have been

issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or agreed to be issued; and

(f) where any issue of shares or debentures is under-written, the names of the underwriters, and the opinion of the directors that the resources of the underwriters are sufficient to discharge the underwriting obligations; and

(g) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures to the vendor, and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor: Provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors; and

(h) where any property referred to in clause (g) has within the two years preceding the issue of the prospectus been transferred by sale the amount paid by the purchaser at each such transfer so far as the information is available and, where any such property is a business, the profits accruing from such business during each of the three years immediately preceding the issue of the prospectus or during each year of the existence of the business if less than three years so far as the information is available. A balance sheet of the business concerned made up to a date not more than ninety days before the date of the issue of the prospectus shall be appended to the prospectus; and

(i) the amount (if any) paid or payable as purchase-money in cash, shares or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill; and

(j) the amount (if any) paid within the two preceding years or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or as discount in respect of shares issued, showing separately the amount (if any) so paid to the managing

agents: Provided that it shall not be necessary to state the commission payable to sub-underwriters; and

(*k*) the amount or estimated amount of preliminary expenses; and

(*l*) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment; and

(*m*) the dates of, and parties to, every material contract including contracts relating to the acquisition of property to which clause (*g*) applies and a reasonable time and place at which any material contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract (except a contract appointing or fixing the remuneration of a managing director or managing agent) entered into more than two years before the date of issue of the prospectus; and

(*n*) the names and addresses of the auditors (if any) of the company; and

(*o*) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; and

(*p*) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by and the rights in respect of capital and dividends attached to the several classes of shares respectively; and

(*q*) where the articles of the company impose any restrictions upon the members of the company in respect of the right to attend, speak or vote at meetings of the company or of the right to transfer shares, or upon the directors of the company in respect of their powers of management, the nature and extent of those restrictions; and

(r) where any part of the sums required for the matters set out in sub-section (2) of section 130 is to be provided out of sources other than share capital particulars of the amount to be so provided and the sources thereof.

(2) Where the prospectus is issued by a company which has been carrying on business prior to the issue thereof, the prospectus shall set out the following reports in addition to the matters referred to in sub-section (1), namely.—

(i) a report by the auditors of the company with respect to the profits of the company including its subsidiary companies, if any, so far as the information is available in each of the three financial years immediately preceding the issue of the prospectus and with respect to the rates of the dividends, if any, paid by the company on each class of shares in the company for each of the said three years giving particulars of each such class of shares on which such dividends have been paid and the source from which the dividends have been paid and particulars of the cases in which no dividends have been paid on any class of shares for any of those years, and if no accounts have been made up for any part of a period of three years ending on a date three months before the issue of the prospectus, containing a statement of that fact;

(ii) if the proceeds or any part of the proceeds of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by an accountant or accountants holding the certificate referred to in section 180 who shall be named in the prospectus upon the profits of the business in respect of each of the three financial years immediately preceding the issue of the prospectus:

Provided that if, in the case of a company which has been carrying on business for less than three years, the accounts of the company have been made up only in respect of two years or any shorter period, this sub-section shall have effect as if references to two years or such shorter period were substituted for references to three years.

(3) The statement referred to in clause (h) of sub-section (1) and the report referred to in sub-section (2) with respect to the profits of a company or business shall show clearly the trading results and all charges and expenses incidental thereto including income or profits having no relation to the trading for the period covered

and excluding also items of profit or income of a non-recurring nature but including amounts appropriated from profits to such purposes as payment of taxation or reserves.

(4) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum, or the signatories thereto, and the number of shares subscribed for by them.

(5) This section shall not apply to a circular or notice inviting existing members or debenture-holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons.

(6) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business:

Provided that the said requirements, except the requirement as to the amount or estimated amount of preliminary expenses, shall apply to a prospectus filed in pursuance of section 192.

(7) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

Meaning of
"vendor" in
section 121.

122. For the purposes of section 121 every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase of any property to be acquired by the company, in any case where—

(a) the purchase-money is not fully paid at the date of issue of the prospectus; or

(b) the purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or

(c) the contract depends for its validity or fulfilment on the result of that issue.

123. Where any of the property to be acquired by the company is to be taken on lease, section 121 shall apply as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

Application of section 12 to the case of property taken on lease.

124. (1) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirements of section 121, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus shall be void.

Invalidity of certain conditions as to waiver or notice.

(2) It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 121:

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees.

125. (1) If a prospectus is issued which does not comply with the provisions of section 121, every person who is knowingly responsible for the issue of such prospectus shall be liable to fine not exceeding fifty rupees for every day from the day of the issue of the prospectus until a copy complying with the requirements of section 121 is filed.

Saving in certain cases of non-compliance with section 121.

(2) In the event of non-compliance with or contravention of any of the requirements of section 121, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention if he proves that—

(a) as regards any matter not disclosed, he was not cognisant thereof; or

(b) the non-compliance or contravention arose from an honest mistake of fact on his part; or

(c) the non-compliance or contravention was in respect of matters which in the opinion of the Court were immaterial, or was otherwise such as ought in the opinion

of the Court having regard to all the circumstances of the case reasonably to be excused:

Provided that, the event of non-compliance with or contravention of the requirements contained in clause (p) of sub-section (1) of section 121, no such director or other person shall incur any liability in respect of the non-compliance or contravention unless it be proved that he had knowledge of the matters not disclosed.

Obligations
of companies
where no
prospectus
is issued.

126. (1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar a statement in lieu of prospectus signed by every person who is named therein as director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in the form marked I in the Second Schedule.

(2) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the 1st day of Vrischigam 1097 (16th day of November 1921) or, in so far as it relates to the allotment of shares to a company limited by guarantee and not having a share capital.

Document
offering
shares or
debentures
for sale to be
deemed a
prospectus.

127. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses or otherwise relating to prospectuses shall apply and have effect accordingly as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act it shall, unless the contrary is proved, be evidence that an allotment of or an agreement to allot shares or debentures was made with a

view to the shares or debentures being offered for sale to the public, if it is shown—

(a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(b) that at the date when the offer was made the whole of the consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section 125 shall apply to the person or persons making the offer as though they were persons named in a prospectus as directors of a company, and the provisions of section 121 shall have effect as if it required a prospectus to state, in addition to the matters required by that section to be stated in a prospectus,—

(a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates, and

(b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by all directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.

128. A company shall not, at any time, vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the company in general meeting.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.

129. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorised the naming of himself and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorised the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any

Liability for statements in prospectus.

shares or debentures on the faith of the prospectus for all loss or damage they may have sustained by reason of any misleading or untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

(a) with respect to every misleading or untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement fairly represented the facts or was true;

(b) with respect to every misleading or untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation: Provided that the director, person named as director, promoter or person who authorised the issue of the prospectus shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; and

(c) with respect to every misleading or untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document:

or unless it is proved—

(i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent; or

(iii) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any misleading or untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where a company existing on 1st Vrischigam 1097 (16th November 1921) has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein unless he has authorised the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any suit or legal proceedings brought against him in respect thereof.

(4) Every person who, by reason of his being a director or named as a director, or as having agreed to become a director, or of his having authorised the issue of the prospectus, becomes liable to make any payment under this section, may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section—

(a) the expression “promoter” means a promoter who was a party to the preparation of the prospectus, or the portion thereof containing the misleading or untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

(b) the expression “expert” includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

Allotment

130. (1) No allotment shall be made of any share capital of a company offered to the public for subscription **Restriction as to allotment.**

unless the amount stated in the prospectus as the minimum amount which in the opinion of the directors must be raised by the issue of share capital in order to provide the sums or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided in respect of the matters specified in sub-section (2) has been subscribed, and the sum of at least five per cent thereof has been paid to or received in cash by the company.

(2) The matters for which provision for the raising of a minimum amount of share capital must be made by the directors are the following, namely.—

(a) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

(b) any preliminary expenses payable by the company and any commission so payable to any person in consideration of his agreeing to subscribe for or of his procuring or agreeing to procure subscriptions for any shares in the company;

(c) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters, and

(d) working capital.

(3) The amount referred to in sub-section (1) as the amount stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as the minimum subscription.

(4) All moneys received from applicants for shares shall be deposited and kept in a scheduled bank as defined in the Reserve Bank of India Act, 1934, until returned in accordance with the provisions of sub-section (7) or until the certificate to commence business is obtained under section 132.

(5) In the event of any contravention of the provisions of sub-section (4) every promoter, director or other person knowingly responsible for such contravention shall be liable to a fine not exceeding five hundred rupees.

(6) The amount payable on application on each share shall not be less than five per cent of the nominal amount of the share.

(7) If the conditions aforesaid have not been complied with on the expiration of one hundred and eighty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so

repaid within one hundred and ninety days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of seven per cent per annum from the expiration of the one hundred and ninetieth day: Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(8) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(9) This section, except sub-section (6) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

(10) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say)—

(a) the amount (if any) fixed by the memorandum or articles and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment; or

(b) if no amount is so fixed and named, the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash;

has been subscribed and an amount not less than five per cent of the nominal amount of each share payable in cash has been paid to and received by the company.

(11) Sub-section (10) shall not apply to a private company or to a company which has allotted any shares or debentures before the 1st day of Vrischigam 1097 (16th day of November 1921).

131. (1) An allotment made by a company to an applicant in contravention of the provisions of (section 126 or section 130) shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date

**Effect of
irregular
allotment.**

of the allotment and not later and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the provisions of section 126 or section 130 with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby: Provided that proceedings to recover any such loss, damages or costs shall not be commenced after the expiration of two years from the date of the allotment.

Restriction
on com-
mencement
of business.

132. (1) A company shall not commence any business or exercise any borrowing powers unless—

(a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares on the shares payable in cash; and

(c) there has been filed with the registrar a duly verified declaration by the secretary or one of the directors in the prescribed form, that the aforesaid conditions have been complied with; and

(d) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the registrar a statement in lieu of prospectus.

(2) The registrar shall, on the filing of a duly verified declaration, in accordance with the provisions of this section certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled:

Provided that, in the case of a company which does not issue a prospectus inviting the public to subscribe for

its shares, the registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred rupees for every day during which the contravention continues.

(6) Nothing in the section shall apply to a private company or to a company registered before the 1st day of Vrischigam 1097 (16th day of November 1921) which does not issue a prospectus inviting the public to subscribe for its shares or in so far as its provisions relate to shares, to a company limited by guarantee and not having a share capital.

133. (1) Whenever a company having a share capital makes any allotment of its shares, the company shall, within one month thereafter,—

Return as to allotments.

(a) file with the registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount (if any) paid or due and payable on each share; and

(b) In the case of shares allotted as fully or partly paid up otherwise than in cash, produce for the inspection and examination of the registrar a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and file with the registrar copies verified in the prescribed manner of all such contracts and a return stating the number and nominal amount

of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above mentioned is not reduced to writing, the company shall, within one month after the allotment, file with the registrar the prescribed particulars of the contract stamped with the same stamp-duty as would have been payable if the contract had been reduced to writing, and these particulars shall be deemed to be an instrument within the meaning of the Cochin Stamp Act, VI of 1083, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 31 of that Act.

(3) If the registrar is satisfied that in the circumstances of any particular case the period of one month specified in sub-sections (1) and (2) for compliance with the requirements of this section is inadequate, he may extend that period as he thinks fit, and, if he does so, the provisions of sub-sections (1) and (2) shall have effect in that particular case as if for the said period of one month the extended period allowed by the registrar were substituted.

(4) If default is made in complying with the requirements of this section, every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues :

Provided that, in case of default in filing with the registrar within the time specified in sub-sections (1) and (2) any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that on other grounds it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such a period as the Court may think proper.

(5) Nothing in this section shall apply to the issue and allotment by a company of shares which under the provisions of its articles were forfeited for non-payment of calls.

Commissions and Discounts

134. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorised by the articles and the commission paid or agreed to be paid does not exceed the amount or rate so authorised and if the amount or rate per cent, of the commission paid or agreed to be paid is—

Power to pay certain commissions and prohibition of payment of all other commissions, discounts, etc.

(a) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed with the registrar and, where a circular or notice, not being a prospectus inviting subscription for the shares is issued also disclosed in that circular or notice.

(2) Save as aforesaid and save as provided in section 135, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase-money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase-money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

Power to
issue shares
at a discount.

135. (1) Subject to the provisions of this section it shall be lawful for a company to issue at a discount shares in the company of a class already issued:

Provided that—

(a) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company and must be sanctioned by the Court.

(b) the resolution must specify the maximum rate of discount (not exceeding ten per cent in any case) at which shares are to be issued;

(c) not less than one year must at the date of issue have elapsed since the date on which the company was entitled to commence business;

(d) the shares to be issued at a discount must be issued within six months after the date on which the issue is sanctioned by the Court or within such extended time as the Court may allow.

(2) Every prospectus relating to the issue of the shares and every balance-sheet issued by the company subsequently to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the document in question.

(3) If default is made in complying with subsection (2), the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty rupees.

Issue of
redeemable
preference
shares.

136. (1) Subject to the provisions of this section, a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be liable to be redeemed:

Provided that—

(a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of redemption or out of sale proceeds of any property of the company;

(b) no such shares shall be redeemed unless they are fully paid;

(c) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund to be called

“the capital redemption reserve fund”, a sum equal to the amount applied in redeeming the shares, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company;

(d) where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption must have been provided for out of the profits of the company before the shares are redeemed.

(2) There shall be included in every balance sheet of a company which has issued redeemable preference shares a statement specifying what part of the issued capital of the company consists of such shares and the date on or before which those shares are, or are to be, liable to be redeemed or where no definite date is fixed for redemption, the period of notice to be given for redemption.

If a company fails to comply with the provisions of this sub-section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one thousand rupees.

(3) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purpose of calculating the fees payable under section 306 be deemed to be increased by the issue of shares in pursuance of this sub-section:

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this sub-section unless the old shares are redeemed within one month after the issue of the new shares.

(5) Where new shares have been issued in pursuance of the last foregoing sub-section, the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company, up to an amount

equal to the nominal amount of the shares so issued in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Further issue
of capital.

137. Where the directors decide to increase the capital of the company by the issue of further shares such shares shall be offered to the members in proportion to the existing shares held by each member (irrespective of class) and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.

Statement in
balance-sheet
as to com-
missions and
discounts.

138. Where a company has paid any sums by way of commission in respect of any shares or debentures or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off.

Payment of Interest out of Capital

Power of
company to
pay interest
out of
capital in
certain cases.

139. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building or the provision of plant :

Provided that—

(1) no such payment shall be made unless the same authorised by the articles or by special resolution;

(2) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Government, which sanction shall be conclusive evidence for the purposes of this section that the shares of the company, in respect of which such sanction is given, have been issued for a purpose specified in this section;

(3) before sanctioning any such payment, the Government may, at the expenses of the company, appoint a person to inquire and report to the Government as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry;

(4) the payment shall be made only for such period as may be determined by the Government; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided;

(5) the rate of interest shall in no case exceed four per cent per annum or such lower rate as the Government may, by notification in the Cochin Government Gazette, prescribe;

(6) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;

(7) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

Certificates of the shares, etc.

140. (1) Every company shall, within three months after the allotment of any of its shares, debentures or debenture stock, and within three months after the registration of the transfer of any such shares, debentures or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

Limitation of time for issue of certificates.

(2) If default is made in complying with the requirements of this section, the company, and every officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Information as to Mortgages, Charges, etc.

141. (1) Every mortgage or charge created after the commencement of this Act by a company and being either—

Certain mortgages and charges to be void if not registered.

(a) a mortgage or charge for the purpose of securing any issue of debentures; or

(b) a mortgage or charge on uncalled share capital of the company; or

(c) a mortgage or charge on any immovable property wherever situate, or any interest therein; or

(d) a mortgage or charge on any book debts of the company; or

(e) a mortgage or a charge, not being a pledge on any movable property of the company except stock-in-trade; or

(f) a floating charge on the undertaking or property of the company;

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument (if any) by which the mortgage or charge is created or evidenced, or a copy thereof verified in the prescribed manner are filed with the registrar for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a mortgage or charge becomes void under this section, the money secured thereby shall immediately become payable:

Provided that—

(i) in the case of a mortgage or charge created out of Cochin State comprising solely property situate outside Cochin State, twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in Cochin State shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be filed with the registrar; and

(ii) where the mortgage or charge is created in Cochin State but comprises property outside Cochin State, the instrument creating or purporting to create the mortgage or charge or a copy thereof verified in the prescribed manner may be filed for registration notwithstanding that further proceedings may be necessary to

make the mortgage or charge valid or effectual according to the law of the country in which the property is situate; and

(iii) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts; and

(iv) the holding of debentures entitling the holder to a charge on immovable property shall not be deemed to be an interest in immovable property.

(2) Where any mortgage or charge on any property of a company required to be registered under this section has been so registered, any person acquiring such property or any part thereof, or any share or interest therein shall be deemed to have notice of the said mortgage or charge as from the date of such registration.

142. (1) Where after the 19th day of Meenam 1112 corresponding to 1st April 1937 a company registered in Cochin State acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the registrar for registration in manner required by this Act within twenty-one days after the date on which the acquisition is completed:

Registration of charges on properties acquired subject to charge.

Provided that if the property is situate and the charge was created outside Cochin State, twenty-one days after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received in Cochin State shall be substituted for twenty-one days after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the registrar.

(2) If default is made in complying with this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine of five hundred rupees.

Particulars
in case of
series of
debentures
entitling
holders *pari*
passu.

143. Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled *pari passu* is created by a company, it shall be sufficient for the purposes of section 141 if there are filed with the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars—

(a) the total amount secured by the whole series;
and

(b) the dates of the resolution authorising the issue of the series and the date of the covering deed (if any) by which the security is created or defined; and

(c) a general description of the property charged;
and

(d) the names of the trustees (if any) for the debenture-holders;

together with the deed or a copy thereof verified in the prescribed manner containing the charge, or if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee, enter those particulars in the register:

Provided that, where more than one issue is made of debentures in the series, there shall be filed with the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

Particulars
in case of
commission,
etc., on
debentures.

144. Where any commission, allowance or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be filed for registration under sections 141 and 143 shall include particulars as to the amount or rate per cent of the commission, discount or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of

this provision be treated as the issue of the debentures at a discount.

145. (1) The registrar shall keep, with respect to each company, a register in the prescribed form of all mortgages and charges created by the company after the commencement of this Act and requiring registration under section 141 or section 142 and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge. **Register of mortgages and charges.**

(2) After making the entry required by sub-section (1), the registrar shall return the instrument (if any) or the verified copy thereof, as the case may be filed in accordance with the provisions of section 141 or section 142 or section 143 to the person filing the same.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one rupee for each inspection.

146. The registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgages or charges registered with him under this Act. **Index to register of mortgages and charges.**

147. The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of section 141 or 142, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of sections 141 to 145 as to registration have been complied with. **Certificate of registration.**

148. The company shall cause a copy of every certificate of registration, given under section 147, to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered : **Endorsement of certificate of registration on debenture or certificate of debenture stock.**

Provided that nothing in this section shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

Duty of company and right of interested party as regards registration.

149. (1) It shall be the duty of the company to file with the registrar for registration the prescribed particulars of every mortgage or charge created by the company and of the issues of debentures of a series, requiring registration under section 141, but registration of any such mortgage or charge may be effected on the application of any person interested therein.

(2) Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

(3) Whenever the terms or conditions or extent or operation of any mortgage or charge registered under this section are modified, it shall be the duty of the company to send to the registrar the particulars of such modification, and the provisions of this section as to registration of mortgage or a charge shall apply to such modification of the mortgage or charge as aforesaid.

Copy of instrument creating mortgage or charge to be kept at registered office.

150. Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under section 141 to be kept at the registered office of the company: Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

Registration of appointment of receiver.

151. (1) If any person obtains an order for the appointment of a receiver of the property of a company, or appoints such a receiver under any powers contained in any instrument, he shall, within fifteen days from the date of the order or of the appointment under the powers contained in the instrument, file notice of the fact with the registrar, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(2) If any person makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Filing of accounts of receivers.

152. (1) Every receiver of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall once in every half-year while he remains in possession, and also on ceasing to act as receiver, file with the registrar an

abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall, also, on ceasing to act as receiver, file with the registrar notice to that effect, and the registrar shall enter the notice in the register of mortgages and charges.

(2) Where a receiver of the property of a company has been appointed, every invoice, order for goods, or business letter issued by or on behalf of the company, or the receiver of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver has been appointed.

(3) If default is made in complying with the requirements of this section, the company and every director, manager, managing agent, secretary or other officer of the company and every receiver who knowingly and wilfully authorises or permits the default, shall be liable to a fine not exceeding two hundred rupees.

153. (1) The Court, on being satisfied that the omission to register a mortgage or charge within the time required by section 141, or section 142 or that the omission or mis-statement of any particular with respect to any such mortgage or charge, or the omission to give intimation to the registrar of the payment or satisfaction of a debt for which a charge or mortgage was created was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or share-holders of the company, or that on other grounds it is just and equitable to grant relief, may on the application of the company or any person interested and on such terms and conditions as seem to the Court just and expedient, order that the time for registration be extended, or as the case may be, that the omission or mis-statement be rectified, and may make such order as to the costs of the application as it thinks fit.

**Rectification
of register of
mortgages.**

(2) Where the Court extends the time for the registration of a mortgage or charge, the order shall not prejudice any rights acquired in respect of the property concerned prior to the time when the mortgage or charge is actually registered.

154. (1) It shall be the duty of the company to give intimation to the registrar of the payment or satisfaction of any charge or mortgage created by the company and requiring registration under section 141 or section 142 within

**Registration
or satisfac-
tion of
mortgages
and charges.**

twenty-one days from the date of the payment or satisfaction thereof.

(2) The registrar shall on receipt of such intimation cause a notice to be sent to the mortgagee calling upon him to show cause, within a time (not exceeding fourteen days) to be fixed by such notice, why the payment or satisfaction of the charge or mortgage should not be recorded.

(3) The registrar shall, if no cause is shown, order that a memorandum of satisfaction be entered on the register and shall if required furnish the company with a copy thereof.

(4) Where cause is shown, the registrar shall record a note to that effect in the register, and shall inform the company that he has done so.

Penalties.

155. (1) If any company makes default in filing with the registrar for registration the particulars—

(a) of any mortgage or charge created by the company; or

(b) of the payment or satisfaction of a debt in respect of which a mortgage or charge has been registered under section 141 or section 142; or

(c) of the issues of debentures of a series, requiring registration with the registrar under the foregoing provisions of this Act, then, unless the registration has been effected on the application of some other person, the company, and every officer of the company or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding five hundred rupees for every day during which the default continues.

(2) Subject as aforesaid, if any company makes default in complying with any of the requirements of this Act as to the registration with the registrar of any mortgage or charge created by the company, the company, and every officer of the company, who knowingly and wilfully authorises or permits the default shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

(3) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock requiring registration with the registrar under the foregoing provisions of this Act without a copy of the certificate of registration being endorsed upon it, he shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

156. (1) Every company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company and all floating charges on the undertaking or on any property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto.

Company's register of mortgages.

(2) If any director, manager or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding five hundred rupees.

157. (1) The copies kept at the registered office of the company in pursuance of section 150 of instruments creating any mortgage or charge requiring registration under this Act with the registrar, and the register of mortgages kept in pursuance of section 156 shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding one rupee for each inspection, as the company may prescribe.

Right to inspect copies of instruments creating mortgages and charges and company's register of mortgages.

(2) If inspection of the said copies or register is refused, the company shall be liable to a fine not exceeding fifty rupees and a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and in addition to the above penalty, the Court may by order compel an immediate inspection of the copies or register.

158. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods (not exceeding in the whole thirty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the

Right to inspect the register of debenture-holders and to have copies of trust deed.

register or any part thereof on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(2) A copy of any trust-deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust-deed of the sum of one rupee or such less sum as may be prescribed by the company, or, where the trust-deed has not been printed, on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and the Court may by order compel an immediate inspection of the register.

Debentures and Floating Charges

Perpetual
debentures.

159. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however, remote, or on the expiration of period however long.

Power to
re-issue
redeemed
debentures
in certain
cases.

160. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns), shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such re-issue the person

entitled to the debentures shall have and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue they have, either before or after the commencement of this Act, been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has, either before or after the commencement of this Act, deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Act, shall be treated as the issue of a new debenture for the purposes of stamp-duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued:

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp-duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

(5) Nothing in this section shall prejudice—

(a) the operation of any decree or order of a Court of competent jurisdiction pronounced or made before the 19th day of Thulam 1097, as between the parties to the proceedings in which the decree or order was made, and any appeal from any such decree or order shall be decided as if this Act had not been passed; or

(b) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or

extinguished, reserved to a company by its debentures or the securities for the same.

Specific performance of contract to subscribe for debentures.

161. A contract with a company to take up and pay for any debentures of the company may be enforced by a decree for specific performance.

Payments of certain debts out of assets subject to floating charge in priority to claims under the charge.

162. (1) Where either a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding up are under the provisions of Part V relating to preferential payments to be paid in priority to all other debts, shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part V shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped as far as may be, out of the assets of the company available for payment of general creditors.

Statements, Books and Accounts

Books to be kept by company and penalty for not keeping proper books.

163. (1) Every company shall cause to be kept proper books of account with respect to—

(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

(b) all sales and purchases of goods by the company;

(c) the assets and liabilities of the company.

(2) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall be open to inspection by the directors during business hours.

(3) Where a company has a branch office, the company shall be deemed to have complied with the provisions of sub-section (1) and sub-section (2) if proper books of account relating to the transactions effected at the branch office are kept at the branch office and proper

summarised returns, made up to date at intervals of no more than two months are sent by the branch office to the registered office of the company or other place referred to in sub-section (2).

(4) In the case of a company managed by a managing agent, the managing agent or where the managing agent is a firm or company, the partner or director of such firm or company and in any other case the director or directors who have knowingly by their act or omission been the cause of any default by the company in complying with the requirements of this section, shall in respect of such offence be liable to a fine not exceeding one thousand rupees.

164. (1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a balance-sheet and profit and loss account or in the case of a company not trading for profit an income and expenditure account for the period, in the case of the first account since the incorporation of the company and in any other case since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months or in the case of a company carrying on business or having interests outside Cochin State by more than twelve months:

Annual
balance-
sheet.

Provided that the registrar may for any special reason extend the period by a period not exceeding three months.

(2) The balance-sheet and the profit and loss account or income and expenditure account shall be audited by the auditor of the company as hereinafter provided, and the auditor's report shall be attached thereto, or there shall be inserted at the foot thereof a reference to the report, and the report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

(3) Every company other than a private company shall send a copy of such balance-sheet and profit and loss account or income and expenditure account so audited together with a copy of the auditor's report to the registered address of every member of the company at least 14 days before the meeting at which it is to be laid before the members of the company, and shall deposit a copy at the registered office of the company for the inspection of the

members of the company during a period of at least 14 days before that meeting.

**Directors'
report.**

165. (1) The directors shall make out and attach to every balance-sheet a report with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by way of dividend and the amount, if any, which they propose to carry to the Reserve Fund, General Reserve or Reserve Account shown specifically on the balance-sheet or to a Reserve Fund, General Reserve or Reserve Account to be shown specifically in a subsequent balance-sheet.

(2) The report referred to in sub-section (1) may be signed by the chairman of the directors on behalf of the directors if authorised in that behalf by the directors.

(3) The provisions of sub-section (3) of section 163 shall apply to any person being a director who is knowingly and wilfully guilty of a default in complying with this section.

**Contents of
balance-
sheet.**

166. (1) The balance-sheet shall contain a summary of the property and assets and of the capital and liabilities of the company giving such particulars as will disclose the general nature of those liabilities and assets and how the value of the fixed assets has been arrived at.

(2) The balance-sheet shall be in the form marked F in the Third Schedule or as near thereto as circumstances admit.

(3) The profit and loss account shall include particulars showing the total of the amount paid whether as fees, percentages or otherwise to the managing agent, if any, and the directors respectively as remuneration for their services and, where a special resolution passed by the members of the company so requires, to the manager, and the total of the amount written off for depreciation. If any director of the company is by virtue of the nomination, whether direct or indirect, of the company, a director of any other company, any remuneration or other emoluments received by him for his own use, whether as a director of, or otherwise in connection with the management of, that other company, shall be shown in a note at the foot of the account or in a statement attached thereto.

167. (1) Where a company, in this Act referred to as the holding company, holds shares, either directly or through a nominee, in a subsidiary company or in two or more subsidiary companies there shall be annexed to the balance-sheet of the holding company the last audited balance-sheet, profit and loss account and auditors' report of the subsidiary company or companies, and a statement signed by the persons by whom, in pursuance of section 168, the balance-sheet of the holding company is signed stating how the profits and losses of the subsidiary company, or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have been dealt with in or for the purposes of the accounts of the holding company, and in particular how and to what extent—

Balance-sheet to include particulars as to subsidiary companies.

(a) provision has been made for the losses of a subsidiary company either in the accounts of that company or of the holding company or of both, and

(b) losses of a subsidiary company have been taken into account by the directors of the holding company in arriving at the profits and losses of the company as disclosed in its accounts:

Provided that it shall not be necessary to specify in any such statement the actual amount of the profits or losses of any subsidiary company or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner:

Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities, shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent or more of the shares of another company.

(2) If, in the case of a subsidiary company, the auditors' report on the balance-sheet of the company does not state without qualification that the auditors have obtained all the information and explanations they have required and that the balance-sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them and as shown by the books of the company, the statement, which is to be

annexed as aforesaid to the balance-sheet of the holding company, shall contain particulars of the manner in which the report is qualified.

(3) For the purposes of this section the profits or losses of a subsidiary company mean the profits or losses shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the holding company relate, or, if there are no such accounts of the subsidiary company available at the time when the accounts of the holding company are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.

(4) If for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement aforesaid, the directors who sign the balance-sheet shall so report in writing and their report shall be annexed to the balance-sheet in lieu of the statement.

(5) The holding company may by a resolution authorise representatives named in the resolution to inspect the books of account kept in accordance with section 163 by any subsidiary company, and on such resolution being passed those books of account shall be open to inspection by those representatives at any time during business hours.

(6) The rights conferred by section 173 upon members of a company may be exercised in respect of any subsidiary company by members of the holding company as if they were members of that subsidiary company.

Authentica-
tion of
balance-
sheet.

168. (1) Save as provided by sub-section (2) the balance-sheet and profit and loss account or income and expenditure account shall—

(i) in the case of a banking company, be signed by the manager or managing agent (if any) and, where there are more than three directors of the company, by at least three of those directors and, where there are not more than three directors, by all the directors;

(ii) in the case of any other company, be signed by two directors or, when there are less than two directors, by the sole director and by the manager or managing agent (if any) of the company.

(2) When the total number of directors of the company for the time being in Cochin State is less than the

number of directors whose signatures are required by sub-section (1), then the balance-sheet and profit and loss account or income and expenditure account shall be signed by all the directors for the time being in Cochin State or if there is only one director for the time being in Cochin State by such director, but in such a case there shall be subjoined to the balance-sheet and profit and loss account or income and expenditure account a statement signed by such directors or director explaining the reason for non-compliance with the provisions of sub-section (1).

(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as acquired by section 164 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 164, section 166, section 167 and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.

169. (1) After the balance-sheet and profit and loss account or the income and expenditure account as the case may be have been laid before the company at the general meeting three copies thereof signed by the manager or secretary of the company shall be filed with the registrar at the same time as the copy of the annual list of members and summary prepared in accordance with the requirements of section 35.

Copy of
balance-
sheet to be
forwarded
to the
registrars.

(2) If the general meeting before which a balance-sheet is laid does not adopt the balance-sheet, a statement of that fact and of the reasons therefor shall be annexed to the balance-sheet and to the copies thereof required to be filed with the registrar.

(3) This section shall not apply to a private company.

(4) If a company makes default in complying with the requirements of this section, the company and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty as is provided by section 35 for a default in complying with the provisions of that section.

Right of member of company to copies of the balance-sheet and the auditor's report.

170. Save as otherwise provided in this Act, any member of a company shall be entitled to be furnished with copies of the balance-sheet and the profit and loss account or the income and expenditure account and the auditor's report at a charge not exceeding six annas for every hundred words or fractional part thereof.

Statement to be published by Banking and certain other Companies

Certain companies to publish statement in schedule.

171. (1) Every company being a limited banking company or an insurance company or a deposit, provident or benefit society shall, before it commences business, and also on the first Monday in Kanni and the first Monday in Meenam in every year during which it carries on business, make a statement in the form marked G in the Third Schedule, or as near thereto as circumstances will admit.

(2) A copy of the statement together with a copy of the last audited balance-sheet laid before the members of the company shall be displayed and, until the display of the next following statement, kept displayed in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement on payment of a sum not exceeding eight annas.

(4) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

(5) This section shall not apply to a provident insurance society to which the provisions of the Provident Insurance Societies Act, II of 1110, as to the annual statements to be made by such society, apply with or without modifications, if the society complies with those provisions.

Investigation by the Registrar

Power of registrar to call for information or explanation.

172. (1) Where the registrar, on perusal of any document which a company is required to submit to him under the provisions of this Act, is of opinion that any information or explanation is necessary in order that such document may afford full particulars of the matter to which it purports to relate, he may, by a written order, call on the

company submitting the document to furnish in writing such information or explanation within such time as he may specify in his order.

(2) On the receipt of an order under sub-section (1), it shall be the duty of all persons who are or have been officers of the company to furnish such information or explanation to the best of their power.

(3) If any such person refuses or neglects to furnish any such information, or explanation he shall be liable to a fine not exceeding fifty rupees in respect of each offence and the Court may on the application of the registrar and upon notice to the company make an order on the company for production of such documents as in its opinion may reasonably be required by the registrar for his investigation and allow the registrar inspection thereof on such terms and conditions as it thinks fit.

(4) On receipt of such information or explanation the registrar may annex the same to the original document submitted to him; and any additional document so annexed by the registrar shall be subject to the like provisions as to inspection and the taking of copies as the original document is subject.

(5) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate, the registrar shall report in writing the circumstances of the case to the Government.

(6) If it is represented to the registrar in materials placed before him by any contributory or creditor that the business of a company is carried on in fraud of its creditors or in fraud of persons dealing with the company or for a fraudulent purpose, he may after giving the company an opportunity of being heard by written order call on the company for information or explanation on matters specified in the order within such time as he may specify in the order and the provisions of sub-sections (2), (3) and (5) of this section shall apply to such order. If upon investigation the registrar is satisfied that any representation on which he has taken action under this sub-section is frivolous or vexatious, he shall disclose the identity of the informant to the company.

(7) The provisions of this section shall apply *mutatis mutandis* to documents which a liquidator is required to file under this Act.

Inspection and Audit

Investigation
of affairs of
company by
inspectors.

173. The Government may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the Government may direct—

(i) in the case of a banking company having a share capital, on the application of members holding not less than one-fifth of the shares issued;

(ii) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(iii) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members;

(iv) in the case of any company on a report by the registrar under section 172, sub-section (5).

Application
for inspec-
tion to be
supported by
evidence.

174. An application by members of a company under section 173 shall be supported by such evidence as the Government may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation; and the Government may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

Inspection of
books and
examination
of officers.

175. (1) It shall be the duty of all persons who are or have been officers of the company to produce to the inspectors all books and documents in their custody or power relating to the company.

(2) An inspector may examine on oath any such person in relation to its business, and may administer an oath accordingly.

(3) If any person refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding fifty rupees in respect of each offence.

176. (1) On the conclusion of the investigation, the inspectors shall report their opinion to the Government, and a copy of the report shall be forwarded by the Government to the registrar and another copy to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them. Results of examination how dealt with.

(2) The report shall be written or printed, as the Government directs.

(3) All expenses of, and incidental to, the investigation shall be defrayed by the applicants unless the Government directs the same to be paid by the company, which the Government is hereby authorised to do :

Provided that the expenses of and incidental to an investigation held in pursuance of clause (iv) of section 173 shall be paid out of the assets of the company and shall be recoverable as an arrear of land revenue.

(4) The registrar shall keep the copy of the report sent to him with the records of the company in his custody.

177. (1) If from any report made under section 173 it appears to the Government that any person has been guilty of any offence in relation to the company for which he is criminally liable, the Government shall refer the matter to the Advocate-General or the Government Pleader. Institution of prosecutions.

(2) If the officer to whom the matter is referred considers that the case is one in which a prosecution ought to be instituted, he shall cause proceedings to be instituted, and it shall be the duty of all officers and agents of the company, past and present (other than the accused in the proceedings), to give to him all assistance in connection with the prosecution which they are reasonably able to give.

(3) For the purposes of sub-section (2), the expression "agents" in relation to a company shall be deemed to include the bankers and legal advisers of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.

(4) Any director, manager or other officer of the company convicted as the result of a prosecution initiated under this section shall not without the leave of the Court

be a director of or in any way whether directly or indirectly be concerned in or take part in the management of a company for a period of five years from the date of such conviction.

Power of company to appoint inspectors.

178. (1) A company may by a special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Government, except that, instead of reporting to the Government they shall report in such manner and to such persons as the company in general meeting may direct.

(3) All persons who are or have been officers of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Government.

Report of inspectors to be evidence.

179. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Qualifications and appointment of auditors.

180. (1) No person shall be appointed or act as an auditor of any company other than a private company not being the subsidiary company of a public company unless he holds a certificate from the Government entitling him to act as an auditor of companies:

Provided that a firm whereof all the partners practising in India hold such certificates may be appointed by its firm-name to be auditor of a company, and may act in its firm-name.

(2) The Government may, by notification in the Cochin Government Gazette and after previous publication, make rules providing for the grant, renewal or cancellation of such certificates and prescribing conditions and restrictions for such grant, renewal or cancellation:

Provided that nothing contained in such rules shall preclude any person from being granted a certificate merely by reason that he does not practise as a public accountant.

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

(a) provide for the maintenance of a register of accountants entitled to apply for such certificates;

(b) prescribe the qualifications for enrolment on the register and the fees therefor;

(c) provide for the examination of candidates for enrolment, and prescribe the fees to be paid by examinees; and

(d) prescribe the circumstances in which the name of any person may be removed from or restored to the register.

(4) The holder of a certificate granted under this section shall be entitled to be appointed and act as an auditor of companies throughout Cochin State.

(5) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(6) If an appointment of an auditor is not made at an annual general meeting, the Government may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(7) The following persons, that is to say:

(i) a director or officer of the company; and

(ii) a partner of such director or officer; and

(iii) in the case of a company other than a private company, not being the subsidiary company of a public company any person in the employment of such director or officer; and

(iv) any person indebted to the company

shall not be appointed auditors of the company and if any person after being appointed auditor becomes indebted to the company his appointment shall thereupon be terminated.

(8) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member of the company to the company not less than fourteen days before such annual general meeting, and the company shall send a copy of any such notice to the

retiring auditor, and shall give notice thereof to its members either by advertisement or in any other mode allowed by the articles not less than seven days before the annual general meeting:

Provided that, if after notice of the intention to nominate an auditor has been given to the company, an annual general meeting is called for a date fourteen days or less after the notice has been given, the requirements of this section as to time in respect of such a notice shall be deemed to have been satisfied, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this section, be sent or given at the same time as the notice of the annual general meeting.

(9) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the members of the company in general meeting, in which case such members at that meeting may appoint auditors.

(10) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

(11) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

**Powers and
duties of
auditors.**

181. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the members of the company on the accounts examined by them, and on every balance-sheet and profit and loss account laid before the company in general meeting during their tenure of office, and the report shall state—

(a) whether or not they have obtained all the information and explanations they have required; and

(b) whether or not in their opinion the balance-sheet and the profit and loss account referred to in the report are drawn up in conformity with the law; and

(c) whether or not such balance-sheet exhibits a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company; and

(d) whether in their opinion books of account have been kept by the company as required by section 163.

(3) Where any of the matters referred to in clause (a), (b), (c), and (d) of sub-section (2) is answered in the negative or with a qualification, the report shall state the reason for such answer.

(4) In the case of a banking company, if the company has branch banks beyond the limits of India, it shall be sufficient if the auditor is allowed access to such copies of and extracts from the books and accounts of any such branch as have been transmitted to the Head Office of the company in Cochin State.

(5) The auditors of a company shall be entitled to receive notice of and to attend any general meeting of the company at which any accounts which have been examined or reported on by them are to be laid before the company and may make any statement or explanation they desire with respect to the accounts.

(6) If any auditors' report is made which does not comply with the requirements of this section, every auditor who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to one hundred rupees.

182. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets and profit and loss accounts of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

Rights of preference shareholders, etc., as to receipts and inspection of reports, etc.

(2) This section shall not apply to a private company, nor to a company registered before the 1st day of Vrischigam 1097 (16th day of November 1921 :)

Provided that in the case of any public company whether registered before or after the commencement of this Act the trustees for holders of debentures shall have

the right conferred by sub-section (1) on holders of preference shares and debentures of a company.

Carrying on business with less than the legal minimum of members

Liability for carrying on business with fewer than seven or, in the case of a private company, two members.

183. If at any time the number of members of a company is reduced, in the case of a private company, below two, or in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same without joinder in the suit of any other member.

Service and Authentication of Documents

Service of documents on company.

184. A document may be served on a company by leaving it at, or sending it by post to, the registered office of the company.

Service of documents on registrar.

185. A document may be served on a registrar by sending it to him by post, or delivering it to him, or by leaving it for him at his office.

Authentication of documents.

186. A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal.

Tables, Forms and Rules as to prescribed matters

Application and alteration of table and forms, and power to make rules as to prescribed matters.

187. (1) The forms in the Third Schedule or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

(2) The Government may alter any of the tables and forms in the First Schedule, so that it does not increase the amount of fees payable to the registrar in the said Schedule mentioned, and may alter or add to the forms in the Third Schedule.

(3) Any such table or form, when altered shall be published in the Cochin Government Gazette, and on such

publication shall have effect as if enacted in this Act, but no alteration made by the Government in Table A in the First Schedule shall affect any company registered before the alteration, or repeal, as respects that company any portion of that table.

(4) In addition to the powers hereinbefore conferred by this section, the Government may make rules providing for all or any matters which by this Act are to be prescribed by its authority.

(5) Every such rule shall be published in the Cochin Government Gazette, and on such publication shall have effect as if enacted in this Act.

Arbitration and Compromise

188. (1) A company may by written agreement refer to arbitration, in accordance with the Cochin Arbitration Act, V of 1108, an existing or future difference between itself and any other company or person.

Power for companies to refer matters to arbitration.

(2) Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) The provisions of the Cochin Arbitration Act, V of 1108, other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations between companies and persons in pursuance of this Act.

189. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs.

Power to compromise with creditors and members.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all

the creditors or the class of creditors, or on all the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under sub-section (2) shall have no effect until a certified copy of the order has been filed with the registrar, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes default in complying with sub-section (3) the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(5) The Court may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against a company on such terms as it thinks fit and proper until the application is finally disposed of.

(6) In this section the expression "company" means any company liable to be wound up under this Act and the expression "arrangement" includes a re-organisation of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods, and for the purposes of this section unsecured creditors who may have filed suits or obtained decrees shall be deemed to be of the same class as other unsecured creditors.

(7) An appeal shall lie from any order made by the Court exercising original jurisdiction under this section to the authority authorised to hear appeals from the decisions of the Court.

**Provisions
for facilitat-
ing arrange-
ments and
compromises.**

190. (1) Where an application is made to the Court under section 189 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company

companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as a "transferor company") is to be transferred to another company (in this section referred to as the "transferee company"), the Court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters.—

(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;

(b) the allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;

(d) the dissolution, without winding up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the Court directs, dissent from the compromise or arrangement;

(f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause a certified copy thereof to be delivered to the registrar for registration within fourteen days after the completion of the order, and if default is made in complying with this sub-section, the company and every officer of the company

who is knowingly and wilfully in default shall be liable to a fine not exceeding fifty rupees.

(4) In this section the expression "property" includes property, rights and powers of every description, and the expression "liabilities" includes duties.

(5) Notwithstanding the provisions of sub-section (6) of section 189, the expression "company" in this section does not include any company other than a company within the meaning of this Act.

Power to acquire shares of shareholders dissenting from schemes or contract approved by majority.

191. (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as the "transferor company") to another company, whether a company within the meaning of this Act or not (in this section referred to as the "transferee company"), has within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than three-fourths in value of the shares affected, the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the Court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company.

(2) Where a notice has been given by the transferee company under this section and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the Court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon

register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

Conversion of private company into public company

192. (1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under the provisions of clause (13) of sub-section (1) of section 2, are required to be included in the articles of a company in order to constitute it a private company, the company, shall, as on the date of the alteration, cease to be a private company and shall, within a period of fourteen days after the said date, file with the registrar a prospectus or a statement in lieu of prospectus in the form and containing the particulars set out in the form marked II in the Second Schedule.

Conversion of private company into public company.

(2) If default is made in complying with sub-section (1) of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding five hundred rupees.

(3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in this Act, and thereupon the provisions of this Act shall apply to the company as if it were not a private company:

Provided that the Court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may on the application of the company or any other person

interested and on such terms and conditions as seem to the Court just and expedient, order that the company be relieved from such consequences as aforesaid,

PART V

WINDING UP

Preliminary

Mode of winding up.

193. (1) The winding up of a company may be either—

- (i) by the Court; or
- (ii) voluntary; or
- (iii) subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of these modes.

Contributories

Liability as contributories of present and past members.

194. (1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves with the qualifications following (that is to say).—

(i) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;

(ii) a past member shall not be liable to contribute in respect of any debt, or liability of the company contracted after he ceased to be a member;

(iii) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(iv) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect to which he is liable as a present or past member;

(v) in the case of a company limited by guarantee, no contribution shall be required from any

member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;

((vi) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;

(vii) a sum due to any member of a company in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company payable to that member in a case of competition between himself and any other creditor not a member of the company; but any such sum may be taken into account for the purpose of the final adjustments of the rights of the contributories among themselves.

(2) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amounts undertaken to be contributed by him to the asset of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

195. In the winding up of a limited company any director whether past or present, whose liability is, in pursuance of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company:

Liability of directors whose liability is unlimited.

Provided that—

(i) a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(ii) a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(iii) subject to the articles a director shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to

satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

Meaning of
"contribu-
tory"

196. The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Nature of
liability of
contributory.

197. (1) The liability of a contributory shall create a debt payable at the time specified in the calls made on him by the liquidator.

(2) No claim founded on the liability of a contributory shall be cognizable by any Court in the exercise of the small causes jurisdiction or by any Village Court.

Contributor-
ies in case
of death of
member.

198. (1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives and his heirs shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(2) If the legal representatives or heirs make default in paying any money ordered to be paid by them, proceedings may be taken for administering the property of the deceased contributory, whether movable or immovable, or both, and of compelling payment thereout of the money due.

(3) For the purposes of this section the surviving coparceners of a contributory who is a member of a Hindu joint family governed by the Mitakshara School of Hindu Law shall be deemed to be his legal representatives and heirs.

Contributor-
ies in case of
insolvency of
member.

199. If a contributory is adjudged insolvent either before or after he has been placed on the list of contributories, then—

(1) his assignees shall represent him for all the purposes of the winding up, and shall be contributories accordingly, and may be called on to admit to proof against the estate of the insolvent, or otherwise to allow to be paid out of his assets in due course of law, any money due from the insolvent in respect of his liability to contribute to the assets of the company; and

(2) there may be proved against the estate of the insolvent the estimated value of his liability to future calls as well as calls already made.

Winding up by Court

200. A company may be wound up by the Court—

Circumstances in which company may be wound up by Court.

(i) if the company has by special resolution resolved that the company be wound up by the Court;

(ii) if default is made in filing the statutory report or in holding the statutory meeting;

(iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

(iv) if the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven;

(v) if the company is unable to pay its debts;

(vi) if the Court is of opinion that it is just and equitable that the company should be wound up.

201. (1) A company shall be deemed to be unable to pay its debts—

Company when deemed unable to pay its debts.

(i) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company by causing the same to be delivered by registered post or otherwise at its registered office, a demand under his hand requiring the company to pay the sum so due and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor;

(ii) if execution or other process issued on a decree or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

(2) The demand referred to in clause (i) of the sub-section (1) shall be deemed to have been duly given under the hand of the creditor if it is signed by an agent or legal adviser duly authorised on his behalf, or in the

case of a firm if it is signed by such agent or by a legal adviser or any one member of the firm on behalf of the firm.

Transfer of winding up from one District Court to another.

202. If during the progress of a winding up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court having jurisdiction to wind up companies, the High Court may transfer the same to such other Court, and thereupon the winding up shall proceed in such other District Court.

Provisions as to applications for winding up.

203. An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately, or by the registrar:

Provided that—

(a) a contributory shall not be entitled to present a petition for winding up a company unless—

(i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven; or

(ii) the shares in respect of which he is a contributory or some of them either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder;

(b) the registrar shall not be entitled to present a petition for winding up a company—

(i) except on the ground that from the financial condition of the company as disclosed in its balance-sheet or from the report of an inspector appointed under section 173, it appears that the company is unable to pay its debts, and

(ii) unless the previous sanction of the Government has been obtained to the presentation of the petition:

Provided that no such sanction shall be given unless the company has first been afforded an opportunity of being heard.

(c) a petition for winding up a company on the ground of default in filing the statutory report or in holding

the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held ;

(d) the Court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a *prima facie* case for winding up has been established to the satisfaction of the Court.

204. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Effect of winding up order.

205. A winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

Commencement of winding up by Court.

206. The Court may, at any time after the presentation of the petition for winding up a company under this Act, and before making an order for winding up the company, upon the application of the company or of any creditor or contributory of the company, restrain further proceedings in any suit or proceeding against the company, upon such terms as the Court thinks fit.

Court may grant injunction.

207. (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order or any other order that it deems just, but the Court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

Powers of Court on hearing petition.

(2) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

(3) Where the Court makes an order for the winding up of a company it shall, except where a liquidator is appointed simultaneously, forthwith cause intimation thereof to be sent to the official receiver.

Suits stayed
on winding
up order.

208. When a winding up order has been made or a provisional liquidator has been appointed no suit or other legal proceeding shall be proceeded with or commenced against the company except by leave of the Court and subject to such terms as the Court may impose.

Vacancy in
the office of
liquidator.

209. (1) For the purposes of this Act, so far as it relates to the winding up of companies by the Court, the term "official receiver" means the official receiver attached to the Court, or, if there is no such official receiver, then such person as the Government may, by notification in the Cochin Government Gazette, appoint for the purpose.

(2) On the making of a winding up order, the official receiver shall become the official liquidator of the company and shall continue to act as such until his further continuance is terminated by an order of the Court.

(3) The official receiver shall as such official liquidator forthwith take into his custody and control all the books, documents and the assets of the company.

(4) The official receiver shall be entitled to such remuneration as the Court shall fix.

Copy of
winding up
order to be
filed with
registrar.

210. (1) On the making of a winding up order it shall be the duty of the petitioner in the winding up proceedings and of the company to file with the registrar a copy of the order within a month from the date of the making of the order.

(2) On the filing of a copy of a winding up order, the registrar shall make a minute thereof in his books relating to the company, and shall notify in the Cochin Government Gazette that such an order has been made.

(3) Such order shall be deemed to be notice of discharge to the servants of the company, except when the business of the company is continued.

Power of
Court to stay
winding up.

211. The Court may at any time after an order for winding up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

Court may
have regard
to wishes of
creditors or
contribu-
tories.

212. The Court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Official Liquidators

213. (1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a person or persons other than the official receiver to be called an official liquidator or official liquidators. Appointment
of official
liquidator.

(2) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up but shall before making any such appointment give notice to the company, unless for reasons to be recorded it thinks fit to dispense with notice.

(3) If more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act by this Act required or authorised to be done by the official liquidator is to be done by all or any one or more of such persons.

(4) The Court may determine whether any, and what, security is to be given by any official liquidator on his appointment.

(5) The acts of an official liquidator shall be valid notwithstanding any defect that may afterwards be discovered in his appointment: Provided that nothing in this sub-section shall be deemed to give validity to acts done by an official liquidator after his appointment has been shown to be invalid.

(6) A receiver shall not be appointed of assets in the hands of an official liquidator.

214. (1) Any official liquidator may resign or be removed by the Court on due cause shown. Resignations,
removals,
filling up
vacancies and
compensation.

(2) Any vacancy in the office of an official liquidator appointed by the Court shall be filled up by the Court and until the vacancy is so filled up the official receiver shall be and act as the official liquidator.

(3) There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remunerations shall be distributed amongst them in such proportions as the Court directs.

Official liquidator.

215. The official liquidator shall be described by the style of the official liquidator of the particular company in respect of which he is appointed, and not by his individual name.

Statement of affairs to be made to the liquidator.

216. (1) Where the Court has made a winding up order or appointed an official liquidator provisionally, there shall, unless the Court thinks fit to order otherwise and so orders, be made out and submitted to the official liquidator a statement as to the affairs of the company verified by an affidavit and containing the following particulars, namely.—

(a) the assets of the company, stating separately the cash balance in hand and at the bank, if any;

(b) the debts and liabilities;

(c) the names, residences and occupations of the creditors stating separately the amount of secured debts and unsecured debts and in the case of secured debts particulars of the securities, their value and the dates when they were given;

(d) the debts due to the company and the names, residences and occupations of the persons from whom they are due and the amount likely to be realised therefrom.

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary, manager or other chief officer of the company, or by such of the persons hereinafter in this subsection mentioned as the official liquidator, subject to the direction of the Court, may require to submit and verify the statement, that is to say, persons—

(a) who are or have been directors or officers of the company;

(b) who have taken part in the formation of the company at any time within one year before the relevant date;

(c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the official liquidator capable of giving the information required;

(d) who are or have been within the said year officers of or in the employment of a company; which is, or within the said year was, an officer of the company to which the statement relates.

(3) The statement shall be submitted within twenty-one days from the relevant date, or within such

extended time as the official liquidator or the Court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed and shall be paid by the official liquidator or provisional liquidator, as the case may be, out of the assets of the company, costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official liquidator may consider reasonable, subject to an appeal to the Court.

(5) If any person, without reasonable excuse, knowingly and wilfully makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding one hundred rupees for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of an offence under section 167 of the Cochin Penal Code and shall, on the application of the liquidator or of the official receiver, be punishable accordingly.

(8) In this section the expression "the relevant date" means, in a case where a provisional liquidator is appointed, the date of his appointment and, in a case where no such appointment is made, the date of the winding up order.

217. (1) In a case where a winding up order is made, the official liquidator shall, as soon as practicable after receipt of the statement to be submitted under section 216 and not later than four, or with the leave of the Court, six months from the date of the order, or in a case where the Court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the Court—

Statement by liquidator.

(a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities, giving separately under the heading of assets particulars of—

(i) cash and negotiable securities;

- (ii) debts due from contributories;
- (iii) debts due to and securities, if any, available to the company;
- (iv) movable and immovable properties belonging to the company;
- (v) unpaid calls; and
- (b) if the company has failed, as to the causes of the failure; and
- (c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The official liquidator may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matter which in his opinion it is desirable to bring to the notice of the Court.

Custody of company's property.

218 (1) The official liquidator whether appointed provisionally or not shall take into his custody, or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled.

(2) All the property and effects of the company shall be deemed to be in the custody of the Court as from the date of the order for the winding up of the company.

Committee of Inspection in compulsory winding up.

219. (1) The official liquidator shall within a month from the date of the order for the winding up of a company convene a meeting of the creditors of the company (as ascertained from the books and documents of the company) for the purpose of determining whether or not a committee of inspection shall be appointed to act with the liquidator, and who are to be members of the committee, if appointed.

(2) The official liquidator shall within a week from the date of the creditors' meeting convene a meeting of the contributories to consider the decision of the creditors and to accept the same with or without modifications.

(3) If the contributories do not accept the decision of the creditors in its entirety, it shall be the duty of the official liquidator to apply to the Court for directions as

to whether there shall be a committee of inspection and, if so, what shall be the composition of the committee, and who shall be members thereof.

(4) A committee of inspection appointed under this section shall consist of not more than twelve members being creditors and contributories of the company or persons holding general or special powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

(5) The committee of inspection shall have the right to inspect the accounts of the official liquidator at all reasonable times.

(6) The committee shall meet at such times as they may from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(7) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(8) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(9) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(10) A member of the committee may be removed by an ordinary resolution at a meeting of creditors if he represents creditors, or of contributories if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(11) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(12) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

**Powers of
official
liquidator.**

220. The official liquidator shall have power, with the sanction of the Court, to do the following things.—

(a) to institute or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company ;

(b) to carry on the business of the company so far as may be necessary for the beneficial winding up of the same ;

(c) to sell the immovable and movable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels ;

(d) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary the company's seal ;

(e) to prove, rank and claim in the insolvency of any contributory, for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors ;

(f) to draw, accept, make and indorse any bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill, hundi, or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business ;

(g) to raise on the security of the assets of the company any money requisite ;

(h) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself ;

(i) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

221. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Discretion of official liquidator.

222. The official liquidator may, with the sanction of the Court, appoint an advocate, or pleader entitled to appear before the Court to assist him in the performance of his duties.

Provision for legal assistance to official liquidator.

223. (1) The official liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

Liquidator to keep books containing proceedings of meetings and to submit account of his receipts to Court.

(2) Every official liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Court an account of his receipts and payments as such liquidator.

(3) The account shall be in the prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(4) The Court shall cause the account to be audited in such manner as it thinks fit and for the purpose of the audit the liquidator shall furnish the Court with such vouchers and information as the Court may require, and the Court may at any time require the production of and inspect any books or accounts kept by the liquidator.

(5) When the account has been audited, one copy thereof shall be filed and kept by the Court, and the other copy shall be delivered to the registrar for filing, and each copy shall be open to the inspection of any creditor, or of any person interested.

224. (1) Subject to the provisions of this Act the official liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting or by the committee of inspection, and any

Exercise and control of liquidator's powers.

directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The official liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3) The official liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising in the winding up.

(4) Subject to the provisions of this Act, the official liquidator shall use his own discretion in the administration of the assets of the company and in the distribution thereof among the creditors.

(5) If any person is aggrieved by any act or decision of the official liquidator, that person may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just in the circumstances.

Ordinary Powers of Court

Settlement of list of contributories and application of assets.

225. (1) As soon as may be after making a winding up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Power to require delivery of property.

226. The Court may, at any time after making a winding up order, require any contributory for the time being settled on the list of contributories and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, surrender or transfer forthwith, or within such time as the Court directs, to the official liquidator any money, property or documents in his hands to which the company is *prima facie* entitled.

227. (1) The Court may, at any time after making a winding up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

Power to order payment of debts by contributory.

(2) The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director whose liability is unlimited or to his estate the like allowance :

Provided that, in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

228. (1) The Court may, at any time after making a winding up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

Power of Court to make calls.

(2) In making the call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

229. The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into the account of the official liquidator in any scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 instead of to the official liquidator, and any such order may be enforced in

Power to order payment into bank.

the same manner as if it had directed payment to the official liquidator.

Regulation of account with Court.

230. All moneys, bills, hundis, notes and other securities paid and delivered into the Bank where the liquidator of the company may have his account in the event of a company being wound up by the Court, shall be subject in all respects to the orders of the Court.

Order on contributory conclusive evidence.

231. (1) An order made by the Court on a contributory shall (subject to any right of appeal) be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings whatsoever.

Power to exclude creditors not proving in time.

232. The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Adjustment of rights of contributories.

233. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Power to order costs.

234. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the Court thinks just.

Dissolution of company.

235. (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) The order shall be reported within fifteen days of the making thereof by the official liquidator to the registrar, who shall make in his books a minute of the dissolution of the company.

(3) If the official liquidator makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which he is in default.

Extraordinary Powers of Court

Power to summon persons suspected of having property of company.

236. (1) The Court may, after it has made a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company, or supposed to be indebted to

the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs or property of the company.

(2) The Court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The Court may require him to produce any documents in his custody or power relating to the company; but, where he claims any lien on documents produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

237. (1) When an order has been made for winding up a company by the Court, and the official liquidator has applied to the Court stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company or by any director or other officer of the company, in relation to the company since its formation, the Court may, after consideration of the application, direct that any person who has taken any part in the promotion or formation of the company, or has been a director, manager or other officer of the company shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director, manager or other officer thereof.

Power to order public examination of promoters, directors, etc.

(2) The official liquidator shall take part in the examination, and for that purpose may, if specially authorised by the Court in that behalf, employ such legal assistance as may be sanctioned by the Court.

(3) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the Court.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(6) A person ordered to be examined under this section may at his own cost employ any person entitled to appear before the Court, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him: Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him in civil proceedings, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Court so directs, and subject to any rules in this behalf, be held before any District Munsiff and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the District Munsiff before whom the examination is held,

Power to
arrest abs-
conding con-
tributory .

238. The Court, at any time either before or after making a winding up order on proof of probable cause for believing that a contributory is about to quit Cochin State or otherwise to abscond, or to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested and his books and papers and movable property to be seized, and him and them to be safely kept until such time as the Court may order.

Saving of
other pro-
ceedings.

239. Any powers by this Act conferred on the Court shall be in addition to, and not in restriction of, any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Enforcement of and appeal from orders

240. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Power to enforce orders.

241. Any order made by a Court for or in the course of the winding up of a company shall be enforced in any place in Cochin State other than that in which such Court is situate, by the Court that would have had jurisdiction in respect of such company if the registered office of the company had been situate at such other place, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Order made in any Court to be enforced by other Courts.

242. Where any order made by one Court is to be enforced by another Court, a certified copy of the order so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order having been made; and thereupon the last mentioned Court shall take the requisite steps in the matter for enforcing the order, in the same manner as if it were the order of the Court enforcing the same.

Mode of dealing with orders to be enforced by other Courts.

243. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding up of a company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction.

Appeals from orders.

Voluntary winding up

244. A company may be wound up voluntarily--

(1) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;

Circumstances in which company may be wound up voluntarily.

(2) if the company resolves by special resolution that the company be wound up voluntarily;

(3) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up;

and the expression "resolution for voluntarily winding up"

when used hereafter in this Part means a resolution passed under clause (1), clause (2) or clause (3) of this section.

Commencement of voluntary winding up.

245. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntarily winding up.

Effect of voluntary winding up on status of company.

246. When a company is wound up voluntarily, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Notice of resolution to wind up voluntarily.

247. (1) Notice of any special resolution or extraordinary resolution for winding up a company voluntarily shall be given by the company within ten days of the passing of the same by advertisement in the Cochin Government Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the company is situate.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding 50 rupees for every day during which the default continues; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to a like penalty.

Declaration of solvency.

248. (1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out, to make a declaration verified by an affidavit to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within a period, not exceeding three years, from the commencement of the winding up.

(2) Such declaration shall be supported by a report of the company's auditors on the company's affairs, and shall have no effect for the purposes of this Act unless it is delivered to the registrar for the registration before the date mentioned in sub-section (1) of this section.

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this Act referred to as a "members' voluntary winding up", and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as "a creditors' voluntary winding up".

Members' voluntary winding up

249. The provisions contained in sections 250 to 254 both inclusive, shall apply in relation to a members' voluntary winding up.

Provisions applicable to a members' voluntary winding up.

250. (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

Power of company to appoint and fix remuneration of liquidators.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

251. (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors fill the vacancy.

Power to fill vacancy in office of liquidator.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

252. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Act or not (in this section called "the transferee company"), the liquidator of the first mentioned company (in this section called "the transferor company") may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies, or other like

Power of liquidator to accept shares etc., as consideration for sale of property of company.

interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator and left at the registered office of the company within seven days after the passing of the special resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner hereafter provided.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

(6) The provisions of the Cochin Arbitration Act, V of 1108, other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations in pursuance of this section.

Duty of liquidator to call general meeting at end of each year.

253. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up and of each succeeding year, or as soon thereafter as may be convenient within ninety days of the close of the year, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year and a statement in the prescribed form containing the prescribed particulars with respect to the position of the liquidation.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding one hundred rupees.

254. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof. **Final meeting and dissolution.**

(2) The meeting shall be called by advertisement specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in sub-section (1) of section 247 for publication of a notice under that sub-section.

(3) Within one week after the meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding fifty rupees for every day during which the default continues:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the said return, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall be deemed to have been complied with.

(4) The registrar on receiving the account and either of the returns mentioned in sub-section (3) shall forthwith register them and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved:

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within twenty-one days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails so to do he

shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Creditors' voluntary winding up

Provisions applicable to a creditors' voluntary winding up.

Meeting of creditors.

255. The provisions contained in sections 256 to 263, both inclusive, shall apply in relation to a creditors' voluntary winding up.

256. (1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notice of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised in the manner specified in sub-section (1) of section 247 for the publication of a notice under that sub-section.

(3) The directors of the company shall—

(a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of creditors to be held as aforesaid; and

(b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors, held in pursuance of sub-section (1) of this section, shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made—

(a) by the company in complying with sub-sections (1) and (2);

(b) by the directors of the company in complying with sub-section (3);

(c) by any director of the company in complying with sub-section (4);

the company, directors or director, as the case may be, shall be liable to a fine not exceeding one thousand rupees and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

257. The creditors and the company at their respective meetings mentioned in section 256 may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator: Appointment of liquidator.

Provided that in the case of different persons being nominated, any director, member or creditor of the company may, within seven days after the date on which the nomination was made by the creditors, apply to the Court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

258. The creditors at the meeting to be held in pursuance of section 256 or at any subsequent meeting may, if they think fit, appoint a committee of inspection consisting of not more than five persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number: Appointment of committee of inspection.

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the Court otherwise directs, be qualified to act as members of the committee, and on any application to the Court under this provision the Court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

Fixing of liquidators' remuneration and cesser of directors' powers.

259. (1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators, and where the remuneration is not so fixed, it shall be determined by the Court.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

Power to fill vacancy in office of liquidator.

260. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by or by the direction of, the Court, the creditors may fill the vacancy.

Application of section 252 to a creditors' voluntary winding up.

261. The provisions of section 252 shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the Court or of the committee of inspection.

Duty of liquidator to call meetings of company and of creditors at end of each year.

262. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year and a statement in the prescribed form containing the prescribed particulars with respect to the position of the winding up.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding one hundred rupees.

Final meeting and dissolution.

263. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors for the purpose of laying the account before the meetings and giving any explanation thereof.

(2) Each such meeting shall be called by advertisement specifying the time, place and object thereof and published one month at least before the meeting in the

manner specified in sub-section (1) of section 247 for the publication of a notice under that sub-section.

(3) Within one week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding fifty rupees for every day during which the default continues :

Provided that if a quorum (which for the purposes of this section shall be two persons) is not present at either such meeting, the liquidator shall, in lieu of such return, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The registrar on receiving the account and in respect of each such meeting either of the returns mentioned in sub-section (3) shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved :

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within ten days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails to do so he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Members' or creditors' voluntary winding up

264. The provisions contained in sections 265 to 272, both inclusive, shall apply to every voluntary winding up, whether a members' or a creditors' winding up.

Provisions applicable to every voluntary winding up.

265. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding up be applied in satisfaction of its liabilities *pari*

Distribution of property of company.

passu and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Powers and duties of liquidator in voluntary winding up.

266. (1) The liquidator may—

(a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and in the case of a creditors' voluntary winding up, with the sanction of either the Court or the committee of inspection, exercise any of the powers given by clauses (d), (e), (f) and (h) of section 220 to a liquidator in a winding up. The exercise by the liquidator of the powers given by this clause shall be subject to the control of the Court and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers;

(b) without the sanction referred to in clause (a) exercise any of the other powers by this Act given to the liquidator in a winding up by the Court;

(c) exercise the power of the Court under this Act of settling a list of contributories, and the list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories;

(d) exercise the power of the Court of making calls;

(e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two.

Power of Court to appoint and remove liquidator in voluntary winding up.

267. (1) If from any cause whatever there is no liquidator acting, the Court may appoint a liquidator.

(2) The Court may, on cause shown, remove a liquidator and appoint another liquidator.

268. (1) The liquidator shall, within twenty-one days after his appointment, deliver to the registrar for registration a notice of his appointment in the form prescribed. Notice by liquidator of his appointment.

(2) If the liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

269. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors. Arrangement when binding on creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

270. (1) The liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls, staying of proceedings or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court. Power to apply to Court to have questions determined of powers exercised.

(2) The liquidator or any creditor or contributory may apply for an order setting aside any attachment, distress or execution put into force against the estate or effects of the company after the commencement of the winding up.

Such application shall be made to the Court having jurisdiction to wind up the company.

(3) The Court, if satisfied that the determination of the question or the required exercise of power or the order applied for will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

271. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall, subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims. Cost of voluntary winding up.

Saving for rights of creditors and contributories.

272. The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, but in the case of an application by a contributory, the Court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.

Power of Court to adopt proceedings of voluntary winding up.

273. Where a company is being wound up voluntarily, and an order is made for winding up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding up.

Winding up subject to supervision of Court

Power to order winding up subject to supervisions.

274. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally on such terms and conditions as the Court thinks just.

Effect of petition for winding up subject to supervision.

275. A petition for the continuance of a voluntary winding up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding up by the Court.

Court may have regard to wishes of creditors and contributories.

276. The Court may, in deciding between a winding up by the Court and a winding up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Power for Court to appoint or remove liquidators.

277. (1) Where an order is made for a winding up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

278. (1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily. **Effect of supervision order.**

(2) Except as provided in sub-section (1), and save for the purposes of the section 237, any order made by the Court for a winding up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding up the company by the Court, and shall confer full authority on the Court, to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding up the company altogether by the Court.

(3) In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidator, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding up subject to the supervision of the Court.

279. Where an order has been made for the winding up of a company subject to supervision, and an order is afterwards made for winding up by the Court, the Court may, by the last-mentioned order or by any subsequent order appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidator in the winding up by the Court. **Appointment in certain cases of voluntary liquidators to office of official liquidators.**

Supplemental Provisions

280. (1) In the case of voluntary winding up every transfer of shares, except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding up shall be void. **Avoidance of transfers, etc., after commencement of winding up.**

(2) In the case of a winding up by or subject to the supervision of the Court, every disposition of the property (including actionable claims) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding up shall, unless the Court otherwise orders, be void.

Debts of all descriptions to be proved.

281. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or for some other reason do not bear a certain value.

Application of insolvency rules in winding up of insolvent companies.

282. In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Preferential payments.

283. (1) In a winding up there shall be paid in priority to all other debts—

(a) all revenue, taxes, cesses and rates, whether payable to the Government or to a local authority, due from the company, at the date hereinafter mentioned and having become due and payable within the twelve months next before that date;

(b) all wages or salary of any clerk or servant in respect of service rendered to the company within the two months next before the said date, not exceeding one thousand rupees for each clerk or servant;

(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piecework, in respect of services rendered to the company within the two months next before the said date;

(d) compensation payable under the Workmen's Compensation Act, V of 1111, in respect of the death or disablement of any officer or employee of the company;

(e) all sums due to any employee from a provident fund, a pension fund, a gratuity fund or any

other fund for the welfare of the employees maintained by the company; and

(f) the expenses of any investigation held in pursuance of clause (iv) of section 173 of this Act.

(2) The foregoing debts shall—

(a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportion; and

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is—

(a) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding up order; and

(b) in any other case, the date of the commencement of the winding up.

284. (1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the

**Disclaimer
of property.**

liquidator of the company, notwithstanding that he had endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the Court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Court, disclaim the property :

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests and liabilities of the company, and the property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The Court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the Court, given notice to the applicant that he intends to apply to the Court for leave to disclaim, and in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the company shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to

payment by or to either party of damages for the non-performance of the contract, or otherwise as the Court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The Court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the company whether as underlessee or as mortgagee except upon the terms of making that person—

(a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(b) if the Court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Court shall have power to vest the estate and interest of the company in the property in any person liable, either personally or in a representative character, and either alone or jointly with the company, to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the company.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

Fraudulent preference.

285. (1) Any transfer, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed in his insolvency a fraudulent preference, shall if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors and be invalid accordingly.

(2) For the purposes of this section the presentation of a petition for winding up in the case of a winding up by or subject to the supervision of the Court, and a resolution for winding up in the case of a voluntary winding up, shall be deemed to correspond with the act of insolvency in the case of an individual.

(3) Any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void.

Avoidance of certain attachments, executions, etc.

286. (1) Where any company is being wound up by or subject to the supervision of the Court, any attachment, distress or execution put in force without leave of the Court against the estate or effects or any sale held without leave of the Court of any of the properties of the company after the commencement of the winding up shall be void.

(2) Nothing in this section applies to proceedings by the Government.

Effect of floating charge.

287. Where a company is being wound up a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the company at the time of, or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum.

General scheme of liquidation may be sanctioned.

288. (1) The liquidator may, with the sanction of the Court when the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company in

the case of a voluntary winding up, do the following things or any of them.—

(i) pay any classes of creditors in full ;

(ii) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the company may be rendered liable ;

(iii) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers.

289. (1) Where in the course of winding up a company, it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory made within three years from the date of the first appointment of a liquidator in the winding up or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer, examine into the conduct of the promoter, director, manager, liquidator or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

Power of Court to assess damages against delinquent directors, etc.

(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

Penalty for falsification of books.

290. If any director, manager, officer or contributory of any company being wound up destroys, mutilates, alters or falsifies or fraudulently secretes any books, papers or securities, or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the company with intent to defraud or deceive any person, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Prosecution of delinquent directors.

291. (1) If it appears to the Court in the course of a winding up by, or subject to the supervision of, the Court that any past or present director, manager or other officer, or any member of the company has been guilty of any offence in relation to the company for which he is criminally liable, the Court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator either himself to prosecute the offender or to refer the matter to the registrar.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager or other officer, or any member of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator relating to the matter in question, as he may require.

(3) Where any report is made under sub-section (2) to the registrar, he may, if he thinks fit, refer the matter to the Government for further inquiry, and the Government shall thereupon investigate the matter and may, if they think it expedient, apply to the Court for an order conferring on any person designated by the Government for the purpose with respect to the company concerned all such powers of investigating the affairs of the company as are provided by this Act in the case of a winding up by the Court.

(4) If on any report to the registrar under sub-section (2) it appears to him that the case is not one in

which proceedings ought to be taken by him, he shall inform the liquidator accordingly, and thereupon, subject to the previous sanction of the Court, the liquidator may himself take proceedings against the offender.

(5) If it appears to the Court in the course of a voluntary winding up that any past or present director, manager or other officer, or any member of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the registrar, the Court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly, the provisions of this section shall have effect as though the report has been made in pursuance of the provisions of sub-section (2).

(6) If, where any matter is reported or referred to the registrar under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall place the papers before the Advocate-General or the Government Pleader and if advised to do so institute proceedings:

Provided that no prosecution shall be undertaken without first giving the accused person an opportunity of making a statement in writing to the registrar and of being heard thereon.

(7) Notwithstanding anything contained in the Indian Evidence Act, 1872, as made applicable to Cochin State when any proceedings are instituted under this section it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give all assistance in connection with the prosecution which he is reasonably able to give, and for the purposes of this sub-section the expression agent in relation to a company shall be deemed to include any banker or legal adviser of the company and any person employed by the company as auditor whether that person is or is not an officer of the company.

(8) If any person fails or neglects to give assistance in manner required by sub-section (7) the Court may, on the application of the registrar, direct that person to comply with the requirements of the said sub-section, and where any such application is made with respect to a liquidator, the Court may, unless it appears that the failure or

neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.

Penalty for
false evi-
dence.

292. If any person, upon any examination upon oath authorised under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penal
provisions.

293. (1) If any person, being a past or present director, managing agent, manager or other officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the Court or voluntarily, or is subsequently ordered to be wound up by the Court or subsequently passes a resolution for voluntary winding up—

(a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company; or

(b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up; or

(c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up; or

(d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of one hundred rupees or upwards or conceals any debt due to or from the company; or

(e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the company to the value of one hundred rupees or upwards; or

(f) makes any material omission in any statement relating to the affairs of the company; or

(g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or

(h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company; or

(i) within twelve months next before the commencement of the winding up or at any time thereafter conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or paper affecting or relating to the property or affairs of the company; or

(j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company; or

(k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the company; or

(l) after the commencement of the winding up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses; or

(m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for; or

(n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

(o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges or disposes of any property of the company which

has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing is in the ordinary way of the business of the company; or

(p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up;

he shall be punishable, in the case of the offences mentioned respectively in clauses (m), (n) and (o) of this sub-section, with imprisonment for a term not exceeding five years and in the case of any other offence, with imprisonment for a term not exceeding two years:

Provided that it shall be a good defence to a charge under any of clauses (b), (c), (d), (f), (n) and (o), if the accused proves that he had no intent to defraud, and to a charge under any of clauses (a), (h), (i) and (j) if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under clause (o) of sub-section (1) every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid shall be punishable with imprisonment for a term not exceeding three years.

Meetings to ascertain wishes of creditors or contributories.

294. (1) Where by this Act the Court is authorised in relation to winding up to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

Documents of company to be evidence.

295. Where any company is being wound up, all documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie*

evidence of the truth of all matters purporting to be therein recorded.

296. After an order for a winding up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its documents as the Court thinks just, and any documents in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise. **Inspection of documents.**

297. (1) When a company has been wound up and is about to be dissolved, the documents of the company and of the liquidators may be disposed of as follows (that is to say).— **Disposal of documents of company.**

(a) in the case of a winding up by or subject to the supervision of the Court, in such way as the Court directs;

(b) in the case of a voluntary winding up, in such way as the company by extraordinary resolution directs.

(2) After three years from the dissolution of the company, no responsibility shall rest on the company or the liquidators or any person to whom the custody of the documents has been committed, by reason of the same not being forthcoming to any person claiming to be interest therein.

298. (1) Where a company has been dissolved, the Court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved. **Power of Court to declare dissolution of company void.**

(2) It shall be the duty of the person on whose application the order was made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

299. (1) Where a company is being wound up, if the winding up is not concluded within one year after its commencement, the liquidator shall, once in each year and at intervals of not more than twelve months, until the winding up is concluded, file in Court or with the registrar, **Information as to pending liquidations.**

as the case may be a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be deemed to be guilty of an offence under section 168 of the Cochin Penal Code, and shall be punishable accordingly on the application of the liquidator.

(3) If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding five hundred rupees for each day during which the default continues.

(4) When the statement is filed in Court a copy shall simultaneously be filed with the registrar and shall be kept by him along with the other records of the company.

Payments of
liquidator
into bank.

300. (1) Every liquidator of a company which is being wound up by the Court shall, in such manner and at such times as may be prescribed, pay the money received by him into a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934:

Provided that if the Court is satisfied that for the purpose of carrying on the business of the company or of obtaining advances or for any other reason it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Court may authorise the liquidator to make his payments into or out of such other bank as the Court may select and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than ten days a sum exceeding five hundred rupees or such other amount as the Court may in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per cent per annum and shall be liable to disallowance of all or such part of his remuneration as the Court may think just and to be removed from his office by the Court and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up shall open a special banking account and pay all sums received by him as liquidator into such account.

301. (1) Where any company is being wound up, if the liquidator has in his hands or under his control any money of the company representing unclaimed dividends payable to any creditor or undistributed assets refundable to any contributory which have remained unclaimed or undistributed for six months after the date on which they became payable or refundable, the liquidator shall forthwith pay the said money into any Government Treasury to the credit of Government in an account to be called the Companies Liquidation Account, and the liquidator shall, on the dissolution of the company, similarly pay into the said account any money representing unclaimed dividends or undistributed assets in his hands at the date of dissolution.

Unclaimed
dividends
and undistri-
buted assets
to be paid to
Companies
Liquidation
Account.

(2) The liquidator shall, when making any payment referred to in sub-section (1), furnish to such officer as Government may appoint in this behalf a statement in the prescribed form setting forth in respect of all sums included in such payment the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and such other particulars as may be prescribed.

(3) The receipt of the Government Treasury for any money paid to it under sub-section (1) shall be an effectual discharge of the liquidator in respect thereof.

(4) Where the company is being wound up by the Court, the liquidator shall make the payments referred to in sub-section (1) by transfer from the special banking account referred to in sub-section (3) of section 300 and where the company is wound up voluntarily, or subject to the supervision of the Court, the liquidator shall, when filing a statement in pursuance of sub-section (1) of section 300 indicate the sum of money which is payable to the Government Treasury under sub-section (1) which he has had in his hands or under his control during the six months preceding the date to which the said statement is brought down, and shall, within fourteen days of the date of filing the said statement, pay that sum into the Companies Liquidation Account.

(5) Any person claiming to be entitled to any money paid into the Companies Liquidation Account in pursuance of this section may apply to the Court for an order for payment thereof and the Court, if satisfied that the person claiming is entitled, may make an order for the payment to that person of the sum due:

Provided that before making such order the Court shall cause a notice to be served on such officer as Government may appoint in this behalf calling on the officer to show cause within one month from the date of the service of the notice why the order should not be made.

(6) Any money paid into the Companies Liquidation Account in pursuance of this section which remains unclaimed thereafter for a period of fifteen years, shall be transferred to the general revenue account of Government; but any claim preferred under sub-section (5) to any money so transferred shall be allowable as if such transfer had not been made, the order for payment on such claim being treated as an order for refund of revenue.

(7) Any liquidator retaining any money which should have been paid by him into the Companies Liquidation Account under this section shall pay interest on the amount retained at the rate of twenty per cent per annum and shall also be liable to pay any expenses occasioned by reason of his default, and, where the winding up is by or under the supervision of the Court, he shall also be liable to disallowance of all or such part of his remuneration as the Court may think just and to be removed from his office by the Court.

Court or
person before
whom affida-
vit may be
sworn.

302. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in Cochin State or British India or elsewhere within the dominions of His Majesty, before any Court, Judge or person lawfully authorised to take and receive affidavits, or in any part of India other than British India or Cochin State before any Court authorised or continued by the Central Government or the Crown Representative, or in any place outside His Majesty's dominions before any of His Majesty's Consuls or Vice-Consuls.

(2) All Courts, Judges, Justices, and persons acting judicially in Cochin State shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached,

appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Part.

Rules

303. (1) The High Court may, from time to time, make rules consistent with this Act and with the Cochin Code of Civil Procedure, XXIX of 1111, concerning the mode of proceedings to be had for winding up a company in the Courts subordinate thereto, and for voluntary winding up (both members and creditors), for the holding of meetings of creditors and members in connection with proceedings under section 189 of this Act, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-divisions of the shares of a company and generally for all applications to be made to the Court under the provisions of this Act and shall make rules providing for all matters relating to the winding up of companies which, by this Act, are to be prescribed.

Power of High Court to make rules.

(2) Without prejudice to the generality of the foregoing power, the High Court may by such rules enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the matters following, to be exercised or performed by the official liquidator, and subject to the control of the Court, that is to say, the powers and duties of the Court, in respect of—

(a) holding and conducting meetings to ascertain the wishes of creditors and contributories;

(b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets;

(c) requiring delivery of property or documents to the liquidator;

(d) making calls;

(e) fixing a time within which debts and claims must be proved:

Provided that the official liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without the special leave of the Court.

Removal of defunct Companies from Register

304. (1) Where the registrar has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter

Registrar may strike defunct company off register.

inquiring whether the company is carrying on business or in operation.

(2) If the registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received and that, if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Cochin Government Gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Cochin Government Gazette, and send to the company by post a notice that, at the expiration of three months from the date of that notice, the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the registrar may publish in the Cochin Government Gazette and send to the company a like notice as is provided in the last preceding sub-section.

(5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Cochin Government Gazette, and, on the publication in the Cochin Government Gazette of this notice, the company shall be dissolved: Provided that the liability (if any) of every director and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court, on the application of the company or member or creditor, may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director, manager or other officer of the company, or, if there is no director, manager or other officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART VI

REGISTRATION OFFICE AND FEES

305. (1) For the purposes of the registration of companies under this Act, there shall be offices at such places as the Government thinks fit, and no company shall be registered except at an office within the place in which, by the memorandum, the registered office of the company is declared to be established. Registration offices.

(2) The Government may appoint such registrars and assistant registrars as it thinks necessary for the registration of companies under this Act, and may make regulations with respect to their duties.

(3) The salaries of the persons appointed under this section shall be fixed by the Government.

(4) The Government may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(5) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Government, not exceeding one rupee for each

inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar on payment for the certificate, certified copy or extract, of such fees as the Government may appoint, not exceeding three rupees for a certificate of incorporation, and not exceeding six annas for every hundred words or fractional part thereof required to be copied.

(6) Whenever any act is by this Act directed to be done to or by the registrar it shall, until the Government otherwise directs, be done to or by the existing registrar of joint-stock companies or in his absence to or by such person as the Government may for the time being authorise; but in the event of the Government altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the Government may appoint.

Fees.

306. (1) There shall be paid to the registrar in respect of the several matters mentioned in Table B in the First Schedule the several fees therein specified; or such smaller fees as the Government may direct.

(2) All fees paid to the registrar in pursuance of this Act shall be accounted for to the Government.

**Enforcing
submission of
returns and
documents to
registrar.**

307. (1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver or send to the registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the Court may, on an application made to the Court by any member or creditor of the company or by the registrar, make an order directing the company and any officer thereof to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties

on a company or its officers in respect of any such default as aforesaid.

PART VII

APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS

308. In the application of this Act to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares; in the case of a company limited by guarantee as if the company had been formed and registered under this Act as a company limited by guarantee; and, in the case of a company, other than a limited company, as if the company had been formed and registered under this Act as an unlimited company:

Application of Act to companies formed under former Companies Acts.

Provided that—

(1) nothing in Table A in the First Schedule shall apply to a company formed and registered under Act IV of 1080;

(2) reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under Act IV of 1080.

309. This Act shall apply to every company registered but not formed under the Cochin Companies Act, IV of 1080, in the same manner as it is hereinafter in this Act declared to apply to companies registered but not formed under this Act:

Application of Act to companies registered but not formed under former Companies Acts.

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the said Act.

PART VIII

COMPANIES AUTHORISED TO REGISTER UNDER THIS ACT

310. (1) With the exceptions and subject to the provisions mentioned and contained in this section, any company formed after the 31st day of Karkadagam 1080 (15th day of August 1905) whether before or after the commencement of this Act, in pursuance of any Act of Parliament or Indian Law other than the Indian Companies Act, VII of 1913, or of Letters Patent, or being otherwise duly

Companies capable of being registered.

constituted according to law, and consisting of seven or more members, may at any time register under this Act as an unlimited company or as a company limited by shares or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up:

(2) Provided as follows.—

(a) a company having the liability of its members limited by Act of Parliament or Indian Law or by Letters Patent, and not being a joint-stock company as hereinafter defined, shall not register in pursuance of this section;

(b) a company having the liability of its members limited by Act of Parliament or Indian Law or by Letters Patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;

(c) a company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares;

(d) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or proxy (in cases where proxies are allowed by the articles) at a general meeting summoned for the purpose;

(e) where a company not having the liability of its members limited by Act of Parliament or Indian Law or by Letters Patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting;

(f) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding a specified amount.

(3) In computing any majority under this section when a poll is demanded regard shall be had to the

number of votes to which each member is entitled according to the articles.

(4) A company registered under the Cochin Companies Act, IV of 1080 shall not be registered in pursuance of this section.

311. For the purposes of this Part as far as relates to registration of companies as companies limited by shares, a joint-stock company means a company having a permanent paid up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons; and such a company, when registered with limited liability under this Act, shall be deemed to be a company limited by shares.

Definition of
"joint-stock
company".

312. Before the registration in pursuance of this Part of a joint stock company, there shall be delivered to the registrar the following documents (that is to say),—

Require-
ments for
registration
by joint-stock
companies.

(1) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;

(2) a copy of any Act of Parliament, Indian Law, Royal Charter, Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company; and

(3) if the company is intended to be registered as limited company, a statement specifying the following particulars (that is to say),—

(a) the nominal share capital of the company and the number of shares into which it is divided or the amount of stock of which it consists;

(b) the number of shares taken and the amount paid on each share ;

(c) the name of the company, with the addition of the word "Limited" as the last word thereof; and

(d) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

Requirements for registration by other than joint-stock companies.

313. Before the registration in pursuance of this Part of any company not being a joint-stock company, there shall be delivered to the registrar—

(1) a list showing the names, addresses and occupations of the directors of the company; and

(2) a copy of any Act of Parliament, Indian Law, Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company; and

(3) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

Authentication of statement of existing companies.

314. The list of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be duly verified by the declaration of any two or more directors or other principal officers of the company.

Registrar may require evidence as to nature of company.

315. The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined.

On registration of banking company with limited liability, notice to be given to customers.

316. (1) Where a banking company, which was in existence on the 31st day of Kanni 1081 (16th day of October 1905), proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at, or delivering it at, his last known address.

(2) If the company omits to give the notice required by this section, then as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Exemption of certain companies from payment of fees.

317. No fees shall be charged in respect of the registration in pursuance of this Part of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some Act of Parliament or Indian law or by Letters Patent.

318. When a company registers in pursuance of this Part with limited liability, the word "Limited" shall form and be registered as part of its name. **Addition of "Limited" to name.**

319. On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B in the First Schedule, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal. **Certificate of registration of existing companies.**

320. All property, movable and immovable, including all interests and rights in, to and out of property, movable and immovable, and including obligations and actionable claims as may belong to or be vested in a company at the date of its registration in pursuance of this Part shall, on registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein. **Vesting of property on registration.**

321. The registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred or any contract entered into, by, to, with, or on behalf of, the company before registration. **Saving of existing liabilities.**

322. All suits and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property and effects of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company. **Continuation of existing suits.**

323. When a company is registered in pursuance of this Part— **Effect of registration under Act.**

(i) all provisions contained in any Act of Parliament, Indian law, deed of settlement, contract of co-partnery, Letters Patent, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution

declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidence as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles;

(ii) all the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act subject as follows (that is to say).—

(a) the regulations in Table A in the First Schedule shall not apply unless adopted by special resolution;

(b) the provisions of this Act relating to the numbering of shares shall not apply to any joint-stock company whose shares are not numbered;

(c) subject to the provisions of this section, the company shall not have power to alter any provision contained in any Act of Parliament or Indian law relating to the company;

(d) subject to the provisions of this section, the company shall not have power, without the sanction of the Government, to alter any provision contained in any Letters Patent relating to the company;

(e) the company shall not have power to alter any provision contained in a Royal Charter or Letters Patent with respect to the objects of the company;

(f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability; or to pay or contribute to the payment of the cost and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid; and

in event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply;

(iii) the provisions of this Act with respect to—

(a) the registration of an unlimited company as limited;

(b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up;

(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up; shall apply notwithstanding any provisions contained in any Act of Parliament, Indian law, Royal Charter, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company;

(iv) nothing in this section shall authorise the company to alter any such provisions contained in any deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act;

(v) nothing in this Act shall derogate from any lawful power of altering its constitution or regulations which may, by virtue of any Act of Parliament, Indian Law, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, be vested in the company.

324. (1) Subject to the provisions of this section, a company registered in pursuance of this Part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

Power to substitute memorandum and articles for deed of settlement.

(2) The provisions of this Act with respect to confirmation by the Court and registration of an alteration of the objects of a company shall, so far as applicable, apply

to an alteration under this section with the following modifications.—

(a) there shall be substituted for the printed copy of the altered memorandum required to be filed with the registrar a printed copy of the substituted memorandum and articles ; and

(b) on the registration of the alteration being certified by the registrar, the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(4) In this section the expression "deed of settlement" includes any contract of co-partnership or other instrument constituting or regulating the company, not being an Act of Parliament, an Indian law, a Royal Charter or Letters Patent.

Power of
Court to stay
or restrain
proceedings.

325. The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

Suits stayed
on winding
up order.

326. Where an order has been made for winding up a company registered in pursuance of this Part, no suit or other legal proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

PART IX

WINDING UP OF UNREGISTERED COMPANIES

Meaning of
"unregistered
company".

327. For the purposes of this Part, the expression "unregistered company" shall not include a railway company incorporated by Act of Parliament or under British Indian law nor a company registered under the Cochin Companies Act, IV of 1080, or under the Indian Companies

Act, VII of 1913, as made applicable to Cochin State, or under this Act, but save as aforesaid, shall include any partnership, association or company consisting of more than seven members.

328. (1) Subject to the provisions of this Part, any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exceptions and additions.—

Winding up
of unregis-
tered com-
panies.

(i) an unregistered company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding up, be deemed to be registered in the place where its principal place of business is situate, or if it has a principal place of business situate in more than one place, then in each place where it has a principal place of business; and the principal place of business situate in that place in which proceedings are being instituted shall, for all the purposes of the winding up, be deemed to be the registered office of the company;

(ii) no unregistered company shall be wound up under this Act voluntarily or subject to supervision;

(iii) the circumstances in which an unregistered company may be wound up are as follows (that is to say).—

(a) if the company is dissolved, or has ceased to carry on business or is carrying on business only for the purpose of winding up its affairs;

(b) if the company is unable to pay its debts;

(c) if the Court is of opinion that it is just and equitable that the company should be wound up;

(iv) an unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary, or some director, manager or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;

(b) if any suit or other legal proceeding has been instituted against any member for any debt or demand due or claimed to be due, from the company or from him in his character of member, and notice in writing of the institution of the suit or other legal proceeding having been served on the company by leaving the same at its principal place of business or by delivering it to the secretary, or some director, manager or principal officer of the company or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured or compounded for the debt or demand, or procured the suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) if execution or other process issued on a decree or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied; and

(d) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) Nothing in this Part shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

(3) Where a company incorporated outside Cochin State which has been carrying on business in Cochin State ceases to carry on business in Cochin State it may be wound up as an unregistered company under this Part, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the company under which it was incorporated.

Contribu-
tories in
winding up of
unregistered
companies.

329. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of

the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of any contributory dying or being adjudged insolvent, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and to the assignees of insolvent contributories shall apply.

330. The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

Power to stay or restrain proceedings.

331. Where an order has been made for winding up an unregistered company, no suit or other legal proceedings shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

Suits stayed on winding up order.

332. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may, by the winding up order, or by any subsequent order, direct that all or any part of the property, movable or immovable, including all interests and rights in, to and out of property, movable and immovable, and including obligations and actionable claims as may belong to the company or to trustees on its behalf, is to vest in the official liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the official liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any suit or other legal proceeding relating to that property, or necessary to be brought or defended for the purposes of effectually winding up the company and recovering its property.

Directions as to property in certain cases.

333. The provisions of this Part with respect to unregistered companies shall be in addition to, and not in

Provisions of this Part cumulative.

restriction of, any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or official liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

PART X

COMPANIES ESTABLISHED OUTSIDE COCHIN STATE

Require-
ments as to
companies
established
outside
Cochin
State.

334. (1) Every company incorporated outside Cochin State which after the commencement of this Act establishes a place of business within Cochin State, shall, within one month from the establishment of such place of business, file with the registrar in the place in which such place of business is situated,—

(a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(b) the full address of the registered or principal office of the company;

(c) a list of the directors and managers (if any) of the company;

(d) the names and addresses of some one or more persons resident in Cochin State authorised to accept on behalf of the company service of process and any notices required to be served on the company;

(e) the full address of that office of the company in Cochin State which is to be deemed the principal place of business in Cochin State of the company and in the event of any alteration being made in any such instrument or in any such address or in the directors or managers or in the names or addresses of any such persons as aforesaid, the company shall, within the prescribed time, file with the registrar a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served, if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) Every company to which this section applies shall in every year file with the registrar of the place in which the company has its principal place of business—

(i) in a case where by the law, for the time being in force, of the country in which the company is incorporated such company is required to file with the public authority an annual balance-sheet,—three copies of that balance sheet and if the balance-sheet does not contain all the information provided for in the form marked H in the Third Schedule, such supplementary statements in triplicate as shall furnish such information; or

(ii) in a case where no such provision is made by the law, for the time being in force, of the country in which the company is incorporated,—such a statement in triplicate in the form of a balance-sheet as such company would, if it were a company formed and registered under this Act, be required to file in accordance with the provisions of this Act:

(4) Every company to which this section applies and which uses the word “Limited” as part of its name, shall—

(a) in every prospectus inviting subscriptions for its shares or debentures in Cochin State, state the country in which the company is incorporated; and

(b) conspicuously exhibit on every place where it carries on business in Cochin State the name of the company and the country in which the company is incorporated in letters easily legible in English and Malayalam characters; and

(c) have the name of the company and of the country in which the company is incorporated mentioned in legible English and Malayalam characters in all bill heads, and letter paper, and in all notices, advertisements and other official publications of the company.

(5) Every company to which this section applies shall if the liability of the members of the company is limited cause notice of that fact to be stated in legible characters in every prospectus inviting subscriptions for its shares, and in all bill heads and letter paper notices, advertisements and other official publications of the company in Cochin State and to be affixed on every place where it carries on business.

(6) If any company to which this section applies fails to comply with any of the requirements of this section

the company, and every officer or agent of the company, shall be liable to a fine not exceeding five hundred rupees or, in the case of a continuing offence, fifty rupees for every day during which the default continues.

(7) For the purposes of this section—

(a) the expression “certified” means certified in the prescribed manner to be a true copy or a correct translation;

(b) the expression “place of business” includes a share transfer or share registration office;

(c) the expression “director” includes any person occupying the position of director, by whatever name called; and

(d) the expression “prospectus” means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of the company.

(8) There shall be paid to the registrar for registering any document required by this section to be filed with him a fee of five rupees or such smaller fee as may be prescribed.

335. (1) It shall not be lawful for any person—

Restriction
on sale and
offer for sale
of share.

(a) to issue, circulate or distribute in Cochin State any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Cochin State whether the company has or has not established, or when formed will or will not establish, a place of business in Cochin State unless—

(i) before the issue, circulation or distribution of the prospectus in Cochin State a copy thereof, certified by the chairman and two other directors of the company as having been approved by resolution of the managing body, has been delivered for registration to the registrar;

(ii) the prospectus states on the face of it that the copy has been so delivered;

(iii) the prospectus is dated; and

(iv) the prospectus otherwise complies with this Part; or

(b) to issue to any person in Cochin State a form of application for shares in or debentures of such a company or intended company as aforesaid, unless the form is issued with a prospectus which complies with this Part:

Provided that this provision shall not apply if it is shown that the form of application was issued in connection

with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

(2) This section shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(3) Where any document by which any shares in or debentures of a company incorporated outside Cochin State are offered for sale to the public would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section 127 to be a prospectus issued by the company, that document shall be deemed to be, for the purposes of this section, a prospectus issued by the company.

(4) An offer of shares or debentures for subscription or sale to any person whose ordinary business or part of whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this section.

(5) Any person who is knowingly responsible for the issue, circulation or distribution of any prospectus, or for the issue of a form of application for shares or debentures, in contravention of the provisions of this section shall be liable to a fine not exceeding five thousand rupees.

(6) In this section and in section 336 the expressions "prospectus", "shares" and "debentures" have the same meanings as when used in relation to a company incorporated under this Act.

336. (1) In order to comply with this Part a prospectus, in addition to complying with the provisions of sub-clauses (ii) and (iii) of clause (a) of sub-section (1) of section 335 must—

(a) contain particulars with respect to the following matters.—

- (i) the objects of the company;
- (ii) the instrument constituting or defining the constitution of the company;

(iii) the enactments, or provisions having the force of an enactment, by or under which the incorporation of the company was effected;

(iv) an address in Cochin State where the said instrument, enactments or provisions, or copies thereof, and if the same are in a foreign language a translation thereof in the English language certified in the prescribed manner, can be inspected;

(v) the date on which and the country in which the company was incorporated;

(vi) whether the company has established a place of business in Cochin State and, if so, the address of its principal office in Cochin State:

Provided that the provisions of sub-clauses (i), (ii) and (iii) of this clause shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business;

(b) subject to the provisions of this section, state the matters specified in sub-section (2) of section 121 and set out the reports specified in that section:

Provided that—

(i) where any prospectus is published as a newspaper advertisement, it shall be a sufficient compliance with the requirement that the prospectus must specify the objects of the company if the advertisement specifies the primary object with which the company was formed, and

(ii) in section 121 of this Act a reference to the articles of the company shall be deemed to be a reference to the constitution of the company.

(2) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

(3) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

(a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or

(b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part, or

(c) the non-compliance or contravention was in respect of matters which, in the opinion of the Court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that in the event of failure to include in a prospectus a statement with respect to the matters specified in clause (p) of sub-section (1) of section 121, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(4) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act, apart from this section.

337. (1) It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public. **Restriction on canvassing for sale of shares.**

(2) In this sub-section the expression "house" shall not include an office used for business purposes.

(3) Any person acting in contravention of this section shall be liable to a fine not exceeding rupees one hundred.

338. The provisions of sections 141 to 150, both inclusive, and 153 to 158 both inclusive, shall extend to charges on properties in Cochin State which are created and to charges on property in Cochin State which is acquired after the 19th day of Meenam 1112 corresponding to 1st April 1937 by a company incorporated outside Cochin State which has an established place of business in Cochin State: **Registration of charges.**

Provided that, where a charge is created outside Cochin State or the completion of the acquisition of property takes place outside Cochin State, sub-clause (i) of the proviso to sub-section (1) of section 141 and the proviso to sub-section (1) of section 142 shall apply as if the property wherever situated were situated outside Cochin State.

Notice of
appointment
of receiver.

339. The provisions of sections 151 and 152 shall *mutatis mutandis* apply to the case of all companies incorporated outside Cochin State but having an established place of business in Cochin State and the provisions of section 163 shall apply to such companies to the extent of requiring them to keep at their principal place of business in Cochin State the books of account required by that section with respect to money received and expended, sales and purchases made, and assets and liabilities in relation to its business in Cochin State.

PART XI

BANKING COMPANIES

Definition of
banking
company.

340. A "banking company" means a company which carries on as its principal business the accepting of deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or order, notwithstanding that it engages in addition in any one or more of the following forms of business, namely.—

(1) the borrowing, raising or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting, and dealing in bills of exchange, hundis, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, travellers cheques and circular notes; the buying, selling and dealing in bullion and specie; the buying and selling of foreign exchange including foreign bank notes; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds; the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others; the negotiating of loans and advances; the receiving of all kinds of bonds, scrips or valuables on deposit, or for safe custody or otherwise; the collecting and transmitting of money and securities;

(2) acting as agents for Governments or local authorities or for any other person or persons; the carrying on of agency business of any description other than

the business of a managing agent of a company not being a banking company including the power to act as attorneys and to give discharges and receipts;

(3) contracting for public and private loans and negotiating and issuing the same;

(4) the promoting, effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, Municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;

(5) carrying on and transacting every kind of guarantee and indemnity business;

(6) promoting or financing or assisting in promoting or financing any business undertaking or industry, either existing or new, and developing or forming the same either through the instrumentality of syndicates or otherwise;

(7) acquisition by purchase, lease exchange, hire or otherwise of any property immovable or moveable and any rights or privileges which the company may think necessary or convenient to acquire or the acquisition of which in the opinion of the company is likely to facilitate the realisation of any securities held by the company or to prevent or diminish any apprehended loss or liability;

(8) managing, selling and realising all property movable and immovable which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;

(9) acquiring and holding and generally dealing with any property and any right, title or interest in any property movable or immovable which may form part of the security for any loans or advance or which may be connected with any such security:

(10) undertaking and executing trusts;

(11) undertaking the administration of estates as executor, trustee or otherwise;

(12) taking or otherwise acquiring and holding shares in any other company having objects similar to those of the company;

(13) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company or the dependents

or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;

(14) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company;

(15) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;

(16) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this section;

(17) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company:

Provided that any company which uses as part of the name under which it carries on business the word "bank", "banker" or "banking" shall be deemed to be a banking company notwithstanding that the accepting of deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or order, is not, or is not shown to be, the principal business of the company.

Limitation of activities of banking company.

341. (1) No company formed after the 19th day of Meenam 1112 (1st April 1937), for the purpose of carrying on business as a banking company or which uses as part of the name under which it proposes to carry on business the word "bank", "banker" or "banking" shall be registered under this Act, unless the memorandum limits the objects of the company to the carrying on of the business of accepting deposits of money on current account or otherwise subject to withdrawal by cheque, draft or otherwise along with some or all of the forms of business specified in section 340.

(2) No banking company whether incorporated in or outside Cochin State shall carry on any form of business other than those specified in section 340:

Provided that the Government may, by notification in the Cochin Government Gazette, specify in addition to the businesses set forth in clauses (1) to (17) of section 340

other forms of business which it may be lawful under this section for a banking company to engage in.

342. No banking company shall employ or be managed by a managing agent other than a banking company for the management of the company.

Banking company not to employ managing agent.

343. Notwithstanding anything contained in section 132 no banking company incorporated after the 19th day of Meenam 1112 (1st April 1937) shall commence business, unless shares have been allotted to an amount sufficient to yield a sum of at least fifty thousand rupees as working capital and unless a declaration duly verified by an affidavit signed by the directors and the manager that such a sum has been received by way of paid up capital has been filed with the registrar.

Restriction on commencement of business by banking company.

344. No banking company shall create any charge upon any unpaid capital of the company, and any such charge shall be invalid.

Prohibition of charge on unpaid capital.

345. (1) Every banking company shall, after the 19th day of Meenam 1112 (1st day of April 1937) maintain a reserve fund.

Reserve fund.

(2) Every banking company shall out of the declared profits of each year and before any dividend is declared transfer a sum equivalent to not less than twenty per cent of such profits to the reserve fund until the amount of the said fund is equal to the paid up capital.

(3) A banking company shall invest the amount standing to the credit of its reserve fund in Government securities or in securities mentioned or referred to in section 20 of the Cochin Trusts Act, 1113, or keep deposited in a special account to be opened by the company for the purpose in a scheduled bank as defined in clause (e) of section (2) of the Reserve Bank of India Act, 1934.

346. (1) Every banking company shall maintain by way of cash reserve in cash a sum equivalent to at least one and a half per cent of the time liabilities and five per cent of the demand liabilities of such company and shall file with the registrar before the tenth day of every month a statement of the amount so held on the Friday of each week of the preceding month with particulars of the time and demand liabilities of each such day.

Cash reserve.

(2) For the purposes of sub-section (1) "demand liabilities" means liabilities which must be met on demand

and "time liabilities" means liabilities which are not demand liabilities.

(3) Nothing in this section or in section 345 shall apply to a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

(4) If default is made in complying with the requirements of section 341, section 342, section 344, section 345, or section 347 or with the requirements of this section as to the maintenance of a cash reserve, every director or other officer of the company who is knowingly and wilfully a party to the default shall be liable to a fine exceeding five hundred rupees for every day during which the default continues, and if default is made in complying with the requirements of this section as to the filling of the statement referred to in sub-section (1), to a fine not exceeding one hundred rupees for every day during which the default continues.

**Restriction
on nature of
subsidiary
companies.**

347. (1) A banking company shall not form any subsidiary company except a subsidiary company formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor, trustee or otherwise and such other purposes set forth in section 340 as are incidental to the business of accepting deposits of money on current account or otherwise.

(2) Save as provided in sub-section (1), a banking company shall not hold shares in any company whether as pledgee, mortgagee, or absolute owner of an amount exceeding forty per cent of the issued share capital of that company:

Provided that nothing in this sub-section shall apply to shares held by a banking company before the 19th day of Meenam 1112 (1st April 1937).

**Power of
Court to stay
proceedings.**

348. (1) The Court may on the application of a banking company which is temporarily unable to meet its obligations make an order staying the commencement or continuance of all actions and proceedings against the company for a fixed period of time on such terms and conditions as it shall think fit and proper and may from time to time extend the period.

(2) No such application shall be maintainable unless accompanied by a report of the registrar.

Provided, however, the Court may, for sufficient reasons, grant interim relief, even if the application is not accompanied by such report.

(3) The registrar shall for the purposes of his report be entitled at the cost of the company to investigate the financial condition of the company and for such purpose to have the books and documents of the company examined by an accountant holding a certificate issued under section 180.

PART XII

SUPPLEMENTAL

LEGAL PROCEEDINGS, OFFENCES, ETC.

349. (1) No court inferior to that of a Magistrate of the first class shall try any offence against this Act. Cognizance of offences.

(2) Notwithstanding anything in the Code of Criminal Procedure II of 1086 every offence against this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

350. The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered. Applications of fines.

351. Where a limited company is plaintiff or petitioner in any suit or other legal proceeding, any Court having jurisdiction in the matter may, if it appears that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence; require sufficient security to be given for those costs, and may stay all proceedings until the security is given. Power to require limited company to give security for costs.

352. (1) If in any proceeding for negligence, default, breach of duty or breach of trust against a person to whom this section applies, it appears to the Court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think fit. Power of Court to grant relief in certain cases.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default,

breach of duty or breach of trust, he may apply to the Court for relief, and the Court on any such application shall have the same power to relieve him as under this section it would have had if it had been a Court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) The persons to whom this section applies are the following,—

- (a) directors of a company;
- (b) managers and managing agents of a company;
- (c) officers of a company;
- (d) persons employed by a company as auditors, whether they are or are not officers of the company.

Penalty for
false state-
ment.

353. Whoever in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Penalty for
wrongful
withholding
of property.

354. Any director, managing agent, manager or other officer or employee of a company who wrongfully obtains possession of any property of a company, or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or directed in the articles and authorised by this Act, shall, on the complaint of the company or any creditor or contributory thereof, be punishable with fine not exceeding one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied or in default to suffer imprisonment for a period not exceeding two years.

Penalty for
misapplica-
tion of secu-
rities by
employers.

355. (1) All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company in a special account to be opened by the company of the purpose in a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, and no portion thereof shall be utilised by the company except for the purposes agreed to in the contract of service.

(2) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by employees) or accruing by way of interest or otherwise to such fund after the 19th day of Meenam 1112 (1st April 1937) shall be either deposited in a Post Office Savings Bank account or invested in securities mentioned or referred to in clauses (a) to (e) of section 20 of the Cochin Trusts Act, 1113, and all moneys belonging to such fund after the said date which are not so deposited or invested shall be so deposited or invested in such securities by annual instalments not exceeding ten in number and not less in amount in any year than one-tenth of the whole amount of such moneys.

(3) Notwithstanding anything to the contrary in the rules of any fund to which sub-section (2) applies or in any contract between a company and its employees, no employee shall be entitled to receive in respect of such portion of the amount to his credit in such fund as is invested in accordance with the provisions of sub-section (2) interest at a rate exceeding the rate of interest yielded by such investment.

(4) An employee shall be entitled on request made in this behalf to the company to see the bank's receipt for any money or security such as is referred to the sub-section (1) and sub-section (2).

(5) Any director, managing agent, manager or other officer of the company who knowingly contravenes or permits or authorises the contravention of the provisions of this section shall be liable on conviction to a fine not exceeding five hundred rupees.

356. If any person or persons trade or carry on business under any name of title or which "Limited" is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine not exceeding fifty rupees for every day upon which that name or title has been used.

Penalty for improper use of word "Limited".

357. The provisions with respect to winding up contained in this Act shall not apply to any company of which the winding up has commenced before the 19th day of Meenam 1112 (1st April 1937), but every such company shall be wound up in the same manner and with the same incidents as if Proclamation IV of 1112 bringing into force

Saving of pending proceedings for winding up.

the Indian Companies (Amendment) Act, 1936, had not been promulgated.

Saving of document.

358. Every instrument of transfer or other document made before the commencement of this Act in pursuance of any enactment hereby repealed, shall be of the same force as if this Act had not been passed, and for the purposes of that instrument or document the repealed enactment shall be deemed to remain in full force.

Former registration offices, Registers and Registrars continued.

359. (1) The offices existing at the commencement of this Act for registration of joint-stock companies shall be continued as if they had been established under this Act.

(2) Registers of companies kept in any such existing offices shall respectively be deemed part of the registers of companies to be kept under this Act.

(3) The existing registrars, assistant registrars and officers in those offices shall, during the pleasure of the Government, hold the offices and receive the salaries hitherto held and received by them, but subject to any regulations of the Government with regard to the execution of their duties.

Savings for Provident Insurance Societies Act, 1110.

360. Nothing in this Act shall affect the provisions of the Provident Insurance Societies Act, II of 1110.

Construction of "Registrar of Joint-stock Companies" in Act II of 1088.

361. In sections 2 and 19 of the Act for the Registration of Literary, Scientific, and Charitable Societies, II of 1088, the words "Registrar of Joint-stock Companies" shall be construed to mean the registrar under this Act.

Act not to apply to Imperial Bank

362. Nothing in this Act shall be deemed to apply to the Imperial Bank of India.

Repeal of Acts and Savings.

363. (1) The enactments mentioned in the Fourth Schedule are hereby repealed:

Provided that the repeal shall not affect—

(a) the incorporation of any company registered under any enactment hereby repealed; nor.

(b) Table A in the Schedule annexed to the Cochin Companies Act IV of 1080, or any part thereof, so far as the same applies to any company existing on the first day of Vrischigam 1097 (16th day of November, 1921).

(c) Table A in the First Schedule annexed to the Indian Companies Act, VII of 1913 as made applicable to Cochin State or any part thereof, so far as the same applies to any company existing at the commencement of this Act.

(2) All fees directed, resolutions passed and other things duly done under any enactment hereby repealed, shall be deemed to have been directed, passed or done under this Act.

(3) The mention of particular matters in this section or in any other section of this Act shall not prejudice the general application of section 4 of the General Clauses Act III of 1079, with regard to the effect of repeals.

SCHEDULES**THE FIRST SCHEDULE**

(See sections 2, 17, 18, 83, 323)

TABLE A**REGULATIONS FOR MANAGEMENT OF A COMPANY
LIMITED BY SHARES****Preliminary**

1. In these regulations, unless the context otherwise requires, expressions defined in the Cochin Companies Act, 1120, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 132 of the Cochin Companies Act, 1120, if, and so far as, those restrictions are binding upon the company.

Shares

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine and any preference share may with the sanction of a special resolution be issued on the terms that it is or at the option of the company is liable to be redeemed.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may subject to the provisions of section 70 of the Cochin Companies Act, 1120, be varied with the consent in writing of the holders of three-fourth

of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five per cent of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections 130 and 133 of the Cochin Companies Act, 1120, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon: Provided that, in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding eight annas, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. Except to the extent allowed by section 59 of the Cochin Companies Act, 1120, no part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien

9. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause.

The company's lien, if any, on a share shall extend to all dividends payable, thereon.

10. The company may sell, in such manner as the director thinks fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or insolvency to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money; nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on shares

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payments) pay to the company at the times so specified the amount called on his shares.

13. The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of

any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and transmission of shares

18. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve :

I, A B of....., in consideration of the sum of rupees..... paid to me by C. D. of..... (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share [or shares] numbered..... in the undertaking called the..... Company, Limited, to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the..... day of.....

.....

Witness to the signatures of, etc.

20. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of

transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless,—

(a) a fee not exceeding two rupees is paid to the company in respect thereof; and

(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the company send to the transferee and the transferor notice of the refusal.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or insolvency of a member shall, upon such evidence being produced as may from time to time be required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent person before the death or insolvency.

23. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of shares

24. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days, from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company received payment in full of the nominal amount of the shares.

29. A duly verified declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof, shall constitute a good title to the share and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase-

money (if any), nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of shares into stock

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction re-convert any stock into paid-up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share-warrants), as are applicable to paid-up shares shall apply to stock, and the words "share" and "share-holder" therein shall include "stock" and "stockholder".

Share-warrants

35. The company may issue share-warrants, and accordingly the directors may in their discretion, with

respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors may from time to time require as to the identity of the person signing the request, and on receiving the certificate (if any) of the share, and the amount of the stamp duty on the warrant and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons or otherwise for the payment of dividends, or other moneys on the shares included in the warrant.

36. A share-warrant shall entitle the bearer to the shares included in it and the share shall be transferred by the delivery of the share-warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share-warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share-warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited, the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share-warrant. The company shall, on two days' written notice, return the deposited share-warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of share-warrant, sign a requisition for calling a meeting of the company, or attend, or vote or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share-warrant shall be entitled in a other respects to the same

privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share-warrant or coupon may be issued by way of renewal in case of defacement, loss or destruction.

Alteration of Capital

41. The directors may, with the sanction of the company in general meeting increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

44. The company may, by ordinary resolution,—

(a) consolidate and divide its share capital into shares of larger amount than its existing shares;

(b) by sub-division of its existing shares or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions

of paragraph (d) of sub-section (1) of section 53 of the Cochin Companies Act, 1120.

(c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

45. The company may, by special resolution, reduce its share capital in any manner and with, and subject to any incident authorised and consent required, by law.

General Meetings

46. The statutory general meeting of the company shall be held within the period required by section 81 of the Cochin Companies Act, 1120.

47. A general meeting shall be held within eighteen months from the date of its incorporation and thereafter once at least in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

48. The above-mentioned general meeting shall be called ordinary meetings; all other general meetings shall be called extraordinary.

49. The directors may, whenever they think fit, call an extraordinary general meeting, and extraordinary general meetings shall also be called on such requisition, or in default, may be called by such requisitionists, as provided by section 82 of the Cochin Companies Act, 1120. If at any time there are not within Cochin State sufficient directors capable of acting to form a quorum, any director or any two members of the company may call an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be called by the directors.

Proceedings at General Meeting

50. Subject to the provisions of sub-section (2) of section 85 of the Cochin Companies Act, 1120, relating to

special resolutions, fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but exclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the Cochin Companies Act, 1120, or the regulations of the company, entitled to receive such notices from the company; but the accidental omission to give notice to or the non-receipt of notice by any member shall not invalidate the proceedings at any general meeting.

51. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

52. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, two members in the case of a private company and five members in the case of any other company personally present shall be a quorum.

53. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if called upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

54. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

55. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

56. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

57. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of clause (c) of sub-section (1) of section 83 of the Cochin Companies Act 1120, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

58. If a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

59. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

60. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members

61. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote in respect of each share or each hundred rupees of stock held by him.

62. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

63. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

64. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

65. On a poll votes may be given either personally or by proxy: Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 84 of the Cochin Companies Act, 1120, is in force.

66. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation either under the common seal, or under the hand of an officer or attorney so authorised. No person shall act as a proxy unless he is a member of the company.

67. The instrument appointing a proxy and the power-of-attorney or other authority (if any), under which it is signed or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company not less than seventy-two hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

68. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve.—

Company, Limited

“I.....of.....in the district
of.....being a member of the.....
Company, Limited, hereby appoint.....of
.....as my proxy to vote for me and on my

behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on theday of.....and at any adjournment thereof”.

Signed this.....day of.....

Directors

69. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

70. The remuneration of the directors shall from time to time be determined by the company in general meeting.

71. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section 91 of the Cochin Companies Act, 1120.

Powers and duties of Director

72. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Cochin Companies Act, 1120, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Act, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation has not been made.

73. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors, but his appointment shall be subject to determination *ipso facto* if he ceases from any

cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

74. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

75. The directors shall duly comply with the provisions of the Cochin Companies Act, 1120, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company or created by it, and to keeping a register of the directors, and to sending to the registrar an annual list of members, and a summary of particulars relating thereto and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

76. The director shall cause minutes to be made in books provided for the purpose—

(a) of all appointments of officers made by the directors ;

(b) of the names of the directors present at each meeting of the directors and of any committee of the directors;

(c) of all resolutions and proceedings at all meetings of the company, and, of the directors, and of committees of directors ;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal

77. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall

sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors

78. The office of director shall be vacated if the director—

(a) fails to obtain within the time specified in sub-section (1) of section 91 of the Cochin Companies Act, 1120, or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment; or

(b) is found to be of unsound mind by a Court of competent jurisdiction; or

(c) is adjudged insolvent; or

(d) fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made; or

(e) without the sanction of the company in general meeting accepts or holds any office of profit under the company other than that of a managing director or manager or a legal or technical adviser or a banker; or

(f) absents himself from three consecutive meetings of the directors or from all meetings of the directors for a continuous period of three months, whichever is longer, without leave of absence from the board of directors; or

(g) accepts a loan from company; or

(h) is concerned or participates in the profits of any contract with the company; or

(i) is punished with imprisonment for a term exceeding six months :

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which he is director, but a director shall not vote in respect of any such contract or work, and if he does so vote, his vote shall not be counted.

Rotation of Directors

79. At the first ordinary meeting of the company, the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year, one-third of the directors for the time being or, if their number is not three or a multiple of three, then the number nearest to one-third shall retire from office.

80. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

81. A retiring director shall be eligible for re-election.

82. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

83. If at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors or such of them as have not had their places filled up shall be deemed to have been re-elected at the adjourned meeting.

84. Subject to the provisions of sections 88 and 89 of the Cochin Companies Act, 1120, the company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

85. Any casual vacancy occurring on the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

86. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

87. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors

88. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time, summon a meeting of directors.

89. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

90. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

91. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

92. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

93. A committee may elect a chairman of their meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

94. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.

95. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve

96. The company in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the directors.

97. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

98. No dividends shall be paid otherwise than out of profits of the year or any other undistributed profits.

99. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

100. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

101. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

102. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

103. No dividend shall bear interest against the company.

Accounts

104. The directors shall cause to be kept proper books of account with respect to—

(a) all sums of money received and expended by the company and the matters in respect of which the receipts and expenditure take place;

(b) all sales and purchases of goods by the company;

(c) the assets and liabilities of the company.

105. The books of account shall be kept at the registered office of the company or at such other place as the directors shall think fit and shall be open to inspection by the directors during business hours.

106. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the directors or by the company in general meeting.

107. The directors shall as required by sections 164 and 166 of the Cochin Companies Act, 1120, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, (income and expenditure accounts,) balance sheets, and reports as are referred to in those sections.

108. The profit and loss account shall in addition to the matters referred to in sub-section (3) of section 166 of the Cochin Companies Act, 1120, show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of

such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

109. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

110. A copy of the balance-sheet and report shall, fourteen days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

111. The directors shall in all respects comply with the provisions of sections 163 to 170 of the Cochin Companies Act, 1120, or any statutory modification thereof for the time being in force.

Audit

112. Auditors shall be appointed and their duties regulated in accordance with sections 180 and 181 of the Cochin Companies Act, 1120, or any statutory modification thereof for the time being in force.

Notices

113. (1) A notice may be given by the company to any member either personally or by sending it by post to him to his registered address or (if he has no registered address in Cochin State) to the address, if any, within Cochin State supplied by him to the company for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

114. If a member has no registered address in Cochin State, and has not supplied to the company an address within Cochin State for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of

the company shall be deemed to be duly given to him on the day on which the advertisement appears.

115. A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

116. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in Cochin State supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

117. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company (including bearers of share-warrants) except those members who (having no registered address within Cochin State have not supplied to the company an address within Cochin State for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or insolvency of a member, who but for his death or, insolvency would be entitled to receive, notice of the meeting.

TABLE B

(See sections 306 and 319)

Table of Fees to be paid to the Registrar

1.—By a company having a share capital

	Rs.	A.	P.
1. For registration of a company whose nominal share capital does not exceed Rs. 20,000, a fee of	40	0	0
2. For registration of a company whose nominal share capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital (that is to say)— For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees	20	0	0

	Rs.	A.	P.
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 50,000 rupees up to 10,00,000 rupees	5	0	0
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 10,00,000 rupees	1	0	0
3. For registration of any increase of share capital made after the first registration of the company, the same fees per 10,000 rupees or part of 10,000 rupees, as would have been payable if such increased share capital had formed part of the original share capital at the time of registration:			
Provided that no company shall be liable to pay in respect of nominal share capital on registration, or afterwards, any greater amount of fees than 1,000 rupees taking into account, in the case of fees payable on an increase of share capital after registration, the fees paid on registration.			
4. For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.			
5. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up	5	0	0
6. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of	5	0	0

II.—By a company not having a share capital

1. For registration of a company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
2. For registration of a company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
3. For registration of a company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
4. For registration of a company in which the number of members is stated in the articles of association to be unlimited, a fee of	400	0	0

Rs. A. P.

5. For registration of any increase on the number of members made after the registration of the company, the same fees as would have been payable in respect of such increase if such increase had been stated in the articles of association at the time of registration:

Provided that no one company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the company.

6. For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act the same fee as is charged for registering a new company:

7. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up

5 0 0

8. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of

5 0 0

THE SECOND SCHEDULE

(See sections 126 and 192)

Form I

THE COCHIN COMPANIES ACT, XI OF 1120

Statement in Lieu of Prospectus

filed by

..... Limited,

pursuant to section 126 of the Cochin Companies Act, XI of 1120.

Presented for filing by

The nominal share capital of the company	Rs.....
Divided into	Shares of Rs... .. each „ Rs..... each „ Rs... .. each
Amount (if any) of above capital which consists of redeemable preference shares	Shares of Rs..... each
The date on or before which these shares are, or are liable, to be redeemed	

Names, descriptions and addresses of directors or proposed directors and managers or proposed managers, and any provision in the articles, or in any contract, as to appointment of and remuneration payable to directors or managers.	
If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	<p>1. — shares of Rs.... fully paid.</p> <p>2. — shares upon which Rs..... per share credited as paid.</p> <p>3. Debenture Rs.....</p> <p>4. Consideration.</p>
Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company. Amount (in cash, shares or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property specifying amount (if any) paid or payable for goodwill.	<p>Total purchase price Rs.....</p> <p>Cash Rs.....</p> <p>Shares.. .. Rs.....</p> <p>Debentures Rs.....</p> <hr/> <p>Goodwill .. Rs.....</p>
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company ; or	Amount paid. Amount payable.
Rate of the commission.....	Rate per cent.

The number of shares, if any, which persons have agreed for a commission to subscribe absolutely	
Estimated amount of preliminary expenses	Rs.....
Amount paid or intended to be paid to any promoter	Name of promoter . . . Amount Rs.....
Consideration for the payment	Consideration.—
Dates of, and parties to every material contract (except contracts entered into in the ordinary course of the business intended to be carried on by the company or contracts, other than contracts appointing or fixing the remuneration of a managing director or managing agent, entered into more than two years before the delivery of the statement)	
Time and place at which the contracts or copies thereof may be inspected	
Names and addresses of the auditors of the company (if any)	
Full particulars of the nature and extent of the interest and every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company	

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above named as _____
 directors or proposed directors or of their _____
 agents authorised in writing). _____
 Date _____

Form II

THE COCHIN COMPANIES ACT, XI OF 1120

Statement in lieu of Prospectus

filed by

.....**Limited,**

pursuant to sub-section (1) of section 192 of the Cochin Companies Act, XI of 1120

Presented for filing by

The nominal share capital of the Company.	Rs.
Divided into	Shares of Rs. each. Shares of Rs. each. Shares of Rs. each.
Amount (if any) of above capital which consists of redeemable preference shares.	Shares of Rs. each.
The date on or before which these shares are, or are liable, to be redeemed.	

Names, descriptions and addresses of Directors or proposed Directors and Managers or proposed Managers, and any provision in the Articles, or in any contract, as to appointment of and remuneration payable to Directors or Managers.											
If the share capital of the Company is divided into different classes of shares, the right of voting at meetings of the Company conferred by and the rights in respect of capital and dividends attached to, the several classes of shares respectively.											
Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.	<ol style="list-style-type: none"> 1. Shares of Rs..... fully paid. 2. Shares upon which Rs.....per share credited as paid. 3. Debenture Rs..... 4. Consideration. 										
Names and addresses of vendors of property (1) purchased or acquired by the Company within the two years preceding the date of this Statement or (2) agreed or proposed to be purchased or acquired by the Company.											
Amount (in cash, shares or debentures) payable to each separate vendor.											
Amount (if any) paid or payable (in cash or shares or debentures) for any such property specifying amount (if any) paid or payable for goodwill.	<p>Total purchase price</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: right;">Rs.....</td> </tr> <tr> <td>Cash</td> <td style="text-align: right;">„ Rs.....</td> </tr> <tr> <td>Shares</td> <td style="text-align: right;">„ Rs.....</td> </tr> <tr> <td>Debentures</td> <td style="text-align: right;">„ Rs.....</td> </tr> <tr> <td>Goodwill</td> <td style="text-align: right;">„ Rs.....</td> </tr> </table>		Rs.....	Cash	„ Rs.....	Shares	„ Rs.....	Debentures	„ Rs.....	Goodwill	„ Rs.....
	Rs.....										
Cash	„ Rs.....										
Shares	„ Rs.....										
Debentures	„ Rs.....										
Goodwill	„ Rs.....										
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the Company; or Rate of the commission.	<p>Amount paid. Amount payable. Rate per cent.</p>										

<p>The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.</p>	
<p>Unless more than two years have elapsed since the date on which the Company was entitled to commence business.— Estimated amount of preliminary expenses. Amount paid or intended to be paid to any promoter. Consideration for the payment.</p>	<p>Rs. Name of promoter Amount Rs. Consideration.</p>
<p>Dates of, and parties to every material contract (except contracts entered into in the ordinary course of the business intended to be carried on by the Company or contracts, other than contracts appointing or fixing the remuneration of a Managing Director or Managing Agent, entered into more than two years before the delivery of this statement).</p>	
<p>Times and place at which the contracts or copies thereof may be inspected.</p>	
<p>Names and addresses of the Auditors of the Company.</p>	
<p>Full particulars of the nature and extent of the interest of every Director in the promotion of or in the property purchased or acquired by the Company within the two years preceding the date of this statement or proposed to be acquired by the Company or where the interest of such a Director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a Director, or otherwise for services rendered by him or by the firm in connection with the promotion of the formation of the Company.</p>	

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirements shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above named as Directors or proposed Directors or of their agents authorised in writing).

Dated the.....day of.....

THE THIRD SCHEDULE

FORM A

(See sections 6 and 187)

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

1st.—The name of the company is“.....”

2nd.—The registered office of the company will be situate in the taluk of.....

3rd.—The objects for which the company is established are “the conveyance of passengers, and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object”.

4th.—The liability of the members is limited.

5th.—The share capital of the company is two hundred thousand rupees, divided into one thousand shares of two hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we

respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers	Number of shares taken by each subscriber
1. A. B. of , merchant ..	200
2. C. D. ,, ' " ..	25
3. E. F. ,, ' " ..	30
4. G. H. ,, ' " ..	40
5. I. J. ,, ' " ..	15
6. K. L. ,, ' " ..	5
7. M. N. ,, ' " ..	10
Total shares taken ..	325

Dated the.....day of.....11....

Witness to the above signatures.

_____ X. Y. of....

FORM B

(See sections 7 and 187)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL

Memorandum of Association

1st.—The name of the company is“.....”

2nd.—The registered office of the company will be situate at.....

3rd.—The objects for which the company is established are “the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object”.

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among

themselves, such amount as may be required not exceeding one hundred rupees.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers

- "1. A. B. of
- "2. C. D. of
- "3. E. F. of
- "4. G. H. of
- "5. I. J. of
- "6. K. L. of
- "7. M. N. of

Dated the.....day of.....

Witness to the above signatures.

X. Y., of

ARTICLES OF ASSOCIATION TO COMPANY PRECEDING
MEMORANDUM OF ASSOCIATION

Number of Members

1. The company for the purpose of registration is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business or the association requires it, register an increase of members.

Definition of Members

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings

4. The first general meeting shall be held at such time not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general

meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

6. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, call an extraordinary general meeting.

8. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the company.

9. On receipt of the requisition the directors shall forthwith proceed to call a general meeting; if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members may themselves call a meeting.

Proceedings at General Meetings

10. Fourteen days' notice at the least, specifying the place, the day and hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting; but the non-receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of remuneration of the auditors.

12. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of

members is present at the commencement of the business. The quorum shall be ascertained as follows (that is to say).— If the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members with this limitation, that no quorum shall in any case exceed ten.

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if called on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Votes of Members

19. Every member shall have one vote and no more.

20. If any member is a lunatic or idiot, he may vote by his committee or other legal guardian.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll votes may be given either personally or by proxy: Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 84 of the Cochin Companies Act, 1120, is in force. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

23. (1) No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.

(2) The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

24. Any instrument appointing a proxy shall be in the following form.—

.....Company, Limited,.....
 I,.....,of.....,being a Member of the
 company, limited, hereby appoint.....
of.....
,as my proxy, to vote for me and on my behalf
 at the [ordinary or extraordinary, as the case may be]
 general meeting of the company to be held on the.....
 day of.....and at any adjournment thereof.

Signed this.....day of.....

Directors

Directors

25. The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

26. Until directors are appointed, the subscribers of the memorandum of association shall, for all the purposes of the Cochin Companies Act, 1120, be deemed to be directors.

Powers of Directors

27. The business of the company shall be managed by the directors, who may exercise all such powers of the

company as are not by the Cochin Companies Act, 1120, or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Elections of Directors

28. The directors shall be elected annually by the company in general meeting.

Business of Company

(Here insert rules as to mode in which business of insurance is to be conducted.)

Audit

29. Auditors shall be appointed and their duties regulated in accordance with sections 180 and 181 of the Cochin Companies Act, 1120, or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders," and as if "first general meeting" were substituted for "statutory meeting".

Notices

30. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address.

31. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Names, Addresses and Descriptions of Subscribers

- " 1. A. B. of
- " 2. C. D. of
- " 3. E. F. of
- " 4. G. H. of
- " 5. I. J. of
- " 6. K. L. of
- " 7. M. N. of

Dated the.....day of.....11..

Witness to the above signatures.

X. Y., of _____

FORM C

*(See sections 7 and 187)*MEMORANDUM AND ARTICLES OF ASSOCIATION OF A
COMPANY LIMITED BY GUARANTEE, AND
HAVING A SHARE CAPITAL**Memorandum of Association**

1st.—The name of the company is “.....”

2nd.—The registered office of the company will be situate in the taluk of—

3rd.—The objects for which the company is established are “the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers and the doing all such other things as are incidental or conducive to the attainment of the above object.”

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding fifty rupees.

6th.—The share capital of the company shall consist of five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers	Number of shares taken by each subscriber
" 1. A. B. of	200
" 2. C. D. of	25
" 3. E. F. of	30
" 4. G. H. of	40
" 5. I. J. of	15
" 6. K. L. of	5
" 7. M. N. of	10
Total shares taken ..	325

Dated the.....day of.....11..

Witness to the above signatures.

X. Y., of.....

Articles of Association to accompany preceding Memorandum of Association

1. The share capital of the company is five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the articles of Table A of the Cochin Companies Act, 1120, shall be deemed to be incorporated with these articles and to apply to the company.

Names, Addresses and Descriptions of Subscribers

" 1. A. B. of....., merchant.

" 2. C. D. of

" 3. E. F. of

" 4. G. H. of

" 5. I. J. of

" 6. K. L. of

" 7. M. N. of

Dated the.....day of.....11 ..

Witness to the above signatures.

X. Y., of.....

FORM D

(See sections 8 and 187)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN
UNLIMITED COMPANY HAVING A SHARE CAPITAL**Memorandum of Association**

1st.—The name of the company is “.....
.....”

2nd.—The registered office of the company will be
situate in the taluk of.....

3rd.—The objects for which the company is estab-
lished are “the working of a patent method of founding
and casting stereo-type plates of which method P. Q., of
....., is the sole patentee”.

We, the several persons whose names are subscribed,
are desirous of being formed into a company in pursuance
of this memorandum of association, and we respectively
agree to take the number of shares in the capital of the
company set opposite our respective names.

Names, addresses and descriptions of Subscribers	Number of shares taken by each Subscriber
“1. A. B. of	3
“2. C. D. of	2
“3. E. F. of	1
“4. G. H. of	2
“5. I. J. of	2
“6. K. L. of	1
“7. M. N. of	1
Total shares taken ..	12

Dated the..... day of..... 11....

Witness to the above signatures.

X. Y., of

**Articles of Association to accompany the preceding
Memorandum of Association**

1. The share capital of the company is twenty
thousand rupees, divided into twenty shares of one thousand
rupees each.

2. All the articles of Table A of the Cochin Companies Act, 1120, shall be deemed to be incorporated with these articles and to apply to the company.

Names, addresses and Descriptions of Subscribers

- "1. A. B. of _____, merchant.
 "2. C. D. of _____
 "3. E. F. of _____
 "4. G. H. of _____
 "5. I. J. of _____
 "6. K. L. of _____
 "7. M. N. of _____

Dated the..... day of..... 11.....

Witness to the above signatures.

X. Y., of

FORM E

AS REQUIRED BY PART II OF THE ACT

(See section 35)

Summary of Share Capital and Shares of the.....
 Company, Limited, made up to the.....day of.....
 11.....(being the day of the first ordinary general meeting
 in 11.....).

Nominal share capital Rs.....divided into*	{ shares of Rs.	each.
	{ shares of Rs.	each.
Total number of shares taken up* to the.....day of11.....which number must agree with the total shown in the list as held by existing members..	}	
Number of shares issued subject to payment wholly in cash		
Number of shares issued as fully paid up otherwise than in cash		
Number of shares issued as partly paid up to the extent of.... per share otherwise than in cash	}	
† There has been called up on each—of shares		Rs.
There has been called up on each—of shares	Rs.	
There has been called up on each—of shares	Rs.	
‡ Total amount of calls received, including payments on application and allotment	}	Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up otherwise than in cash		Rs.

* When there are shares of different kinds or amounts (e.g., Preference and Ordinary of Rs. 200 or Rs. 100) state the numbers and nominal values separately.

† Where various amounts have been called or there are shares of different kinds, state them separately.

‡ Include what has been received on forfeited as well as on existing shares.

Total amount (if any) agreed to be considered as paid on shares which have been issued as partly paid up to the extent of.... per share	} Rs.
Total amount of calls unpaid	} Rs.
Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary	} Rs.
Total amount (if any) paid on ** shares forfeited	} Rs.
Total amount of shares and stock for which share-warrants are outstanding	} Rs.
Total amount of share-warrants issued and surrendered respectively since date of last summary	} Rs.
Number of shares or amount of stock comprised in each share-warrant	} Rs.
Total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act	} Rs.

List of persons holding shares in the.....
 Company, Limited, on the.....day of.....11....,
 and of persons who have held shares therein at any time
 since the date of the last return, showing their names and
 addresses and an account of the shares so held.

* State the aggregate number of shares forfeited.

Folio in register ledger containing particulars	Names, Addresses and Occupations				Account of Shares				Remarks
	Name in full	Father's name	Address	Occupation or caste	* Number of shares held by existing Members at date of return	Number †	** Particulars of Shares transferred since the date of the last Return by persons who are still Members	Number †	
						Date of Registration of Transfer		Date of Registration of Transfer	

* State the aggregate number of shares forfeited (if any).

† The aggregate number of shares held and not the distinctive numbers, must be stated and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

‡ When the shares are of different classes, these columns may be sub-divided so that the number of each class held or transferred may be shown separately.

** The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the remarks column immediately opposite the particulars of each transfer.

Names and addresses of the persons who are the Directors of the....., Limited, on the.....day of.....11..

Names	Addresses

Names and addresses of the persons who are the managers of the.....Limited, on the.....day of.....11..

Names	Addresses

Note.—Banking companies must add a list of all their places of business.

I,....., do hereby certify that the above list and summary truly and correctly states the facts as they stood on.....day of.....11..

(Signature).....

(State whether director, manager or secretary)

FORM F
(See Section 166)

.....Limited

Balance-Sheet as at.....11.....

CAPITAL AND LIABILITIES	PROPERTY AND ASSETS
<p>Capital— Authorised Capital....shares of Rs.....each.....</p> <p>(Distinguishing between the various classes of Capital)</p> <p>Issued Capital....shares of Rs.....each ..</p> <p style="padding-left: 20px;">(i) Shares issued as fully paid up pursuant to any contract without payments being received in cash....shares of Rs.....each</p> <p style="padding-left: 20px;">(ii) Shares issued for payments in cash.... shares of Rs..... each</p> <p>Subscribed Capital....shares of Rs.....each.....</p> <p>Amount called up at Rs.....per share ..</p> <p>Less—Calls unpaid—</p> <p style="padding-left: 20px;">(i) due from Managing Agents ..</p> <p style="padding-left: 20px;">(ii) due from others ..</p>	<p>Fixed Capital Expenditure— (Distinguishing as far as possible between expenditure upon goodwill, land, buildings, lease-holds, railway sidings, plant, machinery, furniture, development of property, patents, trade marks and designs, interest paid out of Capital during construction, etc., and stating in every case the original cost and the additions thereto and deductions therefrom during the year, and the total depreciation written off under each head. Where sums have been written off on a reduction of capital or a re-valuation of assets every balance-sheet after the first balance-sheet subsequent to the reduction or revaluation shall show the reduced figures, with the date of and the amount of the reduction made)</p> <p>Preliminary Expenses</p>

CAPITAL AND LIABILITIES	PROPERTY AND ASSETS
<p><i>Add</i>—Forfeited shares (amount paid up) <i>Note.</i>—Where circumstances permit issued and subscribed capital and amount called up may be shown as one item, e.g., Issued and Subscribed Capital... shares of Rs.....each, Rs.....paid up</p>	<p>Commission or Brokerage (Commission or Brokerage paid for underwriting or placing or subscribing shares or debentures until written off)</p>
<p>Reserves</p>	<p>Discount Allowed on the issue of shares or so much as has not been written off at the date of the balance-sheet</p>
<p>Debentures stating the nature of security</p>	<p>Stores and Spare Parts</p>
<p>Any Sinking Fund</p>	<p>Loose Tools</p>
<p>Any other Fund Created out of Net Profits, including any development fund</p>	<p>Live-stock and vehicles</p>
<p>Any Pension or Insurance Fund</p>	<p>Stock in Trade</p>
<p>Provision for Bad and Doubtful Debts</p>	<p>(Stating mode of valuation, e.g., cost or market value)</p>
<p>Loans—</p>	<p>Bills of exchange</p>
<p>(a) Secured—</p>	<p>Book Debts</p>
<p>(i) loans on mortgages or fixed assets</p>	<p>(Distinguishing between those considered good and in respect of which the company is fully secured and those considered good for which the company holds no security other than the debtor's personal security, and distinguishing between debts considered good and debts considered doubtful or bad. Debts due by directors or other officers of the company or any of them either severally or jointly with any other persons to be separately stated)</p>
<p>(ii) loans on debentures</p>	
<p>(iii) loans from banks, stating the nature of security</p>	
<p>(iv) liabilities to subsidiary companies</p>	

CAPITAL AND LIABILITIES				PROPERTY AND ASSETS			
(v) other secured loans, stating the nature of security				Advances			
(vi) interest accrued on mortgages, debentures or other secured loans				(Recoverable in cash or in kind or for value to be received, e.g., Rates, Taxes, Insurance, etc., showing separately—			
(b) Unsecured—				(i) loans given to subsidiary companies			
(i) loans from banks				(ii) loans including temporary advances made at any time during the year to directors or managers of the company)			
(ii) fixed deposits				Investments			
(iii) short term loans				(Showing nature of investments and mode of valuation, e.g., Cost or Market value and distinguishing—			
(iv) advances by directors or managers and managing agents				(i) investments in Government or trust securities			
(v) interest accruing but not due and interest accrued and due				(ii) investments in shares, debentures or bonds (showing separately shares fully paid up and partly paid up)			
(vi) liabilities to subsidiary companies				(iii) investments in shares, debentures or bonds of subsidiary companies			
Unclaimed Dividends				(iv) immovable properties			
Liabilities—							
For Goods supplied							
For Expenses							
For Acceptances							
For Other Finance							

CAPITAL AND LIABILITIES	PROPERTY AND ASSETS
Advance payments and unexpired dis- counts (For the portion for which value has still to be given, e. g., in the case of the following classes of companies— Newspaper, Fire Insurance, Theatre, Club, Banking, Steamship Companies, etc.) Profit and Loss	Interest Accrued on Investments Cash and other Balances Amount in hand Balances with Agents and Bankers (in detail showing whether on deposit or current account, etc.) Profit and Loss
Contingent Liabilities— Claims against the company not acknowledged as debts Money for which the company is contingently liable (Showing separately the amount of any guarantees given by the company on behalf of directors or officers of the company) Arrears of Cumulative Preference Dividends	

The information required to be given under any of the items or sub-items in this Form if not included in the Balance-Sheet itself shall be furnished in a separate Schedule or Schedules to be attached to and to form part of the Balance-Sheet.

FORM G

*(See Section 171)*FORM OF STATEMENT TO BE PUBLISHED BY
BANKING AND INSURANCE COMPANIES
AND DEPOSIT, PROVIDENT, OR
BENEFIT SOCIETIES

*The share capital of the company is Rs.....
divided into.....shares of Rs.....each.

The number of shares issued is.....
Calls to the amount of Rs.....per share
have been made, under which the sum of Rs.....
has been received.

The liabilities of the company on the last day of
Karkadagam (or the last day of Makaram) were—

Debts owing to sundry persons by the company;

Under decree, Rs.

On mortgages or bonds, Rs.

On notes, bills or hundis, Rs.

On other contracts, Rs.

On estimated liabilities, Rs.

The assets of the company on that day were;

Government securities stating them, Rs.

Bill of exchange, hundis and promissory notes,
Rs.

Cash at the Bankers, Rs.

Other securities, Rs.

FORM H

*(See Section 334)*INFORMATION TO BE SUPPLIED IN OR IN ADDITION
TO THE INFORMATION CONTAINED IN THE
BALANCE-SHEET OF A COMPANY REFERRED
TO IN PART X**Liabilities**

1. *Summary of Authorised Share Capital and Issued Share Capital.*

2. *Redeemable Preference Shares, stating date on or before which the shares are or are liable to be redeemed.*

3. *Debentures stating the nature of the Security.*

*If the company has no capital divided into shares, the portion of the statement relating to capital and share must be omitted.

4. Redeemed debentures which the Company has power to re-issue.
5. Loans (a) secured, stating the nature of the security; (b) unsecured.
6. Loans from Banks.—
 - (a) Secured, stating nature of security.
 - (b) Unsecured.
7. Profit and Loss Account, showing (unless disclosed in a separate account).—
 - Balance as per previous Balance-Sheet.
 - Appropriation thereof.
 - Profit since last Balance-Sheet.
8. Contingent Liabilities.
9. Arrears of Cumulative Preference Dividend.

Assets

1. Fixed Assets, with sufficient particulars to disclose their general nature, and stating how their values are arrived at.
2. Preliminary expenses, so far as not written off.
3. Any expenses incurred in connection with any issue of Share Capital or Debentures, so far as not written off.
4. If it is shown as a separate item in or is otherwise ascertainable from the books of the Company, or from any contract for the sale or purchase of any property to be acquired by the Company, or from any documents in the possession of the Company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property the amount of the goodwill and of any patents and trade marks as so shown or ascertained.
5. Interest paid on Capital, so far as not written off, showing the Share Capital on which and the rate at which interest has been paid out of Capital during the period to which the accounts relate.
6. Discount allowed on Shares issued, so far as not written off.
7. Commission paid or allowed in respect of any shares or debentures, so far as not written off.
8. Loans outstanding to enable employees or trustees on their behalf to purchase shares in the Company.

9 Particulars showing.—

(a) the amount of any loans which during the period to which the accounts relate have been made either by the Company or by any other person under a guarantee from or on a security provided by the Company to any director or officer of the Company, including any such loans which were repaid during the said period;

and

(b) the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof;

and

(c) the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the Company or by or from any subsidiary Company.

Note (1).—There shall not be required to be shown.—

(a) in the case of a Company the ordinary business of which includes the lending of money, loans made by the Company in the ordinary course of its business;

or

(b) loans made by the Company to any employee of the Company if the loan does not exceed twenty thousand rupees and is certified by the directors of the Company to have been made in accordance with any practice adopted or about to be adopted by the Company with respect to loans to its employees.

Note (2).—The foregoing shall not apply in relation to a Managing Director of the Company, and in the case of any other director who holds any salaried employment or office in the Company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors' fees.

(Where a company is a holding company then the Balance-Sheet shall disclose the particulars required by section 167.)

THE FOURTH SCHEDULE

(See section 363)

(1) Proclamation dated 19th Thulam 1097 bringing into force the Indian Companies Act, VII of 1913.

(2) The Cochin Companies (Amendment) Act, XII of 1108.

(3) Proclamation IV of 1112 dated 13th Meenam 1112, bringing into force the Indian Companies (Amendment) Act, XXII of 1936.

(4) The Act to amend the Indian Companies Act, 1913, as made applicable to Cochin by His Highness the Maharaja's Proclamation dated 19th Thulam 1097 (VIII of 1113)

(5) The Indian Companies (Amendment) Act as made applicable to Cochin by His Highness the Maharaja's Proclamations dated the 19th Thulam 1097 and the 13th Meenam 1112. (XII of 1114).

(6) The Act to amend the Indian Companies Act as made applicable to Cochin (VII of 1116)

(7) The Act to amend the Indian Companies Act as made applicable to Cochin (VIII of 1117)

APPENDIX I

(Table A in the First Schedule to Act IV of 1080)

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES

Shares

(1) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3) If such certificate is worn out or lost, it may be renewed on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares

(4) The directors may from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent per annum from the day appointed for the payment thereof to the time of the actual payment.

(7) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and, upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares

(8) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

(9) Shares in the Company shall be transferred in the following form:

I, A B of....., in consideration of the sum of rupees.....paid to me by C D of....., do hereby transfer to the said C D the share (or shares numberedstanding in my name in the books of the.....Company, to hold unto the said C D, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof; and I, the said C D, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands the..... day of.....

(10) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares

(12) The executors or administrators of a deceased member shall be the only persons recognised by the Company as having any title to his share.

(13) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence

of the marriage of any female member, may be registered as a member upon such evidence being produced as may, from time to time, be required by the Company.

(14) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares

(17) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time there-after, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interests and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the company and may be disposed of in such manner as the Company in general meeting thinks fit.

(21) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests herein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part the consolidated stock as would not, if existing in shares have conferred such privileges or advantages.

Increase in Capital

(26) The directors may with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meetings directs, or, if no direction is given as the directors think expedient.

(27) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings

(29) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place as the directors may determine.

(30) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(34) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the required number, may themselves convene an extraordinary general meeting.

Proceedings at General Meeting

(35) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(37) No business shall be transacted at any general meeting except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say.—If the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation that no quorum shall in any case exceed twenty.

(38) If, within one hour from the time appointed for the meeting, a quorum is not present, the meeting if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die*.

(39) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the Company.

(40) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43) If a poll is demanded by five or more members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

Votes of Members

(44) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and, if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48) Votes may be given either personally or by proxy.

(49) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51) Any instrument appointing a proxy shall be in the following form.—

..... Company, Limited.

I,....., of....., being a member of the.....Company, Limited, and entitled to.....vote or.....votes, hereby appoint....., of....., as my proxy to vote for me and on my behalf at the [ordinary or extraordinary as the case may be] general meeting of the Company to be held on the..... day of....., and at any adjournment thereof (or at any meeting of the Company that may be held in the year.....).

As witness my hand, this.....day of.....
Signed by the said.....in the presence of.....

Directors

(52) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of directors

(55) The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company and may exercise all such powers of the company as are not by this Act, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of this Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of directors

(57) The office of director shall be vacated—
if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the company;
if he becomes bankrupt or insolvent;
if he is punished under any of the penal provisions of the foregoing Act;
if he is concerned in or participates in the profits of any contract with the company.

But the above rules shall be subject to the following exceptions.—
that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which he is director; nevertheless, he shall not vote

in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of directors

(58) At the first ordinary meeting after the registration of the Company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The Company in general meeting may by a special resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of directors

(66) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected or if at any meeting the chairman is not present at the

time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committees so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends

(72) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73) No dividend shall be payable except out of the profits arising from the business of the Company.

(74) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77) No dividend shall bear interest as against the Company.

Accounts

(78) The directors shall cause true accounts to be kept—
of the stock in trade of the Company;
of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and
of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meetings, shall be open to the inspection of the members during the hours of business.

(79) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to date not more than three months before such meeting.

(80) The statement so made shall show, arranged under the most convenient heads, the amount of gross income distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit

(83) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86) The auditors may be members of the Company, but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company, and no director or other officer of the Company is eligible during his continuance in office.

(87) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88) The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the Company in general meeting.

(89) Any auditor shall be re-eligible on his quitting office.

(90) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91) If no election of auditors is made in manner aforesaid the Government may, on the application of not less than five members of the Company, appoint an auditor for the current year and fix the remuneration to be paid to him by the Company for his services.

(92) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94) The auditors shall make a report to the members upon the balance-sheet and accounts, and in such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices

(95) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Form of Balance-sheet referred to in Table A

Dr.

Balance-sheet of the.....Company made up to.....11..*

Cr.

Capital and Liabilities				Property and Assets					
			Rs.	As.			Rs.	As.	
I.—Capital	Showing—				III.—Property held by the Company	Showing—			
	1	The number of shares ..				7	Immovable property— distinguishing—		
	2	The amount paid per share ..					(a) Freehold land ..		
	3	If any arrears of calls, the nature of the arrear and the names of the defaulters ..					(b) „ buildings ..		
	4	The particulars of any forfeited shares ..			8	Movable property— distinguishing—			
II.—Debts and Liabilities of the Company		Showing—				(d) Stock-in-trade ..			
	5	The amount of loans or mortgages or debenture bonds				(e) Plant			
						The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss			

*See clauses 81 and 82 of the foregoing Table A.

Capital and liabilities				Property and Assets					
			Rs.	A.			Rs.	A.	
II. Debts and Liabilities of the Company.—(cont.)	6	The amount of debts owing by the Company—distinguishing—			IV.—Debts owing to the Company.	9	Showing— Debts considered good for which the Company hold bills or other securities ..		
		(a) Debts for which acceptances have been given ..				10	Debts considered good for which the Company hold no security..		
		(b) Debts to tradesmen for supplies of stock-in-trade or other articles ..				11	Debts considered doubtful and bad ..		
		(c) Debts for law expenses ..					Any debt due from a Director or other officer of the Company to be separately stated		
		(d) Debts for interest on debentures or other loans ..							
		(e) Unclaimed dividends ..							
		(f) Debts not enumerated above ..							

Capital and Liabilities				Property and Assets			
		Rs.	A.			Rs.	A.
VI—Reserve Fund	Showing— The amount set aside from profits to meet contingencies.			V.—Cash and Investments	12	Showing— The nature of investment and rate interest The amount of cash, where lodged and if bearing interest	
	Showing— The disposable balance for payment of dividends, etc.				13		
VII.—Profit and loss							
Contingent Liabilities	Claims against the Company not acknowledged as debts Moneys for which the Company is contingently liable.						

APPENDIX II

Table A in the First Schedule to the Indian Companies Act, VII of 1913, as made applicable to Cochin by His Highness the Maharaja's Proclamation dated 19th Thulam 1097 and 13th Meenam 1112.

MEMORANDUM OF ASSOCIATION OF A COMPANY
LIMITED BY SHARES

1st.—The name of the company is“.....”

2nd.—The registered office of the company will be situate in the taluk of.....

3rd.—The objects for which the company is established are “the conveyance of passengers, and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object”.

4th.—The liability of the members is limited.

5th.—The share capital of the company is two hundred thousand rupees, divided into one thousand shares of two hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers	Number of shares taken by each subscriber
1. A. B. of , merchant ..	200
2. C. D. „ , „ ..	25
3. E. F. „ , „ ..	30
4. G. H. „ , „ ..	40
5. I. J. „ , „ ..	15
6. K. L. „ , „ ..	5
7. M. N. „ , „ ..	10
Total shares taken ..	325

Dated the.....day of.....11....

Witness to the above signatures.

X. Y. of....

THE COCHIN STARTING OF KURIES RESTRICTION ACT

(XII of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement
2. Restriction on the starting of Kuries
3. Foreman's Prize amount in certain Kuries to be invested in securities specified by Government
4. Penalties
5. Application of Kuries Act not barred.

THE COCHIN STARTING OF KURIES RESTRICTION ACT

*Passed by His Highness the Maharaja of Cochin
on the 15th day of Kumbham 1120 corresponding to
the 26th day of February 1945.*

[Published in the Cochin Government Gazette
dated 20th Kumbham 1120]

WHEREAS it is necessary to restrict and impose con- Preamble.
ditions upon the starting of kuries and to provide for the
investment of the prize amounts drawn by foremen; It is
hereby enacted as follows.—

1. (1) This Act may be called the Cochin Starting Short title,
of Kuries Restriction Act, XII of 1120. extent and
commence-
ment.

(2) It extends to the whole of Cochin State and
shall come into force at once.

2. (1) Except with the consent of Government or of Restriction
such officer as may be authorised by them in this behalf, on the start-
ing of kuries.
no one shall, after the commencement of this Act, start a
kuri as defined in the Cochin Kuries Act, VII of 1107 and
registrable under the said Act, and no vaimpu shall be
registered under section 7 of the said Act, unless the fore-
man files along with the vaimpu the order sanctioning the
starting of the kuri.

(2) No foreman shall issue or publish in Cochin State any notice, circular or other document inviting the public to subscribe for tickets in any intended kuri, or containing the terms and conditions of any such kuri unless such notice, circular or other document contains a statement that the consent of Government has been obtained for the starting of the kuri.

(3) If any foreman contravenes the provisions of sub-section (2), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Foreman's prize amount in certain kuries to be invested in securities specified by Government.

3. Where the foreman of a kuri started on or after the 1st day of Chingam 1118 is a company incorporated in Cochin State or not, the working capital or paid-up capital of which is not less than three lakhs of rupees or twenty-five thousand rupees respectively, the foreman shall subject to such restrictions and conditions as Government may, by notification in the Cochin Government Gazette impose, invest in such securities as may be specified by Government by like notification, seventy-five per cent of the prize amounts in respect of the Kai Narak and other extra tickets, if any, subscribed for by him which accrue due after the commencement of this Act and such investment shall be made within three months from the date on which such amount is due to the foreman under the provisions of the vaimpu.

Penalties.

4. If a foreman makes default in investing the prize amounts in the manner provided for in section 3, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues and every officer of the company who is responsible for the proper conduct of the kuri under the terms of the vaimpu and who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Application of the Kuries Act not barred.

5. The provisions of this Act shall be in addition to and not in derogation of the provisions contained in the Cochin Kuries Act, VII of 1107.

THE COCHIN EMPLOYMENT OF CHILDREN ACT

(XIII of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition of employment of children in certain occupations.
4. Power to amend the Schedule.
5. Notice to Inspector before carrying on work in certain processes.
6. Disputes as to age.
7. Penalty.
8. Procedure relating to offences.
9. Appointment of Inspectors.
10. Power to make rules.
11. Amendment of section 6, Act VI of 1113.

THE COCHIN EMPLOYMENT OF CHILDREN ACT

*Passed by His Highness the Maharaja of Cochin
on the 29th day of Kumbham 1120 corresponding to
the 12th day of March 1945.*

[Published in the Cochin Government Gazette,
dated 11th Meenam 1120]

WHEREAS it is expedient to regulate the admission of children to certain industrial employments; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Employment of Children Act, XIII of 1120. **Short title, extent and commencement.**
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once.
2. In this Act— **Definitions.**
 - (a) "occupier" of a workshop means the person who has ultimate control over the affairs of the workshop;
 - (b) "prescribed" means prescribed by rules made under this Act;
 - (c) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions

Prohibition of employment of children in certain occupations.

of section 50 of the Cochin Factories Act, II of 1113, for the time being apply.

3. (1) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation involving the handling of goods within the limits of any port to which for the time being any of the provisions of the Cochin Ports Act, VI of 1113, are applicable.
- (2) No child who has not completed his twelfth year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on:

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour or to any school established by, or receiving assistance or recognition from, Government.

Power to amend the Schedule.

4. Government, after giving, by notification in the Cochin Government Gazette, not less than three months' notice of their intention so to do, may, by like notification, add any description of process to the Schedule, and thereupon the Schedule shall have force in the State as if it has been enacted accordingly.

Notice to Inspector before carrying on work in certain processes.

5. Before work in any of the processes set forth in the Schedule is carried on in any workshop after such date as may be notified by Government in this behalf, the occupier shall send to the Inspector, within whose local limits the workshop is situated, a written notice containing—

- (a) the name and situation of the workshop,
- (b) the name of the person in actual management of the workshop,
- (c) the address to which communications relating to the workshop should be sent, and
- (d) the nature of the processes to be carried on in the workshop.

Disputes as to age.

6. If any question arises between an Inspector and an employer as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be, the question shall, in the absence of a certificate as to the age

of such child, granted by a prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

7. Whoever employs any child or permits any child to work in contravention of the provisions of section 3 or fails to give notice as required by section 5 shall be punishable with fine which may extend to five hundred rupees. **Penalty.**

8. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of an Inspector appointed under section 9. **Procedure relating to offences.**

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

9. Government may appoint persons to be Inspectors for the purpose of securing compliance with the provisions of this Act, and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Cochin Penal Code. **Appointment of Inspectors.**

10. (1) Government may, by notification in the Cochin Government Gazette, and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act. **Power to make rules.**

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

(a) regulate the procedure of Inspectors appointed under section 9, and

(b) make provision for the grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificates, the form of such certificate, the charges which may

be made therefor, and the manner in which such certificates may be issued;

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned.

Amendment
of section 6,
Act VI of
1113.

11. Sub-section (2) of section 6 of the Cochin Ports Act, VI of 1113, and the words, brackets, figure and letter "and sub-section (2)" in sub-section (3) of the said section shall be omitted.

THE SCHEDULE

(See sections 3, 4 and 5)

List of Processes

1. Carpet-weaving.
2. Cement manufacture, including bagging of cement.
3. Cloth-printing, dyeing and weaving.
4. Manufacture of explosives and fire-works.
5. Mica-cutting and splitting.
6. Shellac manufacture.
7. Soap manufacture.
8. Tanning.
9. Wool cleaning.

THE COCHIN EMPLOYERS' LIABILITY ACT

(XIV of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Defence of common employment barred in certain cases.
4. Risk not to be deemed to have been assumed without full knowledge.
5. Saving.

THE COCHIN EMPLOYERS' LIABILITY ACT

*Passed by His Highness the Maharaja of Cochin
on the 29th day of Kumbham 1120 corresponding to
the 12th day of March 1945.*

[Published in the Cochin Government Gazette,
dated 11th Meenam 1120]

WHEREAS it is expedient to declare that certain de- Preamble.
fences shall not be raised in suits for damages in Cochin
State in respect of injuries sustained by workmen; It is
hereby enacted as follows.—

1. (1) This Act may be called the Cochin Employ- Short title,
ers' Liability Act, XIV of 1120. extent and
commence-
ment.

(2) It shall come into force at once.

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

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

(a) "workman" means any person who has entered
into, or works under a contract of, service or apprentice-
ship with an employer whether by way of manual labour,
clerical work or otherwise, and whether the contract is ex-
pressed or implied, oral or in writing, and

(b) "employer" includes any body of persons
whether incorporated or not, and any managing agent of
an employer and the legal representatives of a deceased
employer, and, where the services of a workman are tem-
porarily lent or let on hire to another person by the person
with whom the workman has entered into a contract of
service or apprenticeship, means such other person while
the workman is working for him.

3. Where a personal injury is caused to a workman—

(a) by reason of the omission of the employer to Defence of
maintain in good and safe condition of any way, works, common em-
machinery or plant connected with or used in his trade or ployment
business, or by reason of any like omission on the part of barred in
any person in the service of the employer who has been certain cases.
entrusted by the employer with the duty of seeing that such
way, works, machinery or plant are in good and safe
condition; or

(b) by reason of the negligence of any person in
the service of the employer who has any superintendence
entrusted to him, whilst in the exercise of such superin-
tendence; or

(c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or

(d) by reason of any act or omission of any person in the service of the employer done or made in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved) or in obedience to particular instructions given by any person to whom the employer has delegated authority in that behalf or in the normal performance of his duties;

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of the employer.

Risk not to be deemed to have been assumed without full knowledge.

4. In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

Saving.

5. Nothing in this Act shall affect the validity of any decree or order of a Civil Court passed before the commencement of this Act in any such suit for damages.

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT

(XV of 1120)

CONTENTS

Preamble

Sections

1. Short title, and commencement.
2. Amendment to section 2.
3. Amendment to section 3.
4. Amendment to section 5.
5. Amendment to section 8.
6. Substitution of section 10.
Notice and claim.
7. Amendment to section 13.
8. Amendment to section 16.
9. Amendment to section 16A.

10. Amendment to section 19.
11. Amendment to section 22.
12. Amendment to section 29.
13. Amendment to section 30.
14. Amendment to section 32.
15. Amendment to section 33.
16. Amendment to Schedule I.
17. Substitution of Schedule II.
18. Amendment to Schedule IV.

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 9th day of Meenam 1120 corresponding to
the 22nd day of March 1945.*

[Published in the Cochin Government Gazette,
dated 11th Meenam 1120]

WHEREAS it is deemed necessary further to amend **Preamble.**
the Workmen's Compensation Act, V of 1111; It is hereby
enacted as follows.—

1. This Act may be called the Workmen's Compensa- **Short title
and com-
mencement.**
tion (Amendment) Act, XV of 1120 and shall come
into force at once.

2. In section 2 of the Workmen's Compensation Act, **Amendment
to section 2.**
V of 1111, hereinafter referred to as the Act—

(1) in sub-section (1)—

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

“(d) ‘dependant’ means any of the following
relatives of a deceased workman, namely.—

(i) A widow, a minor legitimate son, and unmarried
legitimate daughter, or a widowed mother, and

(ii) if wholly or in part dependant on the earnings
of the workman at the time of his death, a widower, a
parent other than a widowed mother, a minor illegitimate
son, an unmarried illegitimate daughter, a daughter legiti-
mate or illegitimate if married and a minor or if widowed,
a minor brother, an unmarried or widowed sister, a
widowed daughter-in-law, a minor child of a deceased son,
a minor child of a deceased daughter where no parent of
the child is alive, or, where no parent of the workman is
alive, a paternal grandparent;”

and (b) in sub-clause (ii) of clause (1) between the words "writing" and "and" the following shall be inserted.—

"but does not include any person working in the capacity of a member of the Military Forces of this Government or of His Majesty's Naval, Military or Air Forces."

**Amendment
to section 3.**

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

"(2) If a workman employed in any employment specified in Part A of Schedule II contracts any disease specified therein as an occupational disease peculiar to that employment,

or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Part B of Schedule II, contracts any disease specified therein as an occupational disease peculiar to that employment,

the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer, in the same kind of employment."

**Amendment
to section 5.**

4. In section 5 of the Act—

(a) for the words "For the purposes of this Act the monthly wages of a workman shall be calculated as follows, namely.—", the words "In this Act and for the purposes thereof the expression 'monthly wages' means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely.—" shall be substituted;

(b) in clause (b) the words "deemed to be" shall be omitted; and

(c) in the explanation for the word "sub-section" the word "section" shall be substituted.

**Amendment
to section 8**

5. In sub-section (4) of section 8 of the Act for the words "disabled workman" the words "deceased workman" shall be substituted.

6. For section 10 of the Act the following shall be substituted.— Substitution
of section 10.

“10. (1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death : Notice and
claim.

Provided that, where the accident is the contracting of a disease in respect of which the provisions of subsection (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

Provided, further, that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim—

(a) if the claim is preferred in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed had knowledge of the accident from any other source at or about the time when it occurred :

Provided, further, that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the

accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed, a notice book in the prescribed form which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice book is maintained, by entry in the notice book."

**Amendment
to section 13.**

7. In sub-section (6) of section 13 of the Act—

(1) for the words "if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable" the words "if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions, and that such refusal, disregard or failure was unreasonable", shall be substituted.

(2) between the words "medical practitioner" and the words "and compensation" the words "whose instructions he had followed" shall be inserted.

**Amendment
to section 16.**

8. In sub-section (4) of section 16 of the Act for the word "debits" the word "debts" shall be substituted.

**Amendment
to section
16A.**

9. In section 16A of the Act sub-section (4) shall be deleted and sub-section (5) re-numbered as sub-section (4).

**Amendment
to section 19.**

10. In section 19 of the Act for the words "a certificate granted by a qualified medical practitioner shall be conclusive proof of the age of such person" the words "a valid certificate granted in respect of such person under section 12 or section 52 of the Cochin Factories Act, II of 1113, before the occurrence of the injury shall be conclusive proof of the age of such person", shall be substituted.

11. For sub-section (1) of section 22 of the Act the following shall be substituted.— Amendment to section 22.

“(1) The Government may, by notification in the Cochin Government Gazette, appoint any person to be a Commissioner for workmen's compensation for such local area as may be specified in the notification.”

12. In section 29 of the Act for the words “Chief Court” the words “High Court” shall be substituted. Amendment to section 29.

13. In sub-section (2) of section 30 of the Act for the words “the Indian Contract Act, 1872, as extended to Cochin State” the words “The Cochin Contract Act, XXIII of 1112” shall be substituted. Amendment to section 30.

14. In section 32 of the Act—

(1) in sub-section (1) for the words “Chief Court” the words “High Court” shall be substituted; and Amendment to section 32.

(2) in the first proviso to clause (e) of sub-section (1) between the words “dispute” and “is” the words “in the appeal” shall be inserted.

15. In section 33 of the Act for the words “Chief Court” the words “High Court” shall be substituted. Amendment to section 33.

16. In Schedule I to the Act for the entry “[See sections 3 (1) and (4)]” the words “[See sections 2 (j) and 4]”, shall be substituted. Amendment to Schedule I.

17. For Schedule II to the Act the following shall be substituted.— Substitution of Schedule II.

SCHEDULE II

(See section 3)

List of Occupational Diseases

Occupational disease	Employment
Part A	
Anthrax	Any employment— (a) involving the handling of wool, hair, bristles or animal carcasses, or parts of such carcasses including hides, hoofs and horns; or (b) in connection with animals infected with anthrax; or

	(c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelae	Any process carried on in compressed air
Poisoning by lead tetraethyl	Any process involving the use of lead tetraethyl
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes

Part B

Lead poisoning or its sequelae (excluding poisoning by lead tetraethyl)	Any process involving the use of lead (or any of its preparations or compounds except lead tetraethyl)
Phosphorous poisoning or its sequelae	Any process involving the use of phosphorous or its preparations or compounds
Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or compounds
Poisoning by benzene and its homologues, or the sequelae of such poisoning	Handling benzene or any of its homologues; and any process in the manufacture or involving the use of benzene or any of its homologues
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium or other preparations
Arsenical poisoning or its sequelae	Any process involving the production, liberation or utilisation of arsenic or its compounds
Pathological manifestations due to (a) radium and other radio-active substances ; (b) X-rays	Any process involving exposure to the action of radium, radio-active substances, or X-rays
Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin or the compounds, products or residues of these substances

Amendment
to Schedule
IV

18. In Schedule IV to the Act—

(a) in clause (i) for the words “mechanically propelled vehicles” the words “a lift or a vehicle propelled by steam or other mechanical power or by electricity” shall be substituted ;

(b) after clause (xx) the following clauses shall be inserted, namely.—

“(xxi) employed in the tapping of cocoanut palm or trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires ; or

(xxii) employed in operations for the catching or hunting of elephants or other wild animals ; or”

(c) the existing clause (xxi) shall be renumbered as clause (xxiii) and after that clause as so renumbered the following word and clauses shall be inserted, namely.—

“or

(xxiv) employed in the handling or transport of goods in, or within the precincts of,—

(a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(b) any markets in which on any one day of the preceding twelve months one hundred or more persons have been so employed ; or

(xxv) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radio-active substances.”

PROCLAMATION

(XIV of 1120)

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

*on the 23rd day of Meenam 1120, corresponding
to the 5th day of April 1945.*

[Published in the Cochin Government Gazette, dated 25th Meenam 1120]

WHEREAS some of the electors of the constituencies of the Cochin Legislative Council are serving outside the State in various services connected with the War, and WHEREAS it may not be possible for them to record their votes in person at the General Election to be held in 1120, and WHEREAS it is deemed necessary to make provision for enabling such electors to record their votes by proxy, and to provide for certain other matters regarding the preparation and publication of the Rolls; WE are hereby pleased to command. —

(1) That an elector of a constituency of the Cochin Legislative Council who is away from Cochin State and serving in the Cochin State Forces or in the Army, Navy or Air Force of His Majesty or in the Indian States Labour Units or in the Liaison or Welfare

Staff of such Units or as a War Technician shall be entitled to exercise his vote by proxy on his application therefor to the prescribed authority being allowed.

(2) That an elector who has appointed a proxy shall not be entitled to revoke the appointment and thereafter the proxy so appointed shall alone be entitled to exercise the franchise in respect of that elector.

(3) That a list hereinafter referred to as the Roll of Proxies shall be prepared and published in the Offices of the Registration Officers under the authority of the Diwan Peishkar and the Roll of Proxies shall contain the names of the electors and their proxies and such other particulars as may be prescribed.

(4) That the Roll of Proxies shall be final and conclusive and shall not be liable to be questioned on any ground in any civil court or in any enquiry conducted by Commissioners appointed to enquire into election petitions.

(5) That the proxy whose name has been entered on the Roll of Proxies shall be entitled to record a vote in respect of every elector for whom he is acting as proxy on the strength merely of his name appearing on such Roll as a proxy for that elector and the exercise by the proxy of a vote for and on behalf of an elector shall be in addition to any other vote to which the proxy may be entitled in any other capacity and that the application by a proxy for a voting paper in respect of a vote which he is entitled to as a proxy shall not be deemed notwithstanding anything contained in section 157 D of the Cochin Penal Code or in the Cochin Legislative Council Electoral Rules, to constitute an offence of personation.

(6) That OUR GOVERNMENT may by rules prescribe the time within which the electors have to apply for permission to exercise their votes by proxy, the qualifications of proxies, the authority to whom such applications should be made, the particulars to be contained in such applications, the mode of disposal of such applications, the mode of preparation and publication of the Roll of Proxies, the mode of identification of proxies, the mode of recording of votes by them, and for such other matters as are considered necessary by OUR GOVERNMENT to carry into effect the provisions of this Proclamation.

(7) That the Diwan Peishkar shall have and shall always be deemed to have had the power to fill up vacancies occurring among the non-official members of the Revising Authorities appointed to dispose of claims and objections in respect of the Preliminary Electoral Rolls prepared during the year 1120, and that the Electoral Rolls of the Cochin Legislative Council prepared during the year

1120 shall not be called in question in any civil court or in any inquiry conducted by Commissioners appointed to enquire into election petitions on the ground that the Diwan Peishkar has filled up vacancies among the non-official members of the Revising Authorities or on the ground that the Preliminary and Final Electoral Rolls of the Cochin Legislative Council prepared during the year 1120 are not published in the Cochin Government Gazette.

THE COCHIN TAPIOCA PRODUCTS (EXCISE DUTY) AMENDMENT PROCLAMATION
(XV of 1120)

Preamble
Sections

CONTENTS

1. Short title and commencement.
2. Amendment to section 2.
3. Amendment to section 3.
4. Amendment to Schdeule.

THE COCHIN TAPIOCA PRODUCTS (EXCISE DUTY) AMENDMENT PROCLAMATION
(XV of 1120)

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin
on the 23rd day of Meenam 1120, corresponding to
the 5th day of April 1945.*

[Published in the Cochin Government Gazette,
dated 25th Meenam 1120]

WHEREAS it is deemed necessary to amend the Cochin Tapioca Products (Excise Duty) Proclamation, X of 1120, We are hereby pleased to command as follows.—

1. This Proclamation may be called the Cochin Tapioca Products (Excise Duty) Amendment Proclamation, XV of 1120, and it shall come into force at once. Short title and commencement.
2. In clause (c) of section 2 of the Cochin Tapioca Products (Excise Duty) Proclamation, X of 1120, hereinafter referred to as the Proclamation, the words “as being subject to a duty of excise” shall be deleted. Amendment to section 2.
3. In section 3 of the Proclamation for the words “at the rates set forth in the Schedule” the words “at such rates as Government may, from time to time, by notification in the Cochin Government Gazette specify in this behalf” shall be substituted. Amendment to section 3.
4. Column 3 of the Schedule to the Proclamation shall be deleted. Amendment to Schedule.

THE RAILWAY STORES (UNLAWFUL) POSSESSION PROCLAMATION

(XVI of 1120)

CONTENTS

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Unlawful possession of railway stores.

THE RAILWAY STORES (UNLAWFUL POSSESSION) PROCLAMATION (XVI of 1120)

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 20th day of Medam 1120, corresponding
to the 2nd day of May 1945.*

[Published in the Cochin Government Gazette dated
23rd Medam 1120]

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

Short title,
extent and
commence-
ment.

1. (1) This Proclamation may be called the Railway Stores (Unlawful Possession) Proclamation, XVI of 1120.

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

(3) It shall come into force at once.

Definitions.

2. In this Proclamation "federal railway" has the meaning assigned to it in the Government of India Act, 1935 and "railway stores" includes any article used or intended to be used in the construction, operation or maintenance of a railway.

Unlawful
possession of
railway
stores.

3. Whoever is found or is proved to have been in possession of any article of railway stores shall, if the court sees reasonable grounds for believing such article to be or to have been the property of the administration of any federal railway, 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.

**HOARDING AND PROFITEERING PRE-
VENTION (AMENDMENT)
PROCLAMATION**

(XVII of 1120)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 4.
4. Amendment of section 6.
5. Amendment of section 9.
6. Substitution of new section for section 9A.
7. Amendment of section 11.
8. Amendment of section 12.
9. Amendment of section 13.
10. Amendment of section 14A.
11. Amendment of section 14B.

**HOARDING AND PROFITEERING PREVENTION
(AMENDMENT) PROCLAMATION
(XVII OF 1120)**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 22nd day of Edavam 1120, corresponding
to the 4th day of June 1945.*

[Published in the Cochin Government Gazette, dated
27th Edavam 1120]

WHEREAS it is necessary further to amend the Hoarding and Profiteering Prevention Proclamation, VIII of 1119; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Hoarding and Profiteering Prevention (Amendment) Proclamation, XVII of 1120. Short title and commencement.

(2) It shall come into force at once.

2. In sub-clause (i) of clause (f) of section 2 of the Hoarding and Profiteering Prevention Proclamation, VIII of 1119, (hereinafter referred to as the Proclamation), after the words "another person" the words "or when held by that person on behalf of another person" shall be inserted. Amendment of section 2.

3. To section 4 of the Proclamation the following sub-section shall be added, namely.— Amendment of section 4.

"(3) Where any article is sold, offered for sale or otherwise disposed of in contravention of sub-section (1)

by a dealer or producer through any person employed by him or acting on his behalf, such person and also, unless they prove that they exercised due diligence to prevent such contravention, the dealer or producer, as the case may be, and any person having charge on behalf of the dealer or producer of the place where the contravention occurred, shall be liable to the punishment provided by sub-section (1) of section 13, whether or not they were present when the contravention occurred."

Amendment
of section 6.

4. In section 6 of the Proclamation,—

(1) in sub-section (2)—

(a) in sub-clause (i) of clause (b), for the words "a port" the words "the port of entry" shall be substituted;

(b) in clause (c), after the words "cost of production" the following shall be inserted, namely.—

"of the article, such cost of production being deemed to be exclusive of the amount, if any, by which the price paid by the producer for any component part of the article exceeded—

(i) the maximum price fixed for the component part under section 3 and in force at the time of its purchase by the producer, or

(ii) where no maximum price has been so fixed for the component part, 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 of the component part:"

(c) in the proviso, for the words beginning with "and unless such report has been made" and ending with "for a consideration which is unreasonable" the following shall be substituted, namely.—

"and the dealer or producer, as the case may be, shall be deemed to sell for a consideration which is unreasonable if such report has not been made or if after such report has been made and the Director has varied such addition, the price charged exceeds the limits approved by the Director under this proviso".

(2) The following sub-section shall be added, namely.—

"(5) Where any article is sold, offered for sale or otherwise disposed of in contravention of sub-sec-

tion (1) by a dealer or producer through any person employed by him or acting on his behalf, such person and also, unless they prove that they exercised due diligence to prevent such contravention, the dealer or producer, as the case may be, and any person having charge on behalf of the dealer or producer of the place where the contravention occurred, shall be liable to the punishment provided by sub-section (1) of section 13, whether or not they were present when the contravention occurred."

5. In section 9 of the Proclamation, after the word "limits" the words "if any" shall be inserted. Amendment of section 9.

6. For section 9A of the Proclamation the following section shall be substituted, namely.— Substitution of new section for section 9A.

"9A. *Power of Director to order or prohibit sale.*—The Director may, by order in writing, direct any dealer or producer—

(a) to sell to any specified person any specified article or articles in such quantity, within the limits if any as to quantity imposed by this Proclamation, as may be specified in the order;

(b) not to sell, except to such persons as the Director may, in the order or otherwise, specify, any specified articles or classes of articles for such period not exceeding twenty-one days as may be specified in the order."

7. In sub-section (2) of section 11 of the Proclamation, after the word "alter" the words "or cause to be destroyed, effaced or altered" shall be inserted. Amendment of section 11.

8. In section 12 of the Proclamation—

(1) in clause (f) of sub-section (1) for the words "has been" the words "has been, is being or is about to be" shall be substituted. Amendment of section 12.

(2) The following sub-section shall be added, namely.—

"(3) The Director and such inspectors and other officers as may be empowered by Government in this behalf shall within the respective areas for which they are appointed have power to investigate all offences punishable under this Proclamation, and in conducting any such investigation shall, within the said areas, have all the powers, duties, privileges and liabilities of an officer in charge of a police station under the Code of Criminal Procedure, Act II of 1086, when investigating a cognisable offence within the limits of his station."

340 *Hoarding and Profiteering Prevention* [1120: Pro. XVII
(Amendment)]

Amendment
of section 13.

9. To section 13 of the Proclamation the following sub-section shall be added, namely.—

“(4) Notwithstanding anything to the contrary in clause (a) of sub-section (1) of section 18 of the Code of Criminal Procedure, Act II of 1086, a Magistrate of the first class specially empowered by Government in this behalf may impose a sentence of fine exceeding one thousand rupees for any offence punishable under this Proclamation.”

Amendment
of section 14
A.

10. In section 14A of the Proclamation, for the word “may” the word “shall” shall be substituted.

Amendment
of section 14
B.

11. In sub-section (3) of section 14B of the Proclamation, for the words “evidence of that landed cost” the following shall be substituted, namely.—

“proof of that landed cost, and in giving the said certificate, such of the following charges as are actually incurred in connection with the article shall be taken into account, namely, buying commission, insurance premium, freight, customs duty paid, landing and clearing charges up to deposit of the article in the importer’s warehouse or other place of storage, and charges made by banks for transmitting shipping documents”.

RESTRICTING OF LABOUR RECRUITING PROCLAMATION

(XVIII of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Previous sanction of Government necessary for recruitment of labour.
3. Penalties.

**RESTRICTION OF LABOUR RECRUITING PROCLAMATION
(XVIII of 1120)**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 22nd day of Edavam 1120 corresponding
to the 4th day of June 1945*

[Published in the Cochin Government Gazette, dated
27th Edavam 1120]

WHEREAS it is deemed necessary to prohibit the recruitment of labour personnel for service outside Cochin State except at the instance of or with the permission of Government; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Restricting of Labour Recruiting Proclamation XVIII of 1120. Short title, extent and commencement.
- (2) It extends to the whole of Cochin State and shall come into force at once.

2. No person shall, except at the instance of or with the previous sanction in writing of Our Government and subject to such terms and conditions as Our Government may deem fit to impose, obtain or attempt to obtain recruits for labour from Cochin State for service outside the State. Previous sanction of Government necessary for recruitment of labour.

3. Whoever, in contravention of the provisions of section 2 or of any terms or conditions subject to which permission to recruit may have been accorded,—

- (a) induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtain employment as labour personnel outside Cochin State; or
 - (b) knowingly aids in the engagement of any person so induced by forwarding or conveying or by advancing money or in any other way whatever,
- shall be liable to imprisonment of either description for a term which may extend to seven years or to fine or to both. Penalties.

**THE COCHIN REVENUE ENQUIRIES
(AMENDMENT) ACT**

(XVI of 1120)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Substitution of new section for section 6.
Examination of witnesses.
Statements of witnesses not to be used as evidence in certain cases.

**THE COCHIN REVENUE ENQUIRIES (AMENDMENT) ACT
(XVI of 1120)**

*Passed by His Highness the Maharaja of Cochin,
on the 10th day of Mithunam 1120 corresponding
to the 24th day of June 1945*

**[Published in the Cochin Government Gazette,
dated 16th Mithunam 1120]**

Preamble.

WHEREAS it is deemed necessary to amend the Cochin Revenue Enquiries Act, I of 1084; It is hereby enacted as follows.—

**Short title
and com-
mencement.**

1. This Act may be called the Cochin Revenue Enquiries (Amendment) Act, XVI of 1120 and it shall come into force at once.

**Substitution
of new
section for
section 6.**

2. For section 6 of the Cochin Revenue Enquiries Act, I of 1084, the following section shall be substituted, namely.—

**Examination
of witnesses.**

“6. Any Officer making an enquiry under this Act may examine orally any person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and may reduce into writing any statement by the person so examined.

Such person shall be bound to answer truly all questions relating to such matter put to him by such officer, other than questions the answers to which would have a tendency to expose him to criminal charge or to a penalty or forfeiture.

**Statements of
witnesses not
to be used as
evidence in
certain cases.**

No such statement, when taken in the absence of a public servant whose conduct is under enquiry, shall be used as evidence against such public servant in any judicial proceedings.”

THE COCHIN VERUMPATTAMDARS (AMENDMENT) ACT

(XVII of 1120)

CONTENTS

Preamble

Sections

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

THE COCHIN VERUMPATTAMDARS (AMENDMENT) ACT

XVII of 1120)

*Passed by His Highness the Maharaja of Cochin,
on the 14th day of Mithunam 1120, corresponding
to the 28th day of June 1945.*

[Published in the Cochin Government Gazette
dated 23rd Mithunam 1120]

WHEREAS it is expedient further to amend the Cochin Verumpattamdars Act, VIII of 1118; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Verumpattamdars (Amendment) Act, XVII of 1120. Short title,
extent and
commence-
ment.

(2) It extends to the whole of Cochin and shall come into force at once.

2. For sub-sections (2) and (3) of section 5 of the Cochin Verumpattamdars Act, VIII of 1118, the following Amendment
of section 5. shall be substituted.—

“(2) Where cocoanut is the major produce of a garden land and the pattam fixed therefor under the contract of tenancy is payable in money, it shall be obligatory on the part of the verumpattamdar to give and the lessor to accept the pattam accruing due after the commencement of this Act in kind computed on the basis of the average market value of cocoanuts for a period of twenty years prior to the date of the contract of tenancy or the money value thereof computed at the market rate prevailing on the date on which such pattam accrues due:

Provided that—

(1) where the date of the contract of tenancy is after the commencement of this Act and before the

commencement of the Cochin Verumpattamdars (Amendment) Act, XVII of 1120, the pattam payable in kind under this sub-section shall be computed on the basis of the market value of cocoanuts prevailing on the date of the contract of tenancy ;

(2) where the money value computed under this sub-section exceeds the pattam payable in money fixed under the contract of tenancy, the pattam payable shall be the money pattam fixed in the contract of tenancy together with half of such excess ;

(3) where the pattam payable in money fixed under the contract of tenancy exceeds the money value computed under this sub-section the pattam payable shall be the money value computed under this sub-section together with half of such excess ;

(4) where there is a contract by the verumpattamdar to pay the tax of the holding and such tax is included in the pattam fixed in the contract of tenancy such tax shall be payable by the verumpattamdar only in money and the same shall be excluded in computing the pattam payable in kind or the money value thereof.

(3) The market rate and the average rate for cocoanuts for the purpose of sub-section (2) shall be deemed to be such rates as Government or such officer specially authorised may by notification in the Cochin Government Gazette specify in this behalf."

THE LAND ACQUISITION (AMENDMENT)

ACT

(XVIII of 1120)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 34.

**THE LAND ACQUISITION (AMENDMENT) ACT
(XVIII of 1120)**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 14th day of Mithunam 1120, corresponding
to the 28th day of June 1945*

[Published in the Cochin Government Gazette
dated 23rd Mithunam 1120]

WHEREAS it is deemed necessary further to amend the Land Acquisition Act, II of 1070; It is hereby enacted as follows.—

1. (1) This Act may be called the Land Acquisition (Amendment) Act, XVIII of 1120. Short title and commencement.
- (2) It shall come into force at once.
2. In sub-section (1) of section 34 of the Land Acquisition Act, II of 1070, for the words "three years" occurring between "exceeding" and "from" the words "five years" shall be substituted. Amendment of section 34.

**THE COCHIN COURT FEES (AMENDMENT)
ACT
(XIX of 1120)
CONTENTS**

Preamble

Sections

1. Short title, extent and commencement.
2. Amendment of section 4.

**THE COCHIN COURT FEES (AMENDMENT) ACT
(XIX of 1120)**

*Passed by His Highness the Maharaja of Cochin
on the 14th day of Mithunam 1120 corresponding
to the 28th day of June 1945*

[Published in the Cochin Government Gazette
dated 23rd Mithunam 1120]

WHEREAS it is expedient to further amend the Law relating to Court Fees; It is hereby enacted as follows:— Preamble.

1. (1) This Act may be called the Cochin Court Fees (Amendment) Act, XIX of 1120. Short title, extent and commencement.

(2) It extends to the whole of the Cochin State, and shall come into force immediately.

Amendment
of section 4.

2. For the proviso to section 4 (v) (b) of the Cochin Court Fees Act, II of 1080, the following shall be substituted.—

“Provided that in suits for the recovery of land, house or garden based on a lease, or a *kanam*, *adima* or *anubhogam* demise or any other demise of a cognate nature, the value shall be deemed to be the annual rent.”

**THE NATIONAL SERVICE (EUROPEAN
BRITISH SUBJECTS) AMENDMENT
PROCLAMATION
(XIX of 1120)
CONTENTS**

Preamble

Sections

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

**THE NATIONAL SERVICE (EUROPEAN BRITISH
SUBJECTS) AMENDMENT PROCLAMATION
(XIX OF 1120)**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin
on the 22nd day of Mithunam 1120, corresponding
to the 6th day of July 1945.*

[Published in the Cochin Government Gazette
dated 23rd Mithunam 1120]

WHEREAS it is necessary to amend the National Service (European British Subjects) Proclamation, II of 1116; We are hereby pleased to command as follows:—

Short title
and com-
mencement.

1. This Proclamation may be called the National Service (European British Subjects) Amendment Proclamation, XIX of 1120, and shall come into force at once.

2. In section 3 of the National Service (European British Subjects) Proclamation, II of 1116.— Amendment
to section 3.

(1) in sub-section (1)—

(a) for the words “at the termination of that service”, the words “at the termination of his national service or service in the armed forces or training as a cadet where such training is not followed by service in the armed forces, as the case may be”, and for the words “had he not been so taken into service as aforesaid” the words “had his employment not been so interrupted” shall be substituted;

(b) in the first proviso, for the words “Provided that if for any reason the reinstatement of such person or member” the following words shall be substituted, namely:—

“Provided that if the employer refuses to reinstate such person, or denies his liability to reinstate such person, or if for any reason the reinstatement of such person”,

and the words “or member”, where they occur for the second and third times, shall be omitted;

(c) in the second proviso, for the words “from the termination of the national service for which he was called up under the National Service (European British Subjects) Act, XVIII of 1940, as amended by the National Service (European British Subjects) Amendment Ordinance, 1940” the words “from the termination of his national service, or service in the armed forces or training as a cadet where such training is not followed by service in the armed forces, as the case may be” shall be substituted;

(2) sub-sections (2) and (3) shall be renumbered as sub-sections (3) and (4) respectively and the following shall be inserted as sub-section (2), namely:—

“(2) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall not be extinguished or affected by the fact that such person is, while serving in the capacity by virtue of which such duty was incurred by the employer, temporarily assigned to any employment under the Crown; nor shall any such assignment be deemed to have terminated or interrupted his service in the capacity by virtue of which such duty was incurred by the employer”.

THE COCHIN PANCHAYATS ACT**(XX of 1120)****CONTENTS****Preamble****Sections**

1. Short title, extent and commencement.
2. Definitions.
3. Power to constitute and alter panchayat areas for purposes of the Act.
4. Constitution of panchayats for panchayat areas and their incorporation.
5. Strength of a Panchayat.
6. Elected members and reservation of seats.
7. Division into wards and methods of election.
8. Term of office of elected members.
9. Appointment of members in certain cases and their terms of office.
10. Preparation and publication of electoral roll, and qualifications for inclusion therein.
11. Qualification of candidates.
12. Disqualification of Government officers and servants.
13. Disqualification of persons convicted of election offences.
14. Disqualifications of candidates.
15. Disqualifications of members.
16. Authority to decide questions of disqualification of members.
17. President and vice-president of a panchayat and their term of office.
18. Power of president, vice-president, or member to resign.
19. Functions of the president.
20. Emergency powers of the president.
21. Devolution and delegation of president's functions and filling up of vacancies in the office of president.
22. Rights of individual members.
23. No member to receive remuneration.
24. Officers and servants of panchayat.
25. Presidency at meetings.
26. Minutes of proceedings.
27. Power of panchayat to call for records.
28. Conduct of meetings of panchayats.
29. Appointment of joint committees.

30. Administration report.
31. Acts of panchayats, etc., not to be invalidated by informality, vacancy, etc.
32. Inspecting and superintending officers and their powers.
33. Power to suspend or cancel resolution, etc., under Act.
34. Emergency power of Director.
35. Control over electrical undertakings of panchayats.
36. Power to take action in default of a panchayat or president.
37. Removal of president, vice-president, or member.
38. Motion of non-confidence in presidents and vice-presidents of panchayats.
39. Dissolution and supersession of panchayats.
40. Powers of officers acting for, or in default of panchayat and liability of panchayat fund.
41. Duty of panchayat to provide for certain matters.
42. Power of panchayat to provide for certain other matters.
43. Management and supervision of depressed class colonies and other institutions.
44. Limitation of power to accepting property in trust.
45. Vesting of public roads and their appurtenances in panchayats.
46. Association of panchayats with Government units of administration.
47. Provision of funds for the panchayat.
48. Preparation and sanction of budget.
49. Vesting of water-works in panchayats.
50. Sanitary arrangement in places of pilgrimage, etc.
51. Prohibition against obstructions in or over public roads, etc.
52. Precautions in case of dangerous tanks, wells, holes etc.
53. Pruning of hedges and trees.
54. Public markets.
55. President's control over public markets.
56. Private markets.
57. Duty of expelling lepers, etc., from markets and power to expel disturbers.

58. Prohibition of sale in public roads.
59. Decision of disputes as to whether places are markets.
60. Public cartstands.
61. Private cartstands.
62. Public slaughter-houses.
63. Prohibition or regulation of the use of places for slaughtering animals and the licensing of slaughterers.
64. Purposes for which places may not be used without a licence
65. Prohibition of stray cattle in streets.
66. General provisions regarding licences and permissions.
67. Government and Government departments not to obtain licences and permissions.
68. Time for complying with notice, order, etc., and power to enforce in default.
69. Powers of entry and inspection.
70. Testing of weights and measures.
71. Persons empowered to prosecute.
72. Charge officers need not be examined on complaints.
73. Composition of offences.
74. Sanction for prosecution of president, or member of a panchayat.
75. Notice of action against panchayat, etc.
76. Protection of president and officers acting in good faith.
77. Duties of Police Officers.
78. Injunctions not to be granted in election proceedings.
79. Liability of the president and members for loss, waste or misapplication of property.
80. Demand, etc., not to be impeached.
81. Power of Government to make rules.
82. Penalties for breach of rules.
83. General provisions regarding penalties specified in the Schedules.
84. Penalty for acting as member, president, or vice-president of a panchayat when disqualified.

85. Penalty for acquisition by an officer or servant of interest in contract work.
 86. Wrongful restraint of president or his delegate.
 87. Prohibition against obstruction of panchayats, servant or contractors.
 88. Prohibition against removal or obliteration of notice.
 89. Penalty for not giving information or giving false information.
 90. Public roads, markets, wells, tanks, etc., to be open to all.
 91. Power to farm out fees.
 92. Delegation of powers, etc.
 93. Construction of references to panchayats.
 94. Act to be read subject to Schedule III in regard to first re-constitution of panchayats, etc.
 95. Appeals against orders of president, panchayat, Director, etc.
 96. Power to remove difficulties.
 97. Repeal of Cochin Village Panchayat Act, V of 1089.
- Schedule I.
Schedule II.
Schedule III.

THE COCHIN PANCHAYATS ACT
(XX of 1120)

*Passed by His Highness the Maharaja of Cochin,
on the 22nd day of Mithunam 1120 corresponding
to the 6th day of July 1945.*

[Published in the Cochin Government Gazette
dated 30th Mithunam 1120]

WHEREAS it is expedient to make better provision for the administration of rural affairs by panchayats; It is hereby enacted as follows:

CHAPTER I
Preliminary

1. (1) This Act may be called the Cochin Panchayats Act, XX of 1120.

(2) It extends to the whole of Cochin State except the Municipal areas governed by the Cochin Municipal Act, XVIII of 1113.

(3) It shall come into force on such date as Government may, by notification in the Cochin Government Gazette, direct,

Short title,
extent and
commence-
ment.

Definitions.

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

(1) “casual vacancy” means a vacancy occurring otherwise than by efflux of time, and “casual election” means an election held to fill a casual vacancy;

(2) “depressed class” means the communities notified as such by Government from time to time;

(3) “Director” means the Director of Panchayats appointed by Government, and includes an acting or officiating Director and also any officer appointed by Government to exercise or to be in charge of the functions of the Director;

(4) “latrine” includes privy, pit, water closet and urinal;

(5) “member” means the member of a panchayat;

(6) “ordinary vacancy” means a vacancy occurring by efflux of time and “ordinary election” means an election held to fill an ordinary vacancy;

(7) “panchayat” means the body constituted for the local administration of a panchayat area under this Act;

(8) “panchayat area” means any local area declared as such by Government for purposes of this Act;

(9) “prescribed” means prescribed by Government by rules made under this Act;

(10) “president” means the president of a panchayat;

(11) “private road” means any street, road, square, court, alley, passage or riding-path which is not a “public road”, but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of, such premises;

(12) “public road” means any street, road, square, court, alley, passage or riding-path, over which the public have a right of way, whether a thoroughfare or not, and includes—

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

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

(c) the drains attached to any such road, public bridge or causeway, and the land, whether covered or not

by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property is private property or property belonging to Government ;

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

(14) "village" means a local area recognised by Government from time to time as a village for purposes of land revenue administration.

CHAPTER II

Constitution and Control of Panchayats

3. (1) Government may, by notification in the Cochin Government Gazette, —

(a) declare any village, or in special circumstances, a portion of a village, or two or more villages or portions thereof, or the whole of one or more such villages and portions of the other or others, to be a panchayat area for the purposes of this Act, and specify the name of such panchayat area; or

(b) exclude from a panchayat area any village comprised therein or where only a portion of a village is comprised in the panchayat area such portion, or in special circumstances, a part of such village or portion; or

(c) include in a panchayat area any portion of a village of which some other portion is already comprised therein, any neighbouring village or portion thereof; or

(d) cancel a notification issued under clause (a) or alter the name of the panchayat area as notified under the clause:

Provided that before issuing a notification under clause (b), clause (c), or clause (d), Government shall give the panchayat or panchayats which will be affected by the issue of such notification a reasonable opportunity for showing

cause against the proposal and shall consider the explanations and objections, if any, of such panchayat or panchayats.

(2) Government may pass such orders as they may deem fit—

(a) as to the disposal of the property vested in a panchayat which has ceased to exist, and

(b) as to the disposal of any part of the property vested in the panchayat which has ceased to exercise jurisdiction over any local area.

Constitution of panchayats for panchayat areas and their incorporation.

4. (1) A panchayat shall be constituted for each panchayat area.

(2) Subject to the provisions of this Act, the administration of the panchayat area shall vest in the panchayat, but the panchayat shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or any other authority.

(3) The president shall be the chief executive head of the panchayat.

Strength of a Panchayat.

5. A panchayat shall consist of such number of members as may be notified by Government in accordance with the following scale.—

Panchayat area with a population—

not exceeding 10,000 at the last census
.. Five members.

exceeding 10,000 but not exceeding
20,000 .. Seven members.

exceeding 20,000 Nine members.

Elected members and reservation of seats.

6. (1) The members of a panchayat shall, save as otherwise expressly provided in this Act, be elected in such manner as may be prescribed.

(2) In any panchayat or panchayats, Government may, in their discretion, reserve such number of seats as they think fit for a particular community or communities or for any group of communities.

(3) Nothing contained in sub-section (2) shall be deemed to prevent members of any community for whom

seats have been reserved in any panchayat, from standing for election to the non-reserved seats in the panchayat.

7. (1) For the purpose of electing members to a panchayat, Government may, by notification,—

Division into wards and methods of election.

(a) divide the panchayat area into wards;

(b) determine the wards in which the seats reserved under sub-section (2) of section 6 for any community shall be set apart ;

(c) determine the number of members (whether one or more) which the wards referred to in clause (b) shall, in addition to the members for such reserved seats, return for non-reserved seats in the panchayat ;

(d) determine the number of members (whether one or more) which each of the other wards shall elect to the panchayat.

(2) All the electors of a ward, irrespective of their community, shall be entitled to vote at an election in accordance with such rules as may be prescribed.

(3) Where a panchayat area is not divided into wards, all the electors of that area, irrespective of their community, shall be entitled to vote at any election to any seat in the panchayat, whether reserved or not, subject to such rules as may be prescribed.

8. (1) The term of office of the members of every panchayat who are elected at ordinary elections shall, save as otherwise expressly provided in, or, may be provided under this Act, be three years beginning at noon on the day on which the vacancies occur:

Term of office of elected members.

Provided that Government may, by notification, direct that the term of office of the members of any panchayat as a whole be extended by such period as may be specified in the notification.

(2) Vacancies arising from efflux of time in the office of the members of a panchayat shall be filled up at ordinary elections which shall be fixed by the election authority to take place on such days not later than three months next preceding the vacancy:

Provided that the election authority may, for sufficient cause and with the previous approval of Government, direct or permit the holding of any ordinary election in any month or day before the occurrence of the vacancy.

(3) (a) Every casual vacancy in the office of a member of a panchayat shall be reported by its president to the election authority within such time as may be prescribed.

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

(c) Unless Government otherwise direct, no casual election shall be held to a panchayat within three months before the date of retirement of its members by efflux of time.

(4) Where the number of members of a panchayat is increased, the members elected for the additional seats or the members elected in their places in casual vacancies shall hold office until the date on which the members elected to the original seats at the ordinary elections immediately preceding, will vacate office.

Appointment of members in certain cases and their term of office.

9. (1) If at an ordinary or casual election, no person is elected to fill the vacancy or one or more of the vacancies, as the case may be, Government may appoint a qualified person or persons to fill such vacancy or vacancies.

(2) In case Government are satisfied that an ordinary or casual election cannot be successfully held on account of faction or disorder in the panchayat area or any other cause, they may, notwithstanding anything contained in this Act, appoint a qualified person or persons to fill the vacancy or vacancies. In the case aforesaid, Government shall also have power to direct such reduction in the total number of members of the panchayat as they think necessary.

(3) The term of office of a member of a panchayat appointed under sub-section (1) or sub-section (2) shall, unless Government otherwise direct, expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

Preparation and publication of electoral roll, and qualifications for inclusion therein.

10. (1) An electoral roll for each panchayat showing the names of persons qualified to vote at elections thereto, shall be prepared and published, and shall be revised, at such times, by such authority, and in such manner as may be prescribed.

(2) Every person who has completed his twenty-first year of age and who has resided in the ward in cases where the panchayat area is divided into wards, and in other cases, in the panchayat area for one hundred and twenty days in the aggregate in the twelve months immediately preceding the date notified for the preparation of the electoral roll shall be entitled to have his name registered on the electoral roll of that ward or panchayat area as the case may be.

(3) No person's name shall be included in the electoral roll for a panchayat area in more than one place.

(4) When a panchayat area has been divided into wards, the electoral roll for the panchayat area shall be divided into separate parts for each ward.

(5) Every person whose name appears in the electoral roll for the panchayat area shall, so long as it remains in force and subject to any revision thereof which might have taken place and subject also to the other provisions of this Act, be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election:

Provided that a person who is of unsound mind, a deaf-mute or a leper, shall not be entitled to vote at any election even if the name of such a person appears on the electoral roll.

11. (1) No person shall be qualified for election to any seat on a panchayat unless— Qualification
of candidates.

(i) his name appears on its electoral roll; and

(ii) he has completed his twenty-fifth year of age; and

(iii) (a) he is a registered holder of lands situated in the panchayat area on jenmam or pandaravaka verumpattam, pandaravaka kanam or puravaka tenure, the assessment of which at pandaravaka verumpattam rate including tirumulkazhcha, if any, is not less than rupees seven and annas eight; or

(b) he is a sub-pattadar of lands, situated in the panchayat area, belonging to Sirkar Devaswams, the annual land revenue assessment including tirumulkazhcha payable to the Devaswam or Devaswams on which, is not less than rupees seven and annas eight; or

(c) he is a holder of lands situated in the panchayat area on kanam, panayam, adima, anubhogam or other tenures of a cognate nature evidenced by a registered deed, the annual land revenue assessment of which at pandaravaka verumpattam rate including tirumulkazhcha is not less than rupees seven and annas eight; or

(d) he is an inamdar of lands, situated in the panchayat area, which, if assessable to land revenue at pandaravaka verumpattam rates, will be liable to an assessment of not less than rupees seven and annas eight; or

(e) he is a verumpattamdar as defined in the Cochin Verumpattamdars Act, VIII of 1118, of a holding in the panchayat area, the annual land revenue assessment on which calculated at pandaravaka verumpattam rate is not less than rupees fifteen and the contract of tenancy is evidenced by a registered deed; or

(f) he is a holder of lands in the panchayat area under any two or more of the categories mentioned in sub-clauses (a), (b), (c), (d) and (e), the aggregate land revenue assessment on which, at pandaravaka verumpattam rate including tirumulkazhcha, if any, is not less than rupees seven and annas eight, provided that, in the case of a holding under clause (e), the pandaravaka verumpattam assessment thereon shall be computed for the purpose of this clause only at half of such assessment; or

(g) is a holder of fishing stakes in the panchayat area, the assessment on which is not less than rupees seven and annas eight; or

(h) he is a pensioner of the Government of Cochin, Travancore, or British India, who was in superior service; or

(i) he is a person who has passed the Secondary School Leaving Certificate or an equivalent examination such as Matriculation, Cambridge Senior, or any higher examination; or is a holder of an Oriental Title of Madras University, viz. Vidwan, Afzlul-Ulama, Siromani; or is one who has passed the Sanskrit Pandit's examination, or Bhushana examination, or Malayalam Pandit's examination, or Arabic Moulvi's examination, or such other test as may from time to time be prescribed by Government in this behalf; or is a registered medical practitioner not lower in rank than a Licenciante in Medical Practice, or a Licenciante

in Indian Medicine, or is a person qualified in Engineering; or is a holder of a Veterinary Diploma:

Provided that the qualifications prescribed in sub-clauses (a) to (i) of this clause shall not be necessary in the case of a candidate belonging to the depressed class; and

(iv) in the case of a candidate belonging to the depressed class and in the case of a person having the property qualifications prescribed in sub-clauses (a) to (g) of clause (iii), he can read and write Malayalam, Tamil or English.

(2) If a person whose name is on the electoral roll of a panchayat possessing the property qualification mentioned in sub-clauses (a) to (g) of clause (iii) of sub-section (1) does not stand for election as a member, he may authorise in such manner as may be prescribed any member of his family or tarawad, whose name is on the electoral roll of the panchayat and who possesses the qualifications as regards age and literacy, to stand for election, and the person so authorised shall be entitled to stand for election in the same way as if he had the prescribed property qualification in his own name.

Explanation.—Members of undivided families owning property as tenants in common shall be deemed to be a family for purposes of this sub-section.

12. (1) No officer or servant of Government shall be qualified for election as a member or for holding office as an elected member:

Disqualifica-
tion of Gov-
ernment
officers and
servants.

Provided 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 Government whose decision shall be final.

Explanation.—Nothing contained in this sub-section shall be deemed to prevent the appointment of any officer or servant of Government to be a member of a panchayat.

(2) No person shall, where a panchayat area has been divided into wards, be eligible to stand for election in more than one ward.

(3) (a) If any person is elected as a member to more than one panchayat, he shall, by notice in writing delivered to the election authority within seven days from the date of the declaration of such election, choose which of those panchayats he shall serve and the choice shall be conclusive.

(b) When any such choice has been made, the election authority shall call upon the panchayat area or

the ward of that area, as the case may be, which such person has not chosen to serve, to elect another person.

(c) If the candidate does not make the choice referred to in clause (a) the election of such person shall be void, and the election authority shall call upon the panchayat areas or wards for which he has been elected to elect other persons.

Disqualifica-
tion of per-
sons con-
victed of
election
offences.

13. Every person convicted of an offence punishable under Chapter VIII-A of the Cochin Penal Code or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of member of a panchayat, for a period of five years from the date of his conviction or for such shorter period as Government may by order determine.

Disqualifica-
tions of can-
didates.

14. (1) A person who has been convicted by a criminal court and sentenced to undergo a substantive term of imprisonment for an offence other than of a political nature (such sentence not having been reversed or the offence pardoned) shall be disqualified for election or appointment as a member for five years from the date of expiration thereof:

Provided that Government may direct that such sentence shall not operate as a disqualification in cases of conviction for offences not involving moral delinquency.

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

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

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

(c) interested in a subsisting contract made with, or any work being done for, the panchayat, except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;

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

(e) an officer or servant of the panchayat;

(f) an honorary Magistrate with jurisdiction over any part of the panchayat area;

(g) already a member of a panchayat whose term of office will not expire before his fresh election or appointment can take effect or has already been elected or

appointed a member of a panchayat whose term of office has not yet commenced ;

(h) the servant or employer or the official subordinate or official superior of a member holding office at the said date ;

(i) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat up to and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired ;

(j) dismissed or suspended from Government service ; or

(k) debarred from practising as an Advocate or Vakil.

15. (1) Subject to the provisions of section 16, a member shall cease to hold office as such, if he—

Disqualifications of members.

(a) is sentenced by a Criminal Court to such punishment and for such offence as is described in sub-section (1) of section 14 ;

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

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

(d) acquires any interest in any subsisting contract made with, or work being done for, the panchayat except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act ;

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

(f) is appointed as an officer or servant under this Act ;

(g) is appointed as an honorary Magistrate with jurisdiction over any part of the panchayat area ;

(h) accepts employment under or becomes the official subordinate of any other member ;

(i) ceases to reside in the panchayat area ;

(j) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat within three months after a bill or notice has been served upon him in pursuance of rules made under this Act, or where in the case of any arrear, such rules do not require the service of any bill or notice, within three months after a notice requiring payment of the arrear (which notice it

shall be the duty of the president to serve at the earliest possible date) has been duly served upon him; or

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

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

Explanation.—A meeting held for the transaction of urgent business after giving shorter notice than that prescribed for an ordinary meeting or on a requisition of the members of the panchayat shall not be deemed to be a meeting within the meaning of this clause.

(2) Where a person ceases to be a member under section 13 or clause (a) of sub-section (1), he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision, and any person elected or appointed to fill the vacancy in the interim shall, on such restoration, vacate office.

(3) Where a person ceases to be a member under clause (k) of sub-section (1), the president shall at once intimate the fact in writing to such person and report the same to the panchayat at its next meeting. If such person applies for restoration to the panchayat on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the panchayat may at the meeting next after the receipt of such application restore him to his office of member :

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

Authority to
decide ques-
tions of
disqualifica-
tion of
members.

16. (1) Whenever it is alleged that any person who has been elected as member of a panchayat is not qualified under section 11, or has become disqualified under section 13, 14 or 15 and such person does not admit the allegation, or whenever any member is himself in doubt whether or not he has become disqualified for office under section 13 or 15, such member or any other member may,

and the president shall, on the direction of the panchayat or of the Director, apply to Government whose decision shall be final.

(2) Pending such decision, the member shall be entitled to act as if he were not disqualified.

President and Vice-president

17. (1) Every panchayat shall elect one of its members to be its president and another member to be its vice-president in accordance with such rules as may be prescribed. If at an election held under this sub-section no president or vice-president is elected, a fresh election shall be held.

President and vice-president of a panchayat and their term of office.

(2) The president or vice-president shall cease to hold office as such—

(a) in every case, on the expiry of his term of office as a member or on his otherwise ceasing to be a member; and

(b) in the case of the vice-president, on his election as president.

18. Any member other than the president and any vice-president may resign his office by giving notice to the president; the president may resign by giving notice to the panchayat. Such resignation shall take effect, in the case of a member or vice-president, from the date on which it is received by the president, and, in the case of a president, from the date on which it is placed before a meeting of the panchayat.

Power of president, vice-president, or member to resign.

19. The president shall—

Functions of the president.

(a) convene the meetings of the panchayat;

(b) carry into effect the resolutions of the panchayat;

(c) arrange to prepare estimates of sanctioned works;

(d) see to the timely execution of works according to the details of the estimate;

(e) see that funds provided for the several works are usefully and economically utilised;

(f) submit the prescribed periodical estimates, completion bills, etc., in time;

(g) see that the prescribed registers, files, etc., of the panchayat office are kept in proper order and up-to-date;

(h) control all the officers and servants of the panchayat; and

(i) discharge all the duties and exercise all the powers specifically imposed or conferred on the president by or under this Act, and, subject to all restrictions and conditions imposed by or under this Act, exercise the executive power for the purpose of carrying out the provisions of this Act, and be directly responsible for the due fulfilment of the purposes thereof.

Emergency powers of the president.

20. The president may, in cases of emergency and subject to such rules as may be prescribed, direct the execution of any work or the doing of any act which requires the sanction of the panchayat and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the funds at the disposal of the panchayat:

Provided that.—(a) he shall not act under this section in contravention of any order of the panchayat prohibiting the execution of any particular work or the doing of any particular act, and

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

Devolution and delegation of president's functions and filling up of vacancies in the office of president.

21. (1) When the office of president is vacant, the vice-president shall exercise the functions of the president until a new president is declared elected.

(2) If the president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions during such absence or incapacity shall, subject to such rules as may be prescribed, devolve on the vice-president.

(3) When the office of president is vacant and there is either a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the functions of the president shall devolve on a member of the panchayat appointed by the Director in this behalf.

The member of the panchayat so appointed (who shall be styled the acting president) shall perform the functions of the president subject to such restrictions and conditions as may be prescribed, until a new president or vice-president is declared elected or the vice-president returns to jurisdiction or recovers from his incapacity, as the case may be.

(4) Any vacancy in the office of president shall be reported by the vice-president within the prescribed time to the election authority, and such authority shall appoint a person, not being a member of the panchayat, to convene a meeting of the panchayat for the election of its president. The person so appointed shall preside at the meeting so convened and have all the powers of the president in relation thereto, except that he shall not have the right to vote at the election.

(5) Subject to such rules as may be prescribed, the president may, by an order in writing, delegate any of his functions, with such restrictions and conditions as may be specified in the order, to the vice-president, or in case there is a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, to any member.

Members

22. (1) Any member may call the attention of the Director or the president to any neglect in the execution of any work in the panchayat area, to any waste of panchayat property, or to the wants of any locality, and may suggest any improvements which may appear desirable.

Rights of individual members.

(2) Every member shall have the right to move resolutions and to interpellate the president on matters connected with the administration of the panchayat subject to such rules as may be prescribed.

(3) Every member shall have access during office hours to the records of the panchayat after giving due notice to the president, provided that the president may, for reasons given in writing, forbid such access.

23. No member shall receive or be paid from the funds at the disposal of or under the control of the panchayat, any salary or other remuneration for services rendered by him in any capacity whatsoever.

No member to receive remuneration.

Establishment

24. (1) Government shall fix, and may alter, the number, designations and grades of, and the salaries, fees and allowances payable to, the officers and servants of every panchayat.

Officers and servants of panchayat.

(2) Government shall have power to make rules regarding the authorities who may appoint the officers and servants of panchayats and the classification, methods of recruitment, pay and allowances, discipline, conduct, punishment and conditions of services of such officers and servants.

(3) All officers and servants of the panchayat shall be subordinate to the president and, save as otherwise provided in this Act or in the rules made thereunder and subject to such restrictions and control as may be prescribed in such rules, the president may—

(a) appoint all menial servants of the panchayat ;
 (b) grant casual leave to officers and servants not exceeding seven days at a time and fifteen days in a year; and

(c) censure or fine any such officer or servant for any breach of departmental rules, or discipline, or for carelessness, neglect of duty or other misconduct.

Procedure

**Presidency
at meetings.**

25. (1) Every meeting of a panchayat shall be presided over by the president; in his absence, by the vice-president; and in the absence of both the president and the vice-president by a member chosen by the meeting to preside for the occasion.

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

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

**Minutes of
proceedings.**

26. A copy of the minutes of the proceedings at every meeting of a panchayat as well as of all minutes of dissent in respect of such proceedings received from any member present at the meeting within forty-eight hours of the close thereof shall be submitted by the president within three days of the date of the meeting to the Director:

Provided that Government may direct that such minutes shall also be submitted either generally or in any specified classes of cases to any officer specified by them in this behalf.

27. A panchayat may require the president to produce any document which is in his custody and he shall, subject to such rules as may be prescribed, comply with every such requisition. Power of panchayat to call for records.

28. The proceedings of every panchayat and of all committees thereof shall be governed by such rules as may be prescribed. Such rules may provide for preventing any member or president or any member or chairman of a committee from voting on, or taking part in the discussion of, any matter in which, apart from its general application to the public, he has any direct or indirect pecuniary interest, whether by himself or through some other person, or from being present or presiding at any meeting of the panchayat or of the committee during the discussion of any such matter. Conduct of meetings of panchayats.

29. (1) A panchayat may, and if so required by Government, shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose for which they are jointly responsible. Appointment of joint committees.

(2) The constitution, powers and procedure of a joint committee and the method of settling differences of opinion arising in connection with the committee between the local authorities concerned shall be in accordance with such rules as may be prescribed.

30. (1) Every panchayat shall submit to the Director a report on its administration for each year as soon as may be after the close of such year and not later than the prescribed date, in such form and with such details as may be prescribed. Administration report.

(2) The report shall be prepared by the president and the panchayat shall consider it and forward the same to the Director with its resolutions thereon, if any.

(3) The Director shall submit to Government a general report on the administration of panchayats in the State during the year.

Validation of proceedings

31. No act of a panchayat or of a committee thereof or of any person acting as president, vice-president, chairman or member of such panchayat or committee shall be deemed to be invalid by reason only of a defect in the establishment of such panchayat or committee, or on the ground that the president, vice-president, chairman or any Acts of panchayats, etc., not to be invalidated by informality, vacancy, etc.

member of such panchayat or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment, or by reason of such act having been done during the period of any vacancy in the office of president, vice-president, chairman or member of such panchayat or committee.

Control

Inspecting
and superin-
tending
officers and
their powers.

32. (1) Government may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the panchayats established under this Act.

(2) Any officer appointed under sub-section (1) or any other officer or person whom Government may empower in this behalf, may enter on and inspect, or cause to be entered on and inspected—

(a) any immovable property, or any work in progress, under the control of any panchayat ;

(b) any school, hospital, dispensary, vaidyasala, vaccination station, or other institution maintained by, or under the control of, any panchayat and any records, registers or other documents kept in such institution ;

(c) the office of any panchayat and any records, registers or other documents kept therein.

Panchayats and their presidents, officers and servants shall be bound to afford to the officers and persons aforesaid, such access, at all reasonable times, to panchayat property or premises and to all documents as may, in the opinion of such officers or persons, subject to such rules as may be prescribed, be necessary to enable them to discharge their duties under this sub-section or sub-section (1), as the case may be.

(3) The Director or any other officer authorised by Government in this behalf may—

(a) direct the panchayat, with the approval of Government, to make provision for and to execute or provide desirable public works or amenities ;

(b) call for any record, register or other document in the possession, or under the control, of any panchayat or president ;

(c) require any panchayat or president to furnish any return, plan, estimate, statement, account or statistics ;

(d) require any panchayat or president to furnish any information or report on any matter connected with such panchayat; and

(e) record in writing for the consideration of any panchayat or president any observations in regard to its or his proceedings or duties.

33. (1) The Director may, by order in writing,—

Power to suspend or cancel resolution, etc., under Act.

(i) suspend any resolution passed, order issued, or licence or permission granted, or

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

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

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

(c) the execution of such resolution or order, or the continuance in force of such licence or permission, or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray.

(2) Government may, for reasons which appear to them to be just and proper, by order in writing, suspend or cancel any resolution passed, order issued or licence or permission granted or prohibit the doing of any act which is being or about to be done by a panchayat or its president in pursuance of or under colour of this Act or revise the orders passed by the Director under sub-clause (1).

34. Subject to such control as may be prescribed, the Director or any other officer authorised by Government in this behalf may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a panchayat or president is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the safety of the public, and may direct that the expense of executing such work or

Emergency power of Director.

doing such act shall be met from the funds at the disposal of the panchayat.

Control over electrical undertakings of panchayats.

35. The administration by a panchayat of any undertaking for the generation, transmission, supply, or use of electrical energy shall be, subject to such control as may be prescribed, not inconsistent with the Cochin Electricity Act, III of 1102 as in force for the time being, the rules made under that Act, and the terms of the licence granted under it to the panchayat.

Power to take action in default of a panchayat or president.

36. (1) When a panchayat or president has made default in performing any duty imposed by or under this or any other Act, the Director or any officer authorised by Government in this behalf, may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Director or such officer may appoint some person to perform it, and may direct that the expense of performing it shall be met from the funds at the disposal of the panchayat.

Removal of president, vice-president, or member.

37. (1) Government may, by notification in the Cochin Government Gazette, and with effect from a date to be specified therein, remove any president or vice-president who, in their opinion, wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, or lawful orders issued thereunder, or abuses the powers vested in him.

(2) Government may, by like notification and with effect from a date to be specified therein, remove any member who, in their opinion, is guilty of any misconduct in the discharge of his duties as such member.

(3) Government shall, when they propose to take action under sub-section (1) or (2), give the president, vice-president or member concerned an opportunity for explanation, and the notification issued shall contain a statement of the reasons for the action taken.

(4) Government may cancel any notification issued under sub-section (1) or (2) and may, pending a decision on the question of such cancellation, postpone the date specified in such notification.

(5) Any person in respect of whom a notification has been issued under sub-section (1) or (2), removing him from the office of president, vice-president or member shall, unless the notification is cancelled under sub-section (4),

be ineligible for election or appointment to, or holding any of those offices.

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

Motion of
no-con-
fidence in
presidents
and vice-pre-
sidents of
panchayats.

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

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

(4) The Director or any other officer authorised by Government in this behalf shall preside at the meeting convened under this section, and no other person shall preside thereat. If within half an hour after the time appointed for the meeting the Director or the authorised officer is not present to preside at the meeting, the meeting shall stand adjourned to a time to be appointed and notified to the members by the Director or the authorised officer under sub-section (5).

(5) If the Director is unable to preside at the meeting and no officer has been authorised by Government, he may, after recording his reasons in writing, adjourn the meeting to such other time as he may appoint. The date so appointed shall not be later than thirty days from the date appointed for the meeting under sub-section (3). Notice of not less than seven clear days shall be given to the members of the time appointed for the adjourned meeting.

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

(7) As soon as the meeting convened under this section has commenced, the Director or the authorised officer shall read to the panchayat the motion for the

consideration of which it has been convened, and declare it to be open for debate.

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

(9) Such debate shall automatically terminate on the expiry of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of two hours, as the case may be, the motion shall be put to the vote of the meeting. No speech by any member shall exceed fifteen minutes in duration and the last fifteen minutes shall in any case be allowed to the president or the vice-president, as the case may be, for his reply against the motion.

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

(11) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall forthwith on the termination of the meeting be forwarded by the Director or the authorised officer to Government.

(12) If the motion is carried with the support of not less than three-fifths of the sanctioned strength of the panchayat and if the president or the vice-president, as the case may be, does not resign his post within two days after the passing of the motion, Government shall, by notification, remove him from office.

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

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

Dissolution
and superses-
sion of
panchayats.

39. (1) If, in the opinion of Government, a panchayat is not competent to perform, or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers, Government may, by notification,—

(a) direct that the panchayat be dissolved with

effect from a specified date and reconstituted either immediately or with effect from another specified date, or

(b) supersede the panchayat for a period not exceeding two years from a specified date:

Provided that Government shall not supersede a portion only of the panchayat.

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

(3) On the date fixed for the dissolution or supersession of a panchayat under sub-section (1), all its members as well as its president and vice-president shall forthwith be deemed to have vacated their offices as such.

(4) During the interval, if any, between the dissolution and the reconstitution of a panchayat or during the period of its supersession, as the case may be, all or any of the powers and duties of the panchayat and its president may be exercised and discharged, as far as may be and to such extent as Government may determine, by the Director or such other person or persons as may be appointed by Government in that behalf.

(5) The members of a reconstituted panchayat shall enter upon their offices on the date fixed for its reconstitution and their term of office shall expire in such year and on such date as Government may fix. The year so fixed shall be either the year in which the next ordinary elections or the year in which the ordinary elections immediately succeeding such elections are to be held. The date so fixed shall correspond to the date fixed under sub-section (1) of section 8.

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

(7) Government may, by order, for sufficient cause which shall be specified therein, direct—

(a) that the members of a reconstituted panchayat shall, until the date fixed under sub-section (5), be appointed by Government and not elected; and

(b) that members shall continue to be appointed after the date so fixed, for further periods of three years at a time.

(8) It shall be open to Government, notwithstanding anything contained in section 5, to direct such reduction in the total number of members of the panchayat as they think necessary, so long as the members of the panchayat are appointed under sub-section (7) and not elected.

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

40. Government, the Director, or any person appointed by Government, lawfully taking action on behalf or in default of a panchayat under this Act, shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act, as the panchayat or its officers or servants whose powers are exercised.

CHAPTER III

Functions, Powers and Property of Panchayats

Duty of panchayat to provide for certain matters.

41. Subject to such rules as may be prescribed, it shall be the duty of a panchayat, within the limits of the funds placed at its disposal, to make reasonable provision for carrying out the requirements of the panchayat area in respect of the following matters, namely.—

(a) construction, repair and maintenance of all roads other than those under the Public Works and Deva-swam Departments and of all bridges, culverts, road-dams and causeways on such roads;

(b) preservation intact of all poramboke paths, lanes and canals useful for purposes of communication, cattle-grazing grounds and village reserves;

(c) construction, repair and maintenance of minor irrigation works and petty irrigation works, and the regulation and distribution of water supply to the lands commanded by such works, subject to the provisions of the Cochin Irrigation Act, VIII of 1111;

(d) sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes, and the construction of bathing ghats;

(e) lighting of all public roads and public places, wherever necessary;

(f) construction of drains and the disposal of drainage water and sullage;

(g) cleaning of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, and other improvements of the sanitary condition of the panchayat area;

(h) provision of public latrines and arrangements to cleanse latrines whether public or private;

(i) opening and maintenance of burial and burning grounds;

(j) preventive and remedial measures connected with epidemics, including vaccination, which may be ordered by Government to be carried out by the panchayat ;

(k) maintenance intact and repair and renewals of survey and boundary marks.

42. Subject to such rules as may be prescribed, a panchayat shall also make arrangements for carrying out the requirements of the panchayat area in respect of the following matters, namely.—

Power of panchayat to provide for certain other matters.

(a) planting and preservation of trees on the sides of public roads in the panchayat area;

(b) opening and maintenance of public markets;

(c) control of fairs and festivals;

(d) control of offensive and dangerous trades;

(e) control of cattle pounds;

(f) opening and maintenance of public landing places, halting places and cartstands and of public cattle-sheds;

(g) opening and maintenance of public slaughter-houses;

(h) establishment and maintenance of water pandals;

(i) control of porambokes used by the villagers in common;

(j) registration of births and deaths;

(k) improvement of agriculture and agricultural stock by maintaining stud-bulls and the holding of agricultural shows; demonstrations in ryots' lands; management of manured depots; control of plant-pests and diseases;

prevention of cattle diseases and mortality; and supervision of veterinary hospitals;

(l) promotion and encouragement of cottage industries and minor factories;

(m) encouragement and formation of co-operative societies;

(n) opening and maintenance of elementary schools;

(o) opening and maintenance of reading rooms and libraries and supervision of industrial schools;

(p) establishment and maintenance of wireless receiving sets, of playgrounds and of sports clubs in the panchayat area and of centres of physical culture;

(q) encouragement and supervision of Ayurvedic and Visha vaidyasalas and sale depots of Ayurvedic medicines;

(r) other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the panchayat area.

Management and supervision of depressed class colonies and other institutions.

43. (1) Subject to such rules as may be prescribed, Government may entrust the panchayats with the supervision of the depressed class colonies.

(2) Subject to such rules as may be prescribed by Government, any officer of Government authorised by them in this behalf by a special or general order, or any person or body of persons may transfer to the panchayat, with its consent and subject to such conditions as may be agreed upon, the management of any institution, or the execution or maintenance of any work, or the exercise of any power or the discharge of any duty, within the panchayat area, whether provided for in this Act or not.

(3) Government may also retransfer to any other officer or any person or body of persons after giving notice to the panchayat, for reasons to be specified in that notice, the management of any institution, or the execution or maintenance of any work, or the exercise of any power, or the discharge of any duty, transferred to the panchayat under sub-section (1) or (2); provided that before giving effect to the retransfer, the panchayat shall be given sufficient opportunity to explain why it should not be done.

Limitation of power to accepting property in trust.

44. A panchayat may with the previous sanction of Government accept trusts relating exclusively to the furtherance of any purpose to which its funds may be applied.

45. (1) All public roads in any panchayat area which are not under the control of the Public Works or Devaswam Department, shall together with all pavements, stones and other things provided therefor, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the panchayat fund or otherwise, in, alongside or under such roads, and all works, materials and things appertaining thereto be under the control and management of the panchayat.

Vesting of public roads and their appurtenances in panchayats.

(2) Government may, by notification, exclude from the operation of this Act any such public road, sewer, drain, drainage work, tunnel or culvert, and may also modify or cancel such notification.

46. Government may make rules for the purpose of more closely associating the panchayats with the administrative activities of Government in each panchayat area.

Association of panchayats with Government units of administration.

CHAPTER IV

Finance

47. Government may place at the disposal of each panchayat such funds as they may deem fit to carry out the purposes of this Act from time to time, and all moneys received by or allowed to be collected by a panchayat shall be credited to the general revenues of the State:

Provision of funds for the panchayat.

Provided that the panchayat shall be at liberty to utilise the proceeds of any voluntary contribution or collection it may make for such purposes as it may decide upon.

48. The funds placed by Government at the disposal of a panchayat and the proposals for expenditure during the year shall be laid by the president in the form of a statement before the panchayat at the beginning of each year in such manner as may be prescribed and the panchayat shall pass the same with such modifications as it thinks fit. The president shall forward the statement as passed by the panchayat to the Director.

Preparation and sanction of budget.

CHAPTER V

Public Safety, Convenience and Health

Public water-courses, springs, etc.

49. Subject to such rules as may be prescribed, public tanks, eries and wells constructed or maintained out of Government funds shall be subject to the control of the panchayat:

Vesting of water-works in panchayats.

Provided that nothing contained in this section shall apply to any work which is, or is connected with, a work of major irrigation or to any adjacent land appertaining to any such work.

Sanitary arrangements in places of pilgrimage, etc.

Sanitary arrangement in places of pilgrimage, etc.

50. Where a temple, mutt, church, or mosque, or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a panchayat area and attracts either throughout the year or on particular occasions a large number of persons, such special arrangements as regards public health, safety or convenience, as may be considered necessary by the Director, shall be made by the panchayat.

Roads

Prohibition against obstructions in or over public roads, etc.

51. No person shall, except as permitted by rules made under this Act and except in accordance with the conditions imposed by any licence made requisite by such rules,—

(a) build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever, whether permanent or temporary, in or over any public road;

(b) make any hole or deposit any matter in or upon any public road;

(c) erect any building over any sewer or drain or any part thereof;

(d) plant any tree on any public road or other property under the control of the panchayat; or

(e) fell, remove, destroy, lop, or strip bark or leaves from, or otherwise damage, any tree which is growing on any such public road or other property and the right to which has not been established by such person as vesting in or belonging to him.

Dangerous tanks, wells, and pruning of Hedges and Trees

Precautions in case of dangerous tanks, wells, holes, etc.

52. (1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the president to be for want of sufficient repair, protection or enclosure, dangerous to the passers by or to persons living in the neighbourhood, the president may, by notice, require the owner to fill in,

remove, repair, protect, or enclose the same so as to prevent any danger therefrom.

(2) If immediate action is necessary, he shall, before giving such notice or before the period of notice expires, himself take such temporary measures, as he thinks fit to prevent danger, and the cost of doing so shall be recoverable from the owner in the same manner as if the same were fees due to the panchayat.

53. The president may without notice—

(a) trim or prune any hedges bordering on a public street, so that it may not exceed such height from the level of the adjoining roadway as the president may determine, or

Pruning of hedges and trees.

(b) cut and trim any hedges or trees overhanging the said street and obstructing it or the view of traffic or causing it damage, or

(c) remove fallen trees on public roads and waterways which obstruct traffic.

Markets

54. (1) All public markets within a panchayat area shall be under the control and management of the panchayat.

Public markets.

(2) The panchayat may with the sanction of Government provide places for use as public markets and may with like sanction close any such market or part thereof.

(3) Subject to such rules as may be prescribed, the panchayat may levy any one or more of the following fees in any public market at such rates as may be prescribed.—

(a) fees for the use of, or for the right to expose goods for sale in, such market;

(b) fees for the use of shops, stalls, pens or stands in such market;

(c) fees on vehicles or pack-animals bringing, or on persons carrying, any goods for sale in such market;

(d) fees on animals brought for sale into or sold in such market;

(e) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

55. No person shall, without the permission of the president, or if the rents and fees have been farmed out, of the farmer, sell or expose for sale any animal or article within any public market.

President's control over public markets.

**Private
markets.**

56. (1) No person shall open a new private market or continue to keep open a private market unless he obtains from the panchayat a licence to do so. Such licence shall be issued only with the approval of the Director.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought, not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought, as the case may be.

(3) (a) The panchayat shall, as regards private markets already lawfully established, and may at its discretion as regards new private markets, grant the licence applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, sanitation and water supply, weights and measures to be used, rents and fees to be charged, and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new private market.

(b) the panchayat may modify the conditions of the licence to take effect from a specified date.

(c) The panchayat may at any time suspend any licence granted under clause (a) for breach of the conditions thereof for a period not exceeding thirty days and may with the approval of the Director cancel any such licence.

(d) When a licence is granted, refused, suspended, cancelled or modified under this section, the panchayat shall cause a notice of such grant, refusal, suspension, cancellation or modification in Malayalam to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(e) Every licence granted under this section shall expire at the end of the year.

(4) When a licence granted under sub-section (2) does not permit the levy of any fee, it shall be granted free of charge; but when such permission is given, a fee not exceeding fifteen per cent of the gross income of the owner from the market in the preceding year shall be charged by the panchayat for such licence.

(5) The panchayat or any officer duly authorised by it may close any private market which is unlicensed, or the licence for which has been suspended or cancelled,

or which is held or kept open contrary to the provisions of this Act.

(6) Government may for the purpose and at the instance of any panchayat acquire under the Land Acquisition Act the rights of any person to hold a private market in any place and to levy any fees therein. Such right shall be deemed to be land for the purposes of that Act.

57. The person in charge of a market shall prevent the entry therein or expel therefrom any person suffering from leprosy, in whom the process of ulceration has commenced or from any infectious or contagious disease, who sells or exposes for sale therein any article or who, not having purchased the same, handles, any articles exposed for sale therein, and he may expel therefrom any person who is creating a disturbance therein.

Duty of expelling lepers, etc., from markets and power to expel disturbers.

58. The president may, with the sanction of the panchayat, prohibit by public notice or license or regulate the sale or exposure for sale of any animals or articles in or upon any public road or place or part thereof.

Prohibition of sale in public roads.

59. If any question arises as to whether any place is a market or not, the panchayat shall make a reference thereon to Government and the decision of Government on the question shall be final.

Decision of disputes as to whether places are markets.

Cartstands

60. Subject to such rules as may be prescribed, the panchayat may—

Public cartstands.

(a) provide public landing-places, halting places and cartstands (which last expression includes stands for animals and vehicles of any description including motor vehicles) and levy fees for their use; and

(b) where any such place or stand has been provided, prohibit the use for the same purpose by any person, within such distance thereof of any public place on the sides of any public road as the panchayat may, subject to the control of the Director, direct.

61. No person shall open a new private cartstand or continue to keep open a private cartstand, unless he obtains from the panchayat a licence to do so. Such licence shall be renewed every year.

Private cartstands.

(2) The panchayat shall, as regards private cartstands already lawfully established, and may at its discretion as regards new private cartstands, grant the licence

applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, conservancy and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new cartstand.

(3) The panchayat may modify the conditions of the licence to take effect from a specified date.

(4) The panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5) The panchayat may levy on every grant or renewal of a licence under this section such fees as may be prescribed.

Slaughter-houses

Public slaughter-houses.

62. A panchayat may provide places for use as public slaughter-houses and charge rents and fees for their use.

Prohibition or regulation of the use of places for slaughtering animals and the licensing of slaughterers.

63. Government shall have power to make rules for—

(a) prohibiting or regulating the slaughter, cutting up or skinning of animals specified in the rules on all occasions not excepted therein, at places other than public slaughter-houses; and

(b) licensing persons to slaughter animals specified in the rules for purposes of sale to the public.

Industries

Purposes for which places may not be used without a licence.

64. The panchayat may with the previous approval of the Director notify that no place within the limits of the panchayat area shall be used for any of the purposes specified in the rules made in this behalf being purposes which, in the opinion of Government, are likely to be offensive or dangerous to human life or health or property, without a licence issued by the panchayat (which shall be renewed every year) and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until sixty days from the date of its publication.

Stray cattle

Prohibition of stray cattle in streets.

65. Whoever tethers cattle or other animals or causes or suffers them to be tethered by any member of his family or household in any public street or place within a panchayat area so as to obstruct or endanger the public

traffic thereon or who causes or suffers such animals to stray about without a keeper shall be punished with fine which may amount to fifteen rupees.

CHAPTER VI

General provisions as to licences and procedure

66. (1) Save as otherwise expressly provided in, or may be prescribed under this Act, every application for any licence or permission under this Act or any rule, or for the renewal thereof, shall be made not less than thirty and not more than ninety days before the earliest date with effect from which, or the commencement of the period (being a year or such less period as is mentioned in the application) for which, the licence or permission is required.

General provisions regarding licences and permissions

(2) Save as aforesaid, for every such licence or permission, fees may be charged at such rates as may be fixed by the panchayat with the approval of the Director.

(3) Save as aforesaid, if orders on an application for any such licence or permission are not communicated to the applicant within thirty days after the receipt of the application by the president, the application shall be deemed to have been allowed for the period, if any, for which it would have been ordinarily allowed and subject to the law and rules, and all conditions ordinarily imposed.

(4) The acceptance of the prepayment of the fee for any such licence or permission shall not entitle the person making such prepayment to the licence or permission, but only to a refund of the fee in case of refusal of the licence or permission.

(5) If an act for which any such licence or permission is necessary is done without such licence or permission, or in a manner inconsistent with the term of the licence or permission obtained, then—

(a) the president may, by notice, require the person so doing such act to alter, remove or as far as practicable restore to its original state, the whole or any part of any property, movable or immovable, public or private affected thereby, within a time to be specified in the notice; and further,

(b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall

be punishable with fine not exceeding fifty rupees for every such offence.

(6) Whenever any person is convicted of an offence in respect of the failure to obtain any such licence or permission, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the panchayat the amount of the fee chargeable for the licence or permission, and may, in his discretion, also recover summarily and pay over to the panchayat such amount, if any, as he may fix as the cost of the prosecution.

Explanation.—The recovery of the fee for a licence or permission under this sub-section shall not entitle the person convicted to the licence or permission.

Government and Government departments not to obtain licences and permissions.

67. Nothing in this Act or in any rule made thereunder shall be construed as requiring the taking out of any licence or the obtaining of any permission under this Act or any such rule, in respect of any place in the occupation or under the control of Government or of any of the departments of Government.

Enforcement of notices, orders, etc.

Time for complying with notice, order, etc., and power to enforce in default.

68. (1) Whenever by any notice, requisition, or order under this Act, or under any rule made thereunder, any person is required to execute any work or take any measure or do anything, a reasonable time shall be fixed in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so fixed—

(a) the panchayat may cause such work to be executed, or may take any measure or do anything which may, in its opinion, be necessary for giving due effect to the notice, requisition or order; and further,

(b) if no penalty has been specially provided in this Act for failure to comply with such notice, requisition or order, the said person shall be punishable with fine not exceeding fifty rupees for every such offence.

Powers of entry and inspection

Powers of entry and inspection.

69. (1) Subject to such restrictions and conditions as may be prescribed, the president or any person authorised by him may enter on or into any place, building or land,

with or without notice and with or without assistants or workmen in order—

(a) to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other work, which is authorised by the provisions of this Act, or of any rule, or order made under it or which it is necessary to make or execute for any of the purposes of this Act or in pursuance of any of the said provisions ; or

(b) to satisfy himself that nothing is being done in such place, building or land for which a licence or permission is required under any of the said provisions without such licence or permission or otherwise than in conformity with the terms of the licence or permission obtained.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under sub-section (1) or of any force necessary for effecting an entrance under that sub-section.

70. The president or any person authorised by him may examine and test the weights and measures used in the markets and shops in the panchayat area with a view to the prevention and punishment of offences relating to such weights and measures under the Weights and Measures Act, LXIII of 1112. Testing of weights and measures.

Prosecution, suits, etc.

71. Save as otherwise expressly provided in this Act, no person shall be tried for any offence against this Act or any rule made thereunder unless complaint is made within three months of the commission of the offence, by the president, or by the police, or by a person expressly authorised in this behalf by the panchayat; but nothing herein shall affect the provisions of the Code of Criminal Procedure, Act II of 1086 in regard to the power of certain Magistrates to take cognisance of offences upon information received or upon their own knowledge or suspicion: Persons empowered to prosecute.

Provided that failure to take out a licence or obtain permission under this Act shall, for the purposes of this section, be deemed to be a continuing offence until the expiration of the period, if any, for which the licence or permission is required and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

Charge officers need not be examined on complaints.

72. Notwithstanding the provisions contained in the Cochin Code of Criminal Procedure, II of 1086, the president or the person authorised by the panchayat to file complaints, who files such complaints in courts of law for offences under this Act or the rules made thereunder, need not be examined on such complaints before the issue of summonses on them.

Composition of offences.

73. The panchayat may, with the approval of the Director, compound any offence against this Act or any rule made thereunder, which may, by rules, be declared compoundable.

Sanction for prosecution of president, or member of a panchayat.

74. When the president or any member is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of Government.

Notice of action against panchayat, etc.

75. (1) All suits to enforce claims by or against a panchayat shall be made by or against Government and the provisions contained in the Cochin Civil Courts Act, III of 1076, the Cochin Code of Civil Procedure, XXIX of 1111 and any other law for the time being in force relating to suits by or against Government shall apply to such suits.

(2) No suit or other legal proceeding shall be brought against the president or any member, officer or servant of a panchayat or any person acting under the direction of a panchayat, president, member, officer or servant, in respect of any act purporting to be done under this Act or in respect of any alleged neglect or default in the execution of this Act or any rule or order made under it, without the previous sanction of Government.

Protection of president and officers acting in good faith.

76. No suit or other legal proceeding shall be maintainable against the president or any member, officer or servant of a panchayat, or any person acting under the direction of a panchayat, or of such president, member, officer or servant, in respect of any act done or purporting to be done under this Act, or in respect of any alleged neglect or default on his part in the execution of this Act, or any rule, or order made under it, if such act was done or such neglect or default occurred in good faith.

Duties of Police Officers.

77. (1) It shall be the duty of every police officer—
(a) to communicate without delay to the president any information which he receives of the design to commit or of the commission of any offence under this Act or any rule made under it; and

(b) to assist the president or any officer of the panchayat reasonably demanding his aid for the lawful exercise of any power vesting in the president, or officer, or servant of the panchayat under this Act or any rule made under it.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed an offence under section 7 or 19 of Act I of 1958.

78. Notwithstanding anything contained in the Code of Civil Procedure, Act XXIX of 1908, or in any other law for the time being in force, no Court shall grant any permanent or temporary injunction or make any *interim* order restraining any proceeding which is being or about to be taken under this Act for the preparation or publication of any electoral roll or for the conduct of any election.

Injunctions not to be granted in election proceedings.

79. The president and every member of a panchayat shall be liable for the loss, waste or misapplication of any money or property at the disposal or control of the panchayat if such loss, waste or misapplication is a direct consequence of his wilful neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by Government.

Liability of the president and members for loss, waste or misapplication of property.

80. (1) No demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reasons of any clerical error or by reason of any mistake (a) in respect of the name, residence, place of business or occupation of any person, or (b) in the description of any property or thing, or (c) in respect of the amount demanded or charged, provided that the provisions of this Act have been in substance and effect complied with. And no proceeding under this Act shall, merely for defect in form, be quashed or set aside by any Court of justice.

Demand, etc., not to be impeached.

(2) No suit shall be brought in any Court to recover any sum of money collected under the authority of this Act or to recover damages on account of any collection of money made under the said authority:

Provided that the provisions of this Act have been in substance and effect complied with.

(3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect, or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory, or other

proceeding relating thereto, if the provisions of this Act and the rules made under it have in substance and effect been complied with.

CHAPTER VII Rules and Penalties

RULES

Power of Government to make rules.

81. (1) Government shall, in addition to the rule-making powers conferred on them by any other provisions contained in this Act, have power to make rules generally to carry out the purposes of this Act.

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

(i) for the conduct of business and the procedure to be followed by panchayats, in the conduct of meetings and as to the interpellation of the president by the members and the moving of resolutions at meetings;

(ii) as to all matters relating to electoral rolls or elections, not expressly provided for in this Act, including deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited, and the conduct of inquiries and the decision of disputes relating to electoral rolls or elections;

(iii) as to the constitution of committees of panchayats, the inclusion of outsiders therein, and the delegation of functions to such committees;

(iv) as to the delegation of any function of a panchayat, to the president, member, any officer of the panchayat, or any servant of Government;

(v) for the collection and remittance of moneys by panchayats and for the manner in which the funds placed at the disposal of the panchayat shall be drawn upon;

(vi) as to the transfer of allotments entered in the sanctioned budget of a panchayat from one head to another;

(vii) as to the estimate of receipts and expenditure, returns, statements and reports to be submitted by panchayats;

(viii) as to the preparation of plans and estimates for works and the power of panchayats and of servants of Government to accord professional or administrative sanction to estimates;

(ix) as to the accounts to be kept by panchayats and the audit of such accounts;

(x) as to the powers of auditors to disallow and surcharge items, appeals against orders of disallowance or surcharge, and the recovery of sums disallowed or surcharged;

(xi) as to the powers of auditors, inspecting and superintending officers and officers authorised to hold inquiries, to summon and examine witnesses and to compel the production of documents and all other matters connected with audit, inspection and superintendence;

(xii) as to the conditions on which and the mode in which contracts may be made by or on behalf of panchayats;

(xiii) the realisation of any sum due to a panchayat under this Act or any other law or any rules, whether by distraint and sale of movable property, by prosecution before a Magistrate, by a suit, or otherwise;

(xiv) the realisation of fees due in respect of the use of cartstands and the like, whether by the seizure and sale of the vehicle or animal concerned or any part of its burden, or otherwise;

(xv) as to the form and contents of licences, permissions and notices granted or issued under this Act, the manner of their issue or the method of their service, and the modification, suspension or cancellation thereof;

(xvi) as to the powers of panchayats and presidents to call for information on any matter, to summon and examine witnesses, and compel the production of documents;

(xvii) for the use of facsimiles of the signature of the president and vice-president;

(xviii) as to the grant to the public of copies of any proceeding or record of the panchayat, not relating to any matter classified as confidential by Government or any authority empowered by them, and the fees to be levied for the grant of such copies;

(xix) as to the opening, maintenance, management and supervision of elementary schools;

(xx) prohibition or regulating the use for any specified purposes, of any public spring, tank, well, or water-course;

(xxi) regulating contracts between the panchayat and the owners or occupiers of private premises for the removal therefrom of rubbish or filth, or any kind of rubbish or filth;

(xxii) as to the provision of burial and burning grounds; the licensing of private burial and burning

grounds; the regulation of the use of all grounds so provided or licensed; the closing of any such grounds; and the prohibition of the disposal of corpses except in such grounds or other permitted places;

(xxiii) as to the licensing of pigs and dogs and the destruction of unlicensed pigs and dogs;

(xxiv) for the removal of encroachments of any description from public roads in panchayats and the repair of any damage caused to such roads by the person causing the damage or at his expense;

(xxv) for the determination of any claim to trees growing on public roads or property under the control of the panchayat and the presumptions to be drawn as regards the ownership of such trees;

(xxvi) as to the imposition and recovery of penalties for the unauthorised occupation of public roads, or other land under the control of the panchayats and the assessment and recovery of compensation for any damage caused by such occupation;

(xxvii) as to the powers which may be exercised by the panchayat or the president in respect of any public or private market or the user thereof, and the enforcement of any orders issued in pursuance of such powers;

(xxviii) for compelling owners of cattle to stall them in cattle-sheds provided by the panchayat and the fees leviable in respect thereof;

(xxix) as to the disposal of fallen trees and the realisation of the expenses incurred for their removal;

(xxx) as to the duties to be discharged by village officers and other officers of Government who have to deal with the panchayats and their responsibilities in relation to such duties;

(xxxi) as to appeals against orders passed under this Act, and the time within which appeals should be presented, whether allowed by this Act or by rules or otherwise;

(xxxii) for the decision of disputes between two or more local authorities of which one is a panchayat;

(xxxiii) as to the class of Magistrates by whom offences against this Act shall be tried;

(xxxiv) as to the manner of publication of notifications or notices to the public under this Act.

Penalties for
breach of
rules.

82. (1) In making any rule under this Act, Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees,

or in case of a continuing breach, with fine not exceeding fifteen rupees for every day during which the breach continues after conviction for the first breach.

(2) The power to make rules under this Act shall be subject to the condition of previous publication.

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

PENALTIES

83. (1) Whoever—

(a) contravenes any of the provisions of this Act specified in the first and second columns of Schedule I, or

(b) contravenes any rule or order made under any of the provisions so specified, or

(c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

shall be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of—

(a) contravening any of the provisions of this Act specified in the first and second columns of Schedule II, or

(b) contravening any rule or order made under any of the provisions so specified, or

(c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall be punished, for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation.—The entries in the third column of Schedules I and II headed “Subject” are not intended as definitions of the offences described in the provisions specified in the first and the second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

General provisions regarding penalties specified in the Schedules.

Penalty for acting as member, president, or vice-president of a panchayat when disqualified.

84. (1) Whoever acts as a member of a panchayat knowing that, under this Act, or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, shall be punished with fine not exceeding one hundred rupees for every such offence.

(2) Whoever acts as, or exercises the functions of, the president, acting president, or vice-president of a panchayat, knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions, shall be punished with fine not exceeding two hundred rupees for every such offence.

(3) Any person who having been the president, acting president, or vice-president of a panchayat fails to hand over any documents of, or any moneys or other properties belonging to the panchayat, which are in or have come into his possession or control, to his successor in office or other prescribed authority—

(a) in every case as soon as his term of office as such president, acting president or vice-president expires; and

(b) in the case of a person who was the vice-president also on demand by the president

shall be punished with fine not exceeding five hundred rupees for every such offence.

Penalty for acquisition by an officer or servant of interest in contract work.

85. If any officer or servant of a panchayat knowingly acquires, directly or indirectly, by himself or by a partner, employer or servant, any personal share or interest in any contract or employment with, by or on behalf of, the panchayat, he shall be deemed to have committed an offence under section 151 of the Cochin Penal Code:

Provided that no person shall, by reason of being a shareholder in, or member of, any company, be held to be interested in any contract entered into between such company and the panchayat, unless he is a manager or managing director of such company:

Provided further that nothing in this section shall apply to any person who, with the sanction of Government, enters into a contract with the panchayat.

Wrongful restraint of president or his delegate.

86. Any person who prevents the president or any person to whom the president has lawfully delegated his powers of entering on or into any place, building, or land, from exercising his lawful power of entering thereon or

thereinto, shall be deemed, to have committed an offence under section 172 of the Cochin Penal Code.

87. Any person obstructing or molesting a panchayat, its president, a member thereof, any person employed by the panchayat, or any person with whom a contract has been entered into by or on behalf of the panchayat, in the discharge of their duty or of anything which they are empowered or required to do by virtue, or in consequence, of this Act or of any rule or order made under it, shall be punished with fine which may extend to fifty rupees.

Prohibition against obstruction of panchayats, servant or contractors.

88. Any person who, without authority in that behalf, removes, destroys, defaces or otherwise obliterates any notice exhibited or any sign or mark erected by, or under the orders of, a panchayat or its president, shall be punished with fine which may extend to fifty rupees.

Prohibition against removal or obliteration of notice.

89. Any person who is required by this Act or by any notice or other proceeding issued thereunder to furnish any information, omits or refuses without just cause to furnish such information, or knowingly furnishes false information, shall be punishable with fine not exceeding one hundred rupees.

Penalty for not giving information or giving false information.

CHAPTER VIII

Supplemental Provisions

90. All roads, markets, wells, tanks, reservoirs and waterways under the control of or maintained by a panchayat shall be open to the use and enjoyment of all persons, irrespective of their caste or creed.

Public roads, markets, wells, tanks, etc., to be open to all.

91. Subject to such rules as may be prescribed, a panchayat shall have power to farm out the collection of any fees due to it under this Act or any rules made thereunder.

Power to farm out fees.

92. (1) Government may, by notification, authorise any person to exercise in any local area in regard to any panchayat or all panchayats in that area, any of the powers vested by this Act in the Director and may in like manner withdraw such authority.

Delegation of powers, etc.

(2) The exercise of any power delegated under subsection (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification, and also to control and revision by Government.

Construction of references to panchayats.

93. Any reference to a panchayat contained in any law, rule, by-law, regulation, notification or order in force in the State at the commencement of this Act shall be deemed to be a reference to a panchayat as reconstituted or constituted under this Act.

Act to be read subject to Schedule III in regard to first reconstitution of panchayats, etc.

94. (1) In regard to the first reconstitution in accordance with the provisions of this Act of panchayats in existence at the commencement thereof, and otherwise in first giving effect to the said provisions, they shall be read subject to the rules in Schedule III.

(2) Government shall have power, by notification, to amend, add to, or repeal the rules in the said Schedule.

Appeals against orders of president, panchayat, Director, etc.

95. (1) An appeal from any notice or order issued or other action taken or proposed to be taken by the president under the provisions of this Act or the rules framed thereunder shall in the first instance lie to the panchayat, and the panchayat may pass such orders as it deems fit.

(2) Any person aggrieved by any notice or order issued or passed by or by any other act of a panchayat or its president under this Act may appeal to the Director, and an appeal against the orders of the Director shall lie to Government. The appellate authority may pass such orders on the appeal as it deems fit, and pending decision, may direct the panchayat, president, or the Director, as the case may be, to keep the proceedings in abeyance.

(3) An appeal under sub-section (1) or (2) shall be presented within thirty days from the date of the act or the promulgation of service of the order or notice complained of. The time occupied in obtaining copies of material papers in connection with the order, notice or act appealed against shall be excluded from the computation of the said thirty days.

Power to remove difficulties.

96. If any difficulty arises in first giving effect to the provisions of this Act or as to the first reconstitution or constitution of any panchayat after the commencement of this Act, Government, as occasion may require, may, by order, do that which appears to them necessary for the purpose of removing the difficulty.

Repeal of Cochin Village Panchayat Act, V of 1089.

97. The Cochin Village Panchayat Act, V of 1089 is hereby repealed.

SCHEDULE I

Ordinary Penalties

See section 83(1)

Section (1)	Sub-section or clause (2)	Subject (3)	Maximum fine which may be imposed (4)
51	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road	One hundred rupees
51	(b)	Unlawful making of hole or depositing of matter in or over public road	Fifty rupees
51	(c)	Unlawful construction of building over drain	Two hundred rupees
51	(d)	Planting of trees without permission on any public road or other property vested in a panchayat	Two hundred rupees
51	(e)	Felling, etc., without permission of trees growing on public road or other property vested in a panchayat	Two hundred rupees
56	(1)	Opening a new private market or continuing to keep open a private market without licence or contrary to licence	Five hundred rupees
58	..	Sale, etc., of articles in public roads or places after prohibition or without licence or contrary to regulations	Ten rupees
60	(b)	Using any public place or roadside as a landing or halting place or as a cartstand within prohibited distance	Fifty rupees
61	(1)	Opening a new private cartstand or continuing to keep open a private cartstand without licence or contrary to licence	Two hundred rupees
63	(a)	Slaughtering, cutting up or skinning, etc., of animals outside public slaughter houses in contravention of rules	Two hundred rupees
63	(b)	Slaughtering animals for purposes of sale without licence or contrary to licence	Twenty rupees
64	..	Using a place for any prescribed purpose without licence or contrary to licence	One hundred rupees
90	..	Obstructing a person in the use or enjoyment of a public road, market, well, tank, etc.	One hundred rupees

SCHEDULE II

Penalties for continuing breaches

See section 83 (2)

Section (1)	Sub-section or clause (2)	Subject (3)	Maximum fine which may be imposed (4)
51	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road	Twenty rupees
51	(b)	Unlawful making of hole or depositing of matter in or over public road	Ten rupees
51	(c)	Unlawful construction of building over drain	Fifty rupees
56	(1)	Keeping open a private market without licence or contrary to licence	One hundred rupees
61	(1)	Keeping open a private cartstand without licence or contrary to licence	Twenty rupees
64	..	Using a place for any prescribed purpose without a licence or contrary to licence	Twenty rupees

SCHEDULE III

Transitional provisions

See section 94

1. *Definitions of 'old Act' and 'panchayat'.*—In these rules, "the old Act" means the Cochin Village Panchayat Act, V of 1089, and "panchayat" means a panchayat constituted under the old Act and in existence at the commencement of this Act.

2. *Existing villages and panchayats to be deemed to be duly constituted.*—Every local area which at the commencement of this Act is a panchayat under the old Act shall be deemed to have been declared to be a panchayat area under this Act, and every panchayat shall be deemed to have been constituted under this Act.

3. *Total number of members of panchayats.*—The total number of members of a panchayat fixed under the old Act and in force at the commencement of this Act shall be deemed to have been declared to be the total number of its members under this Act and Government may nominate one of the members as the vice-president.

4. *Term of office of existing members.*—The term of office of the members of every panchayat holding office at the commencement of this Act shall continue up to the date on which it would have expired under the old Act or until such time as Government may, by notification, determine.

5. *Term of office of existing presidents.*—The president of a panchayat holding office at the commencement of this Act shall, subject to the provisions thereof, continue to hold office as such president until the date referred to in rule 4.

6. *Filling up of casual vacancies.*—(1) Any vacancy in the office of the president of a panchayat which is in existence at the commencement of this Act or which occurs before the date referred to in rule 4 shall be filled by election by the panchayat.

(2) Any such vacancy in the office of a member of a panchayat shall be filled under the provisions of the old Act.

(3) Any person elected as president under sub-rule (1) or any member of a panchayat elected or nominated under sub-rule (2) shall hold office only up to the date referred to in rule 4.

7. *Reconstitution of panchayats dissolved under the old Act.*—Any panchayat dissolved under the old Act may be reconstituted in accordance with the provisions of this Act.

8. *Devolution of property rights and liabilities.*—(1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in, or held in trust by or for any panchayat as well as all liabilities legally subsisting against it shall, on and from the date of the commencement of this Act and subject to such directions as Government may, by general or special order, give in this behalf, pass to such panchayat as is or deemed to have been constituted under this Act.

(2) All proceedings taken by or against any panchayat or other authority under the old Act may, in so far as they are not inconsistent with this Act, be continued by such panchayat or authority under this Act.

(3) All fees or other dues which a panchayat is empowered to collect under this Act and which have accrued due prior to the commencement of this Act to any department of Government shall be collected by the panchayat as if they were fees or dues to be collected by the panchayat under this Act.

9. *Action taken under old Act to continue.*—Any action taken by any authority before the commencement of this Act shall, unless inconsistent with this Act, be deemed to have been taken by the authority competent to take such action under this Act, unless and until superseded by action taken by such authority, whether it be the same as the authority competent to take such action under the old Act or not.

THE COCHIN VAGRANCY ACT

(XXI of 1120)

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THE COCHIN VAGRANCY ACT
(XXI of 1120)

An Act for the prohibition of Vagrancy and for the Relief of Vagrants in Cochin State
Passed by His Highness the Maharaja of Cochin.
on the 25th day of Mithunam 1120 corresponding to the 9th day of July 1945

[Published in the Cochin Government Gazette dated
30th Mithunam 1120]

Preamble.

Whereas it is necessary in the public interests to make special provision for dealing with vagrancy; It is hereby enacted as follows.—

CHAPTER I
Preliminary

Short title, extent and commencement.

1. (i) This Act may be called the Cochin Vagrancy Act, XXI of 1120.

(ii) Government may, from time to time by notification in the Cochin Government Gazette, apply the whole

or any of the provisions of this Act to the whole of Cochin State or any specified local area therein, from such date as may be specified in the notification, and may in like manner cancel or modify such notification.

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

(i) “Alms” means anything gratuitously given to a vagrant, such as money, food—cooked or uncooked—, grain or clothing or any other thing of value;

(ii) “Central Committee” means the Central Advisory Committee constituted by Government, under sub-section (i) of section 4 of this Act;

(iii) “Child” means a person under the age of 12 years;

(iv) “Local area” means any area declared as such by Government from time to time for the purposes of this Act by notification in the Cochin Government Gazette;

(v) “Local Committee” means the Committee appointed by the Central Committee for any local area;

(vi) “Magistrate” means a person exercising the powers of a Magistrate not below the rank of a Second Class Magistrate under the Code of Criminal Procedure, II of 1086;

(vii) “Offence” means an act or omission punishable under this Act;

(viii) “Prescribed” means prescribed by rules under this Act;

(ix) “Receiving Centre” means a house or institution provided by Government for the reception and temporary detention of vagrants;

(x) “Relief Settlement” means a home for the detention and care of vagrants, maintained by Government or certified under the provisions of this Act to be a Relief Settlement;

(xi) “Vagrancy Officer” means the Vagrancy Officer appointed by Government under sub-section (i) of section 6;

(xii) “Vagrant” means any person who obtains or is in the habit of obtaining his livelihood by soliciting alms,

impliedly or explicitly, wandering from door to door or in any public place or a place to which the public resort and includes—

(a) any person who exposes or exhibits any sores, wounds or bodily ailments or deformities or makes false and fraudulent pretences with the object of exciting pity for securing alms; and

(b) religious mendicants who ask for alms from door to door or in any public place or a place to which the public resort.

Vagrancy
prohibited.

3. No person shall ask for alms in any area in which this Act is in force.

Central Advisory
Committee and
President.

4. (i) As soon as may be after the commencement of this Act, Government shall cause to be constituted a Central Advisory Committee consisting of not less than 12 members, of whom the majority shall be non-officials, and may appoint one of the members to be the President of the Committee.

(ii) The function of the Central Committee shall be to advise Government on all matters relating to the control of vagrants and in particular on the administration of this Act, and for the aforesaid purposes any member of the said Committee may enter and inspect at any time any Receiving Centre or Relief Settlement.

(iii) The Central Committee may, with the previous approval of Government, make regulations to provide for—

(a) the times and places at which its meetings shall be held;

(b) the issue of notices concerning such meetings;

(c) the conduct of business thereat; and

(d) such other matters as are necessary for the discharge of their functions.

Local Com-
mittees.

5. (1) The Central Committee may, for the purposes of discharging its duties under this Act in any local area, constitute in the manner prescribed a Local Committee.

(2) The function of the Local Committee shall be to advise the Central Committee on all matters relating to

the control of vagrants and in particular on the administration of this Act in the local area for which it is constituted and for the above-mentioned purposes any member of the Local Committee may enter and inspect at any time any Receiving Centre or Relief Settlement in that area.

(3) The Local Committee may, with the previous approval of the Central Committee, make regulations to provide for—

(a) the times and places at which its meetings shall be held;

(b) the issue of notices concerning such meetings;

(c) the conduct of business thereat; and

(d) such other matters as are necessary for the discharge of their functions.

6. (i) Government may appoint a person to be the Vagrancy Officer together with such staff as may be necessary for carrying out the purposes of this Act. **Appointment of Vagrancy Officer.**

(ii) Persons appointed under sub-section (i) shall exercise such powers as may be conferred, and perform such functions as may be required by or under this Act.

CHAPTER II

Procedure

7. A vagrant may present himself at a Receiving Centre and apply orally or in writing to the Officer-in-charge for the relief provided under this Act. The Officer-in-charge shall thereupon hold such enquiry as he deems fit, and on being satisfied that the applicant is a vagrant, produce him before a Magistrate. If after such enquiry the Officer-in-charge is not satisfied that the applicant is a vagrant, his application shall be refused. **Voluntary application for relief.**

8. Any Police Officer, Sanitary Inspector, Excise Officer, or any officer authorised by Government in this behalf, may ask any person who is apparently a vagrant to accompany him and if he refuses arrest him and produce him before the Magistrate having jurisdiction over the area in which such person is found. **Power to require apparent vagrant to appear before Magistrate.**

Summary enquiry in respect of apparent vagrant.

9. (i) When a person is brought before a Magistrate under section 7 or section 8, the Magistrate shall make a summary enquiry in the prescribed manner into the circumstances and character of such person and—

(a) if after hearing such person the Magistrate is satisfied that such person is a vagrant and that he is a subject of His Highness the Maharaja of Cochin, he shall record a declaration to that effect and the provisions of this Act relating to vagrants shall thereupon apply to such person;

(b) if the Magistrate is not satisfied that the person brought before him is a vagrant, such person shall forthwith be released;

(c) if the Magistrate finds that the vagrant is not a subject of His Highness the Maharaja of Cochin, the Magistrate shall by order in writing direct the said vagrant to leave Cochin State within such time and by such route or routes as may be specified in the order and not to return thereto without the permission in writing of the Magistrate;

(d) if the Magistrate is satisfied that the vagrant brought before him under section 7 or section 8 will not, if released, resort to vagrancy, direct his release with or without surety as he may deem fit.

(ii) Any vagrant against whom an order is passed under section 9 (i) (c) shall be given a certified extract of such order free of cost and any authority acting under section 8 shall on production of such order allow the vagrant to pass through or remain in any part of the State *en route* during the time granted by such order.

(iii) When a vagrant against whom an order of externment under sub-section (i) has been made fails to comply with such order within the time specified therein, or after complying with the said order returns to Cochin State without the permission in writing of the Magistrate, he may be arrested without a warrant by any Police Officer and shall be liable, on conviction before a Magistrate, to be punished with rigorous imprisonment for a term which may extend to 6 months.

(iv) If in the course of the enquiry by the Magistrate under sub-section (i) it is found that the vagrant has any property in his own right the Magistrate shall, while

making the declaratory order, direct that the cost of maintaining the said vagrant or such amount as may be specified by him be recovered as fine from such property.

(v) A Magistrate recording a declaration under sub-section (i) that a person is a vagrant shall forthwith send a certified copy of such declaration to the Vagrancy Officer and to the Officer-in-charge of the Receiving Centre to which such vagrant is sent under sub-section (i) of section 10.

10. (i) When a person has been declared to be a vagrant under sub-section (i) of section 9, he shall forthwith be sent to the nearest Receiving Centre and such vagrant shall be detained in such Receiving Centre until he is sent therefrom to a Relief Settlement under sub-section (i) of section 11.

Detention in Receiving Centre and medical examination of vagrant.

(ii) As soon as possible after the commencement of the detention of a vagrant in a Receiving Centre, the Medical Officer of such Receiving Centre shall examine the vagrant as quickly as is consistent with the circumstances of the case and shall thereupon furnish the Officer-in-charge of the Receiving Centre with a report regarding the health and bodily condition of the vagrant.

(iii) The report referred to in sub-section (ii) shall state *inter alia*—

(a) the sex and age of the vagrant ;
 (b) whether the vagrant is a leper ;
 (c) from what, if any, communicable diseases other than leprosy the vagrant is suffering ;

(d) whether the vagrant is insane or mentally deficient ; and

(e) the general state of health and bodily condition of the vagrant and for which, if any, of the prescribed types of work he is fit.

11. (i) On receipt of the report referred to in sub-section (ii) of section 10, the Officer-in-charge of a Receiving Centre shall, as soon as the necessary arrangements can be made, send the vagrant to such Relief Settlement as the Vagrancy Officer may, by general or special order in this behalf, direct and the said Officer-in-charge shall along with such vagrant send to the Manager of the said Relief Settlement—

Procedure for sending a vagrant to Relief Settlement.

(a) the certified copy of the declaration made under sub-section (i) of section 9 relating to such vagrant, and

(b) the said medical report:

Provided that where a vagrant desires to be sent to any particular Relief Settlement the Vagrancy Officer shall as far as possible comply with such desire:

Provided further that no vagrant shall be sent to or detained in any certified Relief Settlement if his detention therein is likely to wound the religious feelings or susceptibilities either of himself or of any of the vagrants detained in such Settlement.

(ii) When a vagrant is sent to a Relief Settlement under the provisions of sub-section (i), he shall be detained therein or in a Relief Settlement to which he may be transferred under section 16, until duly discharged therefrom under section 18.

(iii) In issuing an order under sub-section (i), the Vagrancy Officer shall ensure that the following classes of vagrants, namely.—

(a) lepers,

(b) the insane or mentally deficient,

(c) those suffering from communicable diseases other than leprosy, and

(d) children,

are segregated from each other and from vagrants who do not belong to any of the afore-mentioned classes in such manner as may be prescribed and shall also ensure that the male vagrants are segregated from female vagrants:

Provided that the provisions of this sub-section in respect of children shall be relaxed in the manner prescribed.

CHAPTER III

RECEIVING CENTRES AND RELIEF SETTLEMENTS

**Provision of
Receiving
Centres.**

12. (i) Government shall provide and maintain for the purposes of this Act one or more Receiving Centres for each local area.

(ii) For the purposes of this Act, every Receiving Centre shall be under the immediate control of an Officer-in-charge who shall be appointed by Government and

who shall perform his functions subject to the orders of the Vagrancy Officer.

(iii) Government shall also appoint for every Receiving Centre one or more qualified persons as medical officer.

13. (1) Government may provide and maintain one or more Relief Settlements for each local area or may certify by notification in the Cochin Government Gazette any home or institution provided by any public or private agency for the purpose of affording adequate relief to vagrants as a Relief Settlement on such terms and conditions, as may be prescribed. **Provision of Relief Settlements.**

(2) Every Relief Settlement shall provide for the teaching of agricultural, industrial or other pursuits and for the general education and medical care of the inmates.

(3) Government may grant aid to any home or institution certified to be a Relief Settlement for the maintenance of every vagrant at a rate not exceeding the amount spent on a vagrant for his food, clothing and bedding by Government at the nearest Relief Settlement managed by Government.

(4) Every Relief Settlement shall be under the immediate charge of a Manager who shall perform his functions subject to the orders of the Vagrancy Officer. The Manager shall be appointed by Government in the case of Settlements provided and maintained by Government and with the approval of Government in the case of Settlements certified by Government to be Relief Settlements.

14. Every Officer-in-charge of a Receiving Centre or Manager of a Relief Settlement may order that any vagrant detained in such Receiving Centre or Relief Settlement shall be searched and that the personal effects of such vagrant shall be inspected and any money then found with or on the vagrant shall be applied in the manner prescribed towards the welfare of vagrants and any of such effects other than money may be sold in auction and the proceeds of the sale shall be applied as aforesaid: **Search of vagrants.**

Provided that a female vagrant shall be searched only by a female and with due regard to decency.

15. (i) Vagrants detained in Receiving Centres or Relief Settlements under this Act shall be subject to such **Management and discipline.**

rules of management and discipline as may from time to time be prescribed.

Explanation.—Discipline includes the enforcement of the doing of manual or other work by a vagrant.

(ii) If any vagrant wilfully disobeys or neglects to comply with any rule prescribed under sub-section (i), he shall, on conviction before a Magistrate, be liable to be punished with rigorous imprisonment for a term which may extend to three months.

(iii) Government may authorise the Manager of a Relief Settlement to punish any vagrant detained in such Relief Settlement who wilfully disobeys or neglects to comply with any rule prescribed under sub-section (i) with hard labour of the type prescribed, for any period not exceeding seven days; and such punishment may be in lieu of or in addition to any punishment to which the vagrant may be liable under sub-section (ii).

Transfer of
vagrants
from one
Relief Settle-
ment to
another.

16. The Vagrancy Officer may by order in writing direct the transfer of a vagrant from one Relief Settlement to another and a vagrant in respect of whom such an order is passed shall thereupon be sent to and handed over to the custody of the Manager of the Relief Settlement to which he has by such order been transferred.

Outside em-
ployment to
be obtained
for vagrants
when pos-
sible.

17. The Manager of a Relief Settlement shall use his best endeavours to obtain outside the Relief Settlement suitable employment for vagrants detained therein.

Discharge of
vagrants
from Relief
Settlement.

18. (i) A vagrant may be discharged from a Relief Settlement under orders of the Vagrancy Officer—

(a) on the Manager of such Relief Settlement certifying in the prescribed manner that satisfactory employment has been obtained for such vagrant; or

(b) on being shown to the satisfaction of the Vagrancy Officer that such vagrant has become possessed of an income sufficient to enable him to support himself without resorting to vagrancy; or

(c) on a relative of such vagrant or a person who, the Vagrancy Officer is satisfied, is interested in the welfare of such vagrant, entering into a bond with or without sureties for a sum prescribed, to look after and maintain such vagrant and to prevent him from resorting to vagrancy; or

(d) for other good and sufficient reasons to be recorded by the Vagrancy Officer in writing.

(ii) When the employment referred to in clause (a) of sub-section (i) has been obtained for a vagrant, any such vagrant refusing or neglecting to avail himself thereof shall unless he has secured other employment be liable to be punished, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to one month.

CHAPTER IV

Penalties and Procedure

19. Whoever employs or causes any person to ask for alms or abets the employment or the causing of a person to ask for alms, or whoever having the custody, charge or care of a child, connives at or encourages the employment or the causing of a child to ask for alms shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one year or with fine or with both.

Punishment for employing or causing persons to ask for alms.

20. Any person evading, preventing or offering resistance to any authority acting under section 8 shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one month or with fine or with both.

Punishment for refusing to go before a Magistrate.

21. Any vagrant who refuses to submit to a medical examination by the medical officer of a Receiving Centre shall be liable to be punished on conviction before a Magistrate with rigorous imprisonment for a term which may extend to one month.

Punishment for refusing to submit to medical examination at a Receiving Centre.

22. (i) Any vagrant who escapes from any custody to which he has been committed under this Act or any rule made thereunder or who leaves a Receiving Centre without the permission of the Officer-in-charge thereof, or who leaves a Relief Settlement without the permission of the Manager thereof or who, having with the permission of such Officer-in-charge or Manager, as the case may be, left a Receiving Centre or a Relief Settlement for a time specified under any rule referred to in sub-section (i) of section 15, wilfully fails to return on the expiration of such time, may be arrested without warrant, and shall for every such offence, be liable to be punished, on conviction before a

Punishment for escape from Receiving Centre or Relief Settlement and for asking for alms after discharge.

Magistrate, with simple or rigorous imprisonment for a term which may extend to six months.

(ii) Any person who, after discharge from a Relief Settlement under section 18, is again found asking for alms may be arrested by any of the officers mentioned in section 8 without warrant and produced before a Magistrate who after summary enquiry may convict and sentence him to simple or rigorous imprisonment for a period not exceeding three months.

**Procedure at
the end of
imprison-
ment.**

23. Every person imprisoned under the provisions of sub-section (iii) of section 15, sub-section (ii) of section 18, section 20, section 21, or section 22 shall on the day of expiry of his term of imprisonment be brought before the nearest Magistrate who shall forthwith deal with such person in the manner laid down in sections 9, 10 and 11 as if such person had been brought before such Magistrate under the provisions of section 8:

Provided that, if the said Magistrate is of the opinion that such person would, if detained under this Act as a vagrant in a Relief Settlement, be eligible to be discharged therefrom under the provisions of sub-section (i) of section 18 he may, instead of dealing with such person as aforesaid, direct that such person be released and such person shall thereupon be set at liberty.

Fines.

24. (i) Fines imposed under this Act may be recovered in the manner prescribed by the Code of Criminal Procedure, II of 1086.

(ii) Fines recovered under this Act shall be credited to the Vagrant Relief Fund.

Appeals.

25. Appeals shall lie to the District Magistrate from any order passed by a Magistrate under the provisions of this Act and notwithstanding the provisions of the Code of Criminal Procedure, II of 1086, the orders passed by the District Magistrate on such appeals shall be final.

CHAPTER V Miscellaneous

**Persons to be
deemed
public
servants.**

26. All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of section 15 of the Cochin Penal Code.

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

28. (1) Government may make rules for carrying out the purposes of this Act. Power to make rules

(2) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for all or any of the following matters, namely.—

(a) the constitution of the Central and Local Committees;

(b) the manner in which the summary enquiry referred to in sub-section (i) of section 9 shall be made;

(c) the manner in which a vagrant is to be sent to a Receiving Centre under sub-section (i) of section 10;

(d) the types of works for which a vagrant may be reported fit under clause (e) of sub-section (iii) of section 10;

(e) the manner in and the extent to which the provisions of sub-section (iii) of section 11 in respect of children shall be relaxed;

(f) the manner in which the money found with or on, or the proceeds of the sale of other personal effects of, a vagrant may be applied to the welfare of vagrants under section 14;

(g) the management and discipline referred to in sub-section (i) of section 15 to which vagrants detained in Receiving Centres and Relief Settlements shall be subject;

(h) the type of the hard labour which is to form punishment which may be awarded under sub-section (iii) of section 15;

(i) the manner in which a vagrant may be sent from one Relief Settlement to another under section 16;

(j) the manner in which the Manager of a Relief Settlement is to certify under clause (a) of sub-section (i) of section 18 that satisfactory employment has been obtained for a vagrant;

(k) the amount of the bond referred to in clause (c) of sub-section (i) of section 18; and

(1) the terms and conditions upon which Government may certify any home or institution provided by a public or private agency as Relief Settlements and the award of maintenance grants to these institutions under section 13 (3).

(3) In making any rule under this section, Government may provide that a breach of the rule shall be punishable with fine not exceeding Rs. 500.

PROCLAMATION (XX of 1120)

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 18th day of Karkadagam 1120, corresponding
to the 2nd day of August 1945.*

[Published in the Cochin Government Gazette, dated
27th Karkadagam 1120]

WHEREAS the Tattamangalam Municipal Council was constituted into a separate Municipality as an experimental measure, and WHEREAS the term of the Councillors and Chairman of the said Municipal Council expires on the 1st day of Vrischigam of 1121 and WHEREAS it has been considered necessary to watch its progress for one more year before deciding the question of continuing the said Council; WE are hereby pleased to command that notwithstanding the provisions of the Cochin Municipal Act, XVIII of 1113, or any other law for the time being in force, the term of office of the Chairman and Councillors of the Tattamangalam Municipal Council shall be extended up to noon on the 1st day of Vrischigam 1122 and the provisions of the Cochin Municipal Act, XVIII of 1113, shall have effect accordingly.

THE COCHIN DISSOLUTION OF MUSLIM MARRIAGE ACT

(XXII of 1120)

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1. Short title, extent and commencement.
2. Grounds for decree for dissolution of marriage.
3. Notice is to be served on the heirs of the husband when the husband's whereabouts are not known.
4. Effect of conversion to another faith.
5. Rights to dower not to be affected.
6. Repeal of the Muslim Women's Marriage Dissolution Act.

**THE COCHIN DISSOLUTION OF MUSLIM MARRIAGE
ACT
(XXII of 1120)**

*Passed by His Highness the Maharaja of Cochin
on the 18th day of Karkadagam 1120 corresponding
to the 2nd day of August 1945.*

[Published in the Cochin Government Gazette,
dated 27th Karkadagam 1120]

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim Law relating to suits for dissolution of marriage by women married under Muslim Law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Dissolution of Muslim Marriage Act XXII of 1120.

Short title,
extent, and
commence-
ment.

(2) It extends to the whole of the Cochin State and shall come into force at once.

2. A woman married under Muslim Law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely.—

Grounds for
decree for
dissolution of
marriage.

(1) that the whereabouts of the husband have not been known for a period of four years;

(2) that the husband has neglected or has failed to provide for her maintenance for a period of two years;

(3) that the husband has been sentenced to imprisonment for a period of seven years or upwards;

(4) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;

(5) that the husband was impotent at the time of the marriage and continues to be so;

(6) that the husband has been insane for a period of 2 years or is suffering from leprosy or a virulent venereal disease;

(7) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years :

Provided that the marriage has not been consummated;

(8) that the husband treats her with cruelty, that is to say.—

(a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(b) associates with women of evil repute or leads an infamous life, or

(c) attempts to force her to lead an immoral life, or

(d) disposes of her property or prevents her exercising her legal rights over it, or

(e) obstructs her in the observance of her religious profession or practice, or

(f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran;

(9) on any other ground which is recognised as valid for the dissolution of marriage under Muslim Law :

Provided that—

(a) no decree shall be passed on ground (3) until the sentence has become final;

(b) a decree passed on ground (1) shall not take effect for a period of six months from the date of such decree and if the husband appears either in person or through an authorised agent within that period and satisfies the court that he is prepared to perform his conjugal duties, the court shall set aside the said decree; and

(c) before passing a decree on ground (5) the court shall, on application by the husband, make an order requiring the husband to satisfy the court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the court within such period, no decree shall be passed on the said ground.

Notice is to be served on the heirs of the husband when the husband's whereabouts are not known.

3. In a suit to which clause (1) of section 2 applies—

(a) the names and addresses of the persons who would have been the heirs of the husband under the Muslim Law, if he had died on the date of the filing of the plaint shall be stated in the plaint,

(b) notice of the suit shall be served on such persons, and

(c) such persons shall have the right to be heard in the suit:

Provided that paternal uncle and brother of the husband, if any, shall be cited as party even if he or they are not heirs.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Effect of conversion to another faith.

Provided that after such renunciation or conversion the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim Law to her dower or any part thereof on the dissolution of her marriage.

Rights to dower not to be affected.

6. The Muslim Women's Marriage Dissolution Act of 1108 is hereby repealed.

Repeal of the Muslim Women's Marriage Dissolution Act.

THE PRESERVATION OF ERIES ACT

(XXIII of 1120)

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Definition.
3. Returns.
4. Eries not to be converted into wet lands, etc.
5. Penalty.
6. Recovery of expenses incurred.
7. Appeal.
8. Recovery of Penalty.

THE PRESERVATION OF ERIES ACT

(XXIII of 1120)

*Passed by His Highness the Maharaja of Cochin
on the 18th day of Karkadagam 1120 corresponding
to the 2nd day of August 1945*

[Published in the Cochin Government Gazette,
dated 27th Karkadagam 1120]

Preamble.

WHEREAS in the interests of agriculture it is necessary to preserve the existing Eries; It is hereby enacted as follows.—

Short title, extent and commencement.

1. (1) This Act may be called the Preservation of Eries Act, XXIII of 1120.

(2) It extends to the whole of Chittur Taluk and shall come into force on such date as Government may by notification in the Cochin Government Gazette specify.

Definition.

2. "Eri" means a tank, well, canal or other reservoir used for the storage of water for purposes of cultivation and notified by Government in the Cochin Government Gazette as an Eri for the purposes of this Act.

Returns.

3. (1) Government may for the purpose of determining the Eries to which this Act should be made applicable, by notification in the Cochin Government Gazette, require the owners and persons in possession of lands to furnish to the Diwan Peishkar within a specified period particulars, in such form as may be prescribed, of the tanks, wells, canals or other reservoirs for the storage of water for agricultural purposes in their lands.

(2) Whoever fails to make the return mentioned in sub-section (1) or makes a return which is false in any material particular, shall be liable to a penalty not exceeding one hundred rupees as may be fixed by the Diwan Peishkar.

Eries not to be converted into wet lands, etc.

4. No person shall convert an Eri into wet lands or parambas without the previous sanction in writing of the Diwan Peishkar.

5. Whoever converts an Eri or abets the conversion of an Eri in contravention of the provisions of section 4 shall be liable to a penalty not exceeding two hundred rupees as may be fixed by the Diwan Peishkar. **Penalty.**

6. (1) If any person in possession and control of the Eri does not maintain it in good repair or converts the Eri into wet land or paramba, the Diwan Peishkar may by notice in writing require such person within such time as may be fixed by the Diwan Peishkar to repair it or restore the same to its original state as the case may be. If the person so required fails to repair or restore the Eri to its original state, the Diwan Peishkar may, without prejudice to any other action that may be taken under this Act, cause such work or repair to be executed, or may take such measure or do that which in his opinion is necessary for restoring the same to its original state or for the repair thereof. The Diwan Peishkar may enter or authorise the entry into the Eri and the land adjacent to it of such persons as may be necessary for the execution of such work or repair. The expenses incurred by the Diwan Peishkar in the execution of such work or repair shall be recoverable from the person who was required to execute the work as arrears of revenue under the provisions of the Cochin Revenue Recovery Act, IV of 1083. **Recovery of expenses incurred.**

(2) Where an Eri not maintained in good repair is caused to be repaired by the Diwan Peishkar under subsection (1) and such Eri benefits lands other than those in the possession of the person in whose possession and control such Eri is, the Diwan Peishkar shall, subject to the subsisting rights between the several persons whose lands are benefited, apportion the expenses of repair recoverable between the several persons whose lands are so benefited by the repair in proportion to the benefit derived or derivable by the lands on account of such repair.

7. An appeal shall lie to Government from the orders passed by the Diwan Peishkar under section 3 or section 4 or section 5 or section 6. Such appeals shall be presented within thirty days from the date of the receipt of the order complained against. The orders of Government, or where there has been no appeal, the orders of the Diwan Peishkar shall be final and shall not be called in question in a court of law. **Appeal.**

Provided that, in cases of disputes relating to liability on apportionment under section 6 (2) any aggrieved party may sue any other or others without making Government a party and the court may by its decree re-apportion the liability.

**Recovery of
Penalty.**

8. The penalties imposed under section 3 or section 5 shall be recoverable as arrears of revenue under the provisions of the Cochin Revenue Recovery Act, IV of 1083.
