

THE
ACTS AND PROCLAMATIONS
OF
COCHIN

**THE
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OF
COCHIN**

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THE ACTS AND PROCLAMATIONS OF COCHIN

Volume XIV of 1121

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**ACTS
AND
PROCLAMATIONS
OF
1121
PROCLAMATION
(I of 1121)
THE NATIONAL SERVICE (TECHNICAL
PERSONNEL) AMENDMENT
PROCLAMATION
CONTENTS**

Preamble

Sections

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

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

Promulgated by His Highness Sree Ravi Varma,

Maharaja of Cochin,

*on the 16th day of Chingam 1121, corresponding
to the 1st day of September 1945.*

**[Published in the Cochin Government Gazette,
dated 23rd Chingam 1121]**

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

This Proclamation may be called the National Service (Technical Personnel) Amendment Proclamation I of 1121; and shall come into force at once.

**Short title
and com-
mencement.**

Amendment
to section 2.

2. In sub-clause (iv) of clause (c) of section 2 of the National Service (Technical Personnel) Proclamation I of 1116 (hereinafter referred to as the Proclamation) for the words "any other under-taking" the words and brackets "any other concern (including a port administration or shipping company)" shall be substituted.

Amendment
to section 7.

3. For clause (b) of sub-section (1) of section 7 of the Proclamation the following clause shall be substituted, namely.—

"(b) direct any technical personnel to undertake such employment in the national service as may be specified in the order;".

PROCLAMATION

(II of 1121)

THE COCHIN TAPIOCA PRODUCTS (EXCISE DUTY) WITHDRAWAL PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin
on the 11th day of Kanni 1121, corresponding
to the 27th day of September 1945.*

[Published in the Cochin Government Gazette dated
13th Kanni 1121]

WHEREAS the imposition and collection of duties of excise on tapioca sago, tapioca flakes and other products manufactured from tapioca are no longer necessary; WE are hereby pleased to withdraw the Cochin Tapioca Products (Excise Duty) Proclamation, X of 1120 and the Cochin Tapioca Products (Excise Duty) Amendment Proclamation, XV of 1120.

PROCLAMATION

(III of 1121)

THE COTTON TEXTILES FUND PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title, extent and commencement,
2. Definitions,

3. Duty of customs.
4. Application of the Cotton Textiles Fund.
5. Accounts.
6. Power to make rules.

THE COTTON TEXTILES FUND PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin
on the 11th day of Kanni 1121 corresponding
to the 27th day of September 1945.*

[Published in the Cochin Government Gazette dated
13th Kanni 1121]

WHEREAS it is deemed necessary to co-operate with the Government of India to establish a fund for supervising the exports of cotton cloth and yarn, and for the development of technical education, research and other matters in relation to the cotton textiles industry and for those purposes to levy a duty of customs on exports of cotton cloth and yarn; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Cotton Textiles Fund Proclamation, III of 1121.

Short title,
extent and
commence-
ment.

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

(3) It shall come into force at once.

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

Definitions.

(a) "Collector" means a Customs-Collector as defined in clause (c) of section 2 of the Cochin Sea Customs Act, XII of 1109;

(b) "the Committee" means the Committee constituted by Government by notification in the Cochin Government Gazette;

(c) "cloth" and "yarn" mean respectively cloth and yarn of any description manufactured either wholly from cotton or partly from cotton and partly from any other substance and containing not less than ten *per centum* of cotton by weight;

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

3. (1) On and from such date as may be notified by Government in this behalf in the Cochin Government Gazette a duty of customs shall be levied on all cloth and

Duty of
Customs.

yarn manufactured in India and exported from Cochin State at the rate of three *per centum* of the maximum ex-factory price for the time being fixed for the particular description of cloth or yarn exported by or under any order for the time being in force made under the Defence of India Rules, as made applicable to Cochin :

Provided that no such duty shall be levied on any cloth or yarn exported for any purpose which is in the opinion of the Collector connected with supplies to the Army, Navy or Air Force :

Provided further that where for the time being no maximum ex-factory price has been so fixed, the duty of customs shall, until a maximum ex-factory price is so fixed, be levied at the rate of three *per centum* of the value of the cloth or yarn exported as declared in the shipping bill.

(2) On the last day of each month or as soon thereafter as may be convenient, the Collector shall in such manner as may be prescribed pay to the credit of the Cotton Textiles Fund established by the Government of India the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

Application
of the Cotton
Textiles
Fund.

4. (1) Moneys at the credit of the Cotton Textiles Fund established by the Government of India shall be applied by the Committee towards meeting—

(a) firstly, the cost of discharging its functions under this Proclamation ;

(b) secondly, the cost of such measures as may be necessary for supervising the export of cloth and yarn ;

(c) thirdly, the cost of such measures, including measures involving capital costs, as the Committee may consider necessary or desirable to take for promoting and increasing the sale of Indian cloth and yarn abroad, and generally for the development of technical education and research relating to the cotton textiles industry.

(2) In exercising its functions under sub-section (1) the Committee shall follow such general or special directions as Government may from time to time think fit to give.

Accounts.

5. (1) The Committee shall maintain the accounts of the Cotton Textiles Fund established by the Government of India in such manner as may be prescribed,

(2) Such accounts shall be examined and audited annually by auditors appointed by the Government of India in this behalf, and an abstract of such accounts with the report of the auditors thereon shall be published in such form, at such time and in such manner as may be prescribed.

6. Government may, by notification in the Cochin Government Gazette, make rules to carry out the purposes of this Proclamation. ^{Power to make rules.}

PROCLAMATION

(IV of 1121)

WAR RISKS (FACTORIES) INSURANCE SECTION 5 REPEALING PROCLAMATION

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 11th day of Kanni 1121, corresponding
to the 27th day of September 1945.*

[Published in the Cochin Government Gazette dated
13th Kanni 1121]

WHEREAS We have decided to terminate with effect from the 1st of September 1945, the War Risks (Factories) Insurance Scheme put into operation by the War Risks (Factories) Insurance Proclamation, XXIV of 1117; WE are hereby pleased to command that section 5 of the War Risks (Factories) Insurance Proclamation, XXIV of 1117, shall be deemed to have been repealed with effect from the 1st day of September 1945.

PROCLAMATION

(V OF 1121)

THE PRESENT WAR (DEFINITION)

PROCLAMATION

CONTENTS

Preamble

Sections

1. Short title, extent and commencement.
2. Meaning of "present war" and like expressions in certain contexts.

THE PRESENT WAR (DEFINITION) PROCLAMATION

Promulgated by His Highness Sree Ravi Varma,

Maharaja of Cochin,

on the 11th day of Kanni 1121,

corresponding to the 27th day of September 1945

[Published in the Cochin Government Gazette dated
13th Kanni 1121]

WHEREAS it is necessary to define the meaning of the expression "present war" and like expressions when used in certain contexts prior to the outbreak of war between His Majesty the King Emperor and Japan; WE are hereby pleased to command as follows.—

Short title,
extent and
commence-
ment.

1. (1) This Proclamation may be called the Present War (Definition) Proclamation, V of 1121.

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

(3) It shall come into force at once.

Meaning of
"present
war" and like
expressions
in certain
contexts.

2. For the removal of doubts it is hereby declared that any reference, express or implied and in whatever form of words, in any provision made during the period commencing on the 3rd day of September 1939 in any enactment or in any notification, rule or order under any enactment or in any contract, deed or other instrument, to the present war or the present hostilities shall, unless in the case of such a reference in any contract, deed or other instrument as aforesaid the subject or context otherwise requires, be deemed to have always included a reference to the war with Japan, notwithstanding that war had not, when the said provision was made, broken out between His Majesty the King Emperor and Japan:

Provided that nothing in this section shall prejudice the exercise of any power conferred in whatever form of words in any such provision as aforesaid on the Government or any authority or person to declare for the purposes of such provision on what specified date the "present war" or the "present hostilities" referred to therein shall be deemed to terminate.

PROCLAMATION**(VI of 1121)****RESTRICTION OF LABOUR RECRUITING WITH-
DRAWAL PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 18th day of Kanni 1121, corresponding
to the 4th day of October 1945.*

[Published in the Cochin Government Gazette,
dated 20th Kanni 1121]

WHEREAS it is expedient to remove the restrictions to the recruitment of labour personnel for service outside Cochin State; WE are hereby pleased to withdraw the Restriction of Labour Recruiting Proclamation, XVIII of 1120.

THE COCHIN ARBITRATION ACT**(I of 1121)****CONTENTS****Preamble****Sections**

1. Short title, extent and commencement.
2. Definitions.
3. Provisions implied in arbitration agreement.
4. Agreement that arbitrators be appointed by third party.
5. Authority of appointed arbitrator or umpire irrevocable except by leave of Court.
6. Arbitration agreement not to be discharged by death of any party thereto.
7. Provisions in case of insolvency.
8. Power of Court to appoint arbitrator or umpire.
9. Power to party to appoint new arbitrator or, in certain cases a sole arbitrator.
10. Provisions as to appointment of three or more arbitrators.
11. Power to Court to remove arbitrators or umpire in certain circumstances.

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THE COCHIN ARBITRATION ACT

*Passed by His Highness the Maharaja of Cochin,
on the 18th day of Kanni 1121 corresponding
to the 4th day of October 1945*

[Published in the Cochin Government Gazette dated
20th Kanni 1121]

WHEREAS it is expedient to consolidate and amend the law relating to arbitration in Cochin State; IT is hereby enacted as follows.—

CHAPTER I

Introductory

1. (1) This Act may be called the Cochin Arbitration Act, I of 1121.

Short title,
extent and
commence-
ment.

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

(3) * It shall come into force on such date as the Government may, by notification in the Cochin Government Gazette, appoint.

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

Definition

(a) "arbitration agreement" means a written

* Brought into force from 1st Makaram 1121 (14th January 1946) by Notification No. 85, dated 7th January 1946 (23rd Dhanu 1121).

agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not ;

(b) "award" means an arbitration award ;

(c) "Court" means a Civil Court having jurisdiction to decide the questions forming the subject-matter of the reference if the same had been the subject-matter of a suit, but does not, except for the purpose of arbitration proceedings under section 21, include a Court of Small Causes.

(d) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party acts in a representative character, the person on whom the estate devolves on the death of the party so acting ;

(e) "reference" means a reference to arbitration.

CHAPTER II

Arbitration without intervention of a Court

Provisions implied in arbitration agreement.

3. An arbitration agreement, unless a different intention is expressed therein, shall be deemed to include the provisions set out in the First Schedule in so far as they are applicable to the reference.

Agreement that arbitrators be appointed by third party.

4. The parties to an arbitration agreement may agree that any reference thereunder shall be to an arbitrator or arbitrators to be appointed by a person designated in the agreement either by name or as the holder for the time being of any office or appointment.

Authority of appointed arbitrator or umpire irrevocable except by leave of Court.

5. The authority of an appointed arbitrator or umpire shall not be revocable except with the leave of the Court, unless a contrary intention is expressed in the arbitration agreement.

Arbitration agreement not to be discharged by death of any party thereto.

6. (1) An arbitration agreement shall not be discharged by the death of any party thereto, either as respects the deceased or any other party, but shall in such event be enforceable by or against the legal representative of the deceased.

(2) The authority of an arbitrator shall not be revoked by the death of any party by whom he was appointed.

(3) Nothing in this section shall affect the operation of any law by virtue of which any right of action is extinguished by the death of a person.

7. (1) Where it is provided by a term in a contract to which an insolvent is a party that any differences arising thereout or in connection therewith shall be referred to arbitration, the said term shall, if the receiver adopts the contract, be enforceable by or against him so far as it relates to any such differences.

Provisions
in case of
insolvency.

(2) Where a person who has been adjudged an insolvent had, before the commencement of the insolvency proceedings, become a party to an arbitration agreement, and any matter to which the agreement applies is required to be determined in connection with, or for the purposes of, the insolvency proceedings, then, if the case is one to which sub-section (1) does not apply, any other party to the agreement or the receiver may apply to the Court having jurisdiction in the insolvency proceedings for an order directing that the matter in question shall be referred to arbitration in accordance with the agreement and the Court may, if it is of opinion that, having regard to all the circumstances of the case, the matter ought to be determined by arbitration, make an order accordingly.

8. (1) In any of the following cases—

(a) where an arbitration agreement provides that the reference shall be to one or more arbitrators to be appointed by consent of the parties and all the parties do not, after differences have arisen, concur in the appointment or appointments; or

Power of
Court to ap-
point
arbitrator or
umpire.

(b) if any appointed arbitrator or umpire neglects or refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and the parties or the arbitrators, as the case may be, do not supply the vacancy; or

(c) where the parties or the arbitrators are required to appoint an umpire and do not appoint him; any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in the appointment or appointments or in supplying the vacancy.

(2) If the appointment is not made within fifteen clear days after the service of the said notice, the Court may, on the application of the party who gave the notice and after giving the other parties an opportunity of being heard, appoint an arbitrator or arbitrators or umpire, as the case may be, who shall have like power to act in the

reference and to make an award as if he or they had been appointed by consent of all parties.

Power to party to appoint new arbitrator or, in certain cases, a sole arbitrator.

9. Where an arbitration agreement provides that a reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed in the agreement,—

(a) if either of the appointed arbitrators neglects or refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place;

(b) if one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for fifteen clear days after the service by the other party of notice in writing to make the appointment, such other party having appointed his arbitrator before giving the notice, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court may set aside any appointment as sole arbitrator made under clause (b) and either, on sufficient cause being shown, allow further time to the defaulting party to appoint an arbitrator or pass such other order as it thinks fit.

Explanation.—The fact that an arbitrator or umpire, after a request by either party to enter on and proceed with the reference, does not within one month comply with the request may constitute a neglect or refusal to act within the meaning of section 8 and this section.

Provisions as to appointment of three or more arbitrators.

10. (1) Where an arbitration agreement provides that a reference shall be to three arbitrators, one to be appointed by each party and the third by the two appointed arbitrators, the agreement shall have effect as if it provided for the appointment of an umpire, and not for the appointment of a third arbitrator, by the two arbitrators appointed by the parties.

(2) Where an arbitration agreement provides that a reference shall be to three arbitrators to be appointed otherwise than as mentioned in sub-section (1), the award of the majority shall, unless the arbitration agreement otherwise provides, prevail.

(3) Where an arbitration agreement provides for the appointment of more arbitrators than three, the award of the majority, or if the arbitrators are equally divided in

their opinions, the award of the umpire shall, unless the arbitration agreement otherwise provides, prevail.

11. (1) The Court may, on the application of any party to a reference, remove an arbitrator or umpire who fails to use all reasonable despatch in entering on and proceeding with the reference and making an award.

Power to Court to remove arbitrators or umpire in certain circumstances.

(2) The Court may remove an arbitrator or umpire who has misconducted himself or the proceedings.

(3) Where an arbitrator or umpire is removed under this section, he shall not be entitled to receive any remuneration in respect of his services.

(4) For the purposes of this section the expression "proceeding with the reference" includes, in a case where reference to the umpire becomes necessary, giving notice of that fact to the parties and to the umpire.

12. (1) Where the Court removes an umpire who has not entered on the reference or one or more arbitrators (not being all the arbitrators), the Court may, on the application of any party to the arbitration agreement, appoint persons to fill the vacancies.

Power of Court where arbitrator is removed or his authority revoked.

(2) Where the authority of an arbitrator or arbitrators or an umpire is revoked by leave of the Court, or where the Court removes an umpire who has entered on the reference or a sole arbitrator or all the arbitrators, the Court may, on the application of any party to the arbitration agreement, either—

(a) appoint a person to act as sole arbitrator in the place of the person or persons displaced, or

(b) order that the arbitration agreement shall cease to have effect with respect to the difference referred.

(3) A person appointed under this section as an arbitrator or umpire shall have the like power to act in the reference and to make an award as if he had been appointed in accordance with the arbitration agreement.

13. The arbitrators or umpire shall, unless a different intention is expressed in the agreement, have power to—

Powers of arbitrator.

(a) administer oath to the parties and witnesses appearing;

(b) state a special case for the opinion of the Court on any question of law involved, or state the award, wholly or in part, in the form of a special case of such question for the opinion of the Court;

(c) make the award conditional or in the alternative;

(d) correct in an award any clerical mistake or error arising from any accidental slip or omission;

(e) administer to any party to the arbitration such interrogatories as may, in the opinion of the arbitrators or umpire, be necessary.

Award to be signed and filed.

14. (1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, together with any depositions and documents which may have been taken and proved before them, to be filed in Court, and the Court shall thereupon give notice to the parties of the filing of the award.

(3) Where the arbitrators or umpire state a special case under clause (b) of section 13, the Court, after giving notice to the parties and hearing them, shall pronounce its opinion thereon and such opinion shall be added to, and shall form part of, the award.

Power of Court to modify award.

15. The Court may by order modify or correct an award,—

(a) where it appears that a part of the award is upon a matter not referred to arbitration and such part can be separated from the other part and does not affect the decision on the matter referred; or

(b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision; or

(c) where the award contains a clerical mistake or an error arising from an accidental slip or omission.

Power to remit award.

16. (1) The Court may from time to time remit the award or any matter referred to arbitration to the arbitrators or umpire for reconsideration upon such terms as it thinks fit—

(a) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration and such matter cannot be separated without affecting the determination of the matters referred; or

(b) where the award is so indefinite as to be incapable of execution; or

(c) where an objection to the legality of the award is apparent upon the face of it.

(2) Where an award is remitted under sub-section (1) the Court shall fix the time within which the arbitrator or umpire shall submit his decision to the Court:

Provided that any time so fixed may be extended by subsequent order of the Court.

(3) An award remitted under sub-section (1) shall become void on the failure of the arbitrator or umpire to reconsider it and submit his decision within the time fixed.

17. Where the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration or to set aside the award, the Court shall, after the time for making an application to set aside the award has expired, or such application having been made, after refusing it, proceed to pronounce judgment according to the award and upon the judgment so pronounced a decree shall follow and no appeal shall lie from such decree except on the ground that it is in excess of, or not otherwise in accordance with, the award.

Judgment in terms of award.

18.(1) Notwithstanding anything contained in section 17, at any time after the filing of the award, whether notice of the filing has been served or not, upon being satisfied by affidavit or otherwise that a party has taken or is about to take steps to defeat, delay or obstruct the execution of any decree that may be passed upon the award, or that speedy execution of the award is just and necessary, the Court may pass such interim orders as it deems necessary.

Power of Court to pass interim orders.

(2) Any person against whom such interim orders have been passed may show cause against such orders, and the Court, after hearing the parties, may pass such further orders as it deems necessary and just.

19. Where an award has become void under sub-section (3) of section 16 or has been set aside, the Court may by order supersede the reference and shall thereupon order that the arbitration agreement shall cease to have effect with respect to the difference referred,

Power to supersede arbitration where award becomes void or is set aside,

CHAPTER III

**Arbitration with intervention of a Court
where there is no suit pending**

**Application
to file in
Court arbi-
tration
agreement.**

20. (1) Where any persons have entered into an arbitration agreement before the institution of any suit with respect to the subject-matter of the agreement or any part of it, and where a difference has arisen to which the agreement applies, they or any of them, instead of proceeding under Chapter II, may apply to a Court having jurisdiction in the matter to which the agreement relates, that the agreement be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs and the remainder as defendant or defendants, if the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

(3) On such application being made, the Court shall direct notice thereof to be given to all parties to the agreement other than the applicants, requiring them to show cause within the time specified in the notice why the agreement should not be filed.

(4) Where no sufficient cause is shown, the Court shall order the agreement to be filed, and shall make an order of reference to the arbitrator appointed by the parties, whether in the agreement or otherwise, or, where the parties cannot agree upon an arbitrator, to an arbitrator appointed by the Court.

(5) Thereafter the arbitration shall proceed in accordance with, and shall be governed by, the other provisions of this Act so far as they can be made applicable.

CHAPTER IV

Arbitrator in suits

**Parties to
suit may ap-
ply for order
of reference.**

21. Where in any suit all the parties interested agree that any matter in difference between them in the suit shall be referred to arbitration, they may at any time before judgment is pronounced apply in writing to the Court for an order of reference.

**Appointment
of arbitrator.**

22. The arbitrator shall be appointed in such manner as may be agreed upon between the parties,

23. (1) The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall in the order specify such time as it thinks reasonable for the making of the award. **Order of reference.**

(2) Where a matter is referred to arbitration, the Court shall not, save in the manner and to the extent provided in this Act, deal with such matter in the suit.

24. Where some only of the parties to a suit apply to have the matters in difference between them referred to arbitration in accordance with, and in the manner provided by, section 21, the Court may, if it thinks fit, so refer such matters to arbitration (provided that the same can be separated from the rest of the subject-matter of the suit) in the manner provided in that section, but the suit shall continue so far as it relates to the parties who have not joined in the said application and to matters not contained in the said reference as if no such application had been made, and an award made in pursuance of such a reference shall be binding only on the parties who have joined in the application. **Reference to arbitration by some of the parties.**

25. The provisions of the other Chapters shall, so far as they can be made applicable, apply to arbitration under this Chapter: **Provisions applicable to arbitrations under this Chapter.**

Provided that the Court may, in any of the circumstances mentioned in sections 8, 10, 11 and 12, instead of filling up the vacancies or making the appointments, make an order superseding the arbitration and proceed with the suit, and where the Court makes an order superseding the arbitration under section 19, it shall proceed with the suit.

CHAPTER V

General

26. Save as otherwise provided in this Act, the provisions of this Chapter shall apply to all arbitrations. **Application of Chapter.**

27. (1) Unless a different intention appears in the arbitration agreement, the arbitrators or umpire may, if they think fit, make an interim award. **Power of arbitrators to make an interim award.**

(2) All references in this Act to an award shall include references to an interim award made under subsection (1).

Power to Court only to enlarge time for making award.

28. (1) The Court may, if it thinks fit whether the time for making the award has expired or not and whether the award has been made or not, enlarge from time to time the time for making the award.

(2) Any provision in an arbitration agreement whereby the arbitrators or umpire may, except with the consent of all the parties to the agreement, enlarge the time for making the award, shall be void and of no effect.

Interest on awards.

29. Where and in so far as an award is for the payment of money the Court may in the decree order interest, from the date of the decree at such rate as the Court deems reasonable, to be paid on the principal sum as adjudged by the award and confirmed by the decree.

Grounds for setting aside award.

30. An award shall not be set aside except on one or more of the following grounds, namely.—

(a) that an arbitrator or umpire has misconducted himself or the proceedings;

(b) that an award has been made after the issue of an order by the Court superseding the arbitration or after arbitration proceedings have become invalid under section 35;

(c) that an award has been improperly procured or is otherwise invalid.

Jurisdiction.

31. (1) Subject to the provisions of this Act, an award may be filed in any Court having jurisdiction in the matter to which the reference relates.

(2) Notwithstanding anything contained in any other law for the time being in force and save as otherwise provided in this Act, all questions regarding the validity, effect or existence of an award or an arbitration agreement between the parties to the agreement or persons claiming under them shall be decided by the Court in which the award under the agreement has been, or may be, filed, and by no other Court.

(3) All applications regarding the conduct of arbitration proceedings or otherwise arising out of such proceedings shall be made to the Court where the award has been, or may be, filed, and to no other Court.

(4) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, where in any reference any application under this Act has been made in a Court competent to entertain it, that

Court alone shall have jurisdiction over the arbitration proceedings and all subsequent applications arising out of that reference and the arbitration proceedings shall be made in that Court and in no other Court.

32. Notwithstanding any law for the time being in force, no suit shall lie on any ground whatsoever for a decision upon the existence, effect or validity of an arbitration agreement or award, nor shall any arbitration agreement or award be set aside, amended, modified or in any way affected otherwise than as provided in this Act.

Bar to suits contesting arbitration agreement or award.

33. Any party to an arbitration agreement or any person claiming under him desiring to challenge the existence or validity of an arbitration agreement or an award or to have the effect of either determined shall apply to the Court and the Court shall decide the question on affidavits:

Arbitration agreement or award to be contested by application.

Provided that where the Court deems it just and expedient, it may set down the application for hearing on other evidence also, and it may pass such orders for discovery and particulars as it may do in a suit.

34. Where any party to an arbitration agreement or any person claiming under him commences any legal proceedings against any other party to the agreement or any person claiming under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time before filing a written statement or taking any other steps in the proceedings, apply to the Judicial authority before which the proceedings are pending to stay the proceedings; and if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the arbitration agreement and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, such authority may make an order staying the proceedings.

Power to stay legal proceedings where there is an arbitration agreement.

35. (1) No reference nor award shall be rendered invalid by reason only of the commencement of legal proceedings upon the subject-matter of the reference, but when legal proceedings upon the whole of the subject-matter of the reference have been commenced between all the parties to the reference and a notice thereof has been given to the arbitrators or umpire, all further proceedings

Effect of legal proceedings on arbitration.

in a pending reference shall, unless a stay of proceedings is granted under section 34, be invalid.

(2) In this section the expression "parties to the reference" includes any person claiming under any of the parties and litigating under the same title.

Power of Court where arbitration agreement is ordered not to apply to a particular difference, to order that a provision making an award a condition precedent to an action shall not apply to such difference. Limitation.

36. Where it is provided (whether in the arbitration agreement or otherwise) that an award under an arbitration agreement shall be a condition precedent to the bringing of an action with respect to any matter to which the agreement applies, the Court, if it orders (whether under this Act or any other law) that the agreement shall cease to have effect as regards any particular difference, may further order that the said provision shall also cease to have effect as regards that difference.

37. (1) All the provisions of the Cochin Limitation Act, XII of 1112, shall apply to arbitrations as they apply to proceedings in Court.

(2) Notwithstanding any term in an arbitration agreement to the effect that no cause of action shall accrue in respect of any matter required by the agreement to be referred until an award is made under the agreement, a cause of action shall, for the purpose of limitation, be deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the agreement.

(3) For the purposes of this section and of the Cochin Limitation Act, XII of 1112, an arbitration shall be deemed to be commenced when one party to the arbitration agreement serves on the other parties thereto a notice requiring the appointment of an arbitrator, or where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring that the difference be submitted to the person so named or designated.

(4) Where the terms of an agreement to refer future differences to arbitration provide that any claims to which the agreement applies shall be barred unless notice to appoint an arbitrator is given or an arbitrator is appointed or some other step to commence arbitration proceedings is taken within a time fixed by the agreement, and a difference

arises to which the agreement applies, the Court, if it is of opinion that in the circumstances of the case undue hardship would otherwise be caused, and notwithstanding that the time so fixed has expired, may on such terms, if any, as the justice of the case may require, extend the time for such period as it thinks proper.

(5) Where the Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration agreement shall cease to have effect with respect to the difference referred, the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time prescribed by the Cochin Limitation Act, XII of 1112, for the commencement of the proceedings (including arbitration) with respect to the difference referred.

38. (1) If in any case an arbitrator or umpire refuses to deliver his award except on payment of the fees demanded by him, the Court may, on an application in this behalf, order that the arbitrator or umpire shall deliver the award to the applicant on payment into Court by the applicant of the fees demanded, and shall, after such inquiry, if any, as it thinks fit, further order that out of the money so paid into Court there shall be paid to the arbitrator or umpire by way of fees such sum as the Court may consider reasonable and that the balance of the money, if any, shall be refunded to the applicant.

Disputes as to arbitrator's remuneration or costs.

(2) An application under sub-section (1) may be made by any party to the reference unless the fees demanded have been fixed by written agreement between him and the arbitrator or umpire, and the arbitrator or umpire shall be entitled to appear and be heard on any such application.

(3) The Court may make such orders as it thinks fit respecting the costs of an arbitration where any question arises respecting such costs and the award contains no sufficient provision concerning them.

CHAPTER VI

Appeals

39. (1) An appeal shall lie from the following orders passed under this Act (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order:—

Appealable orders.

An order—

- (i) superseding an arbitration;
- (ii) on an award stated in the form of a special case;
- (iii) modifying or correcting an award;
- (iv) filing or refusing to file an arbitration agreement;
- (v) staying or refusing to stay legal proceedings where there is an arbitration agreement;
- (vi) setting aside or refusing to set aside an award.

Provided that the provisions of this section shall not apply to any order passed by a Court of Small Causes.

(2) No second appeal shall lie from an order passed in appeal under this section.

CHAPTER VII

Miscellaneous

Court of Small Causes not to have jurisdiction over arbitrations save arbitrations in suits before it.

40. A Court of Small Causes shall have no jurisdiction over any arbitration proceedings or over any application arising thereout save on application made under section 21.

Procedure and powers of Court.

41. Subject to the provisions of this Act and of rules made thereunder—

(a) the provisions of the Code of Civil Procedure, XXIX of 1111, shall apply to all proceedings before the Court, and to all appeals, under this Act, and

(b) the Court shall have, for the purpose of, and in relation to, arbitration proceedings, the same power of making orders in respect of any of the matters set out in the Second Schedule as it has for the purpose of, and in relation to, any proceedings before the Court:

Provided that nothing in clause (b) shall be taken to prejudice any power which may be vested in an arbitrator or umpire for making orders with respect to any of such matters.

Service of notice by party or arbitrator.

42. Any notice required by this Act to be served otherwise than through the Court by a party to an arbitration agreement or by an arbitrator or umpire shall be served in the manner provided in the arbitration agreement, or if there is no such provision, either—

(a) by delivering it to the person on whom it is to be served, or

(b) by sending it by registered post in a letter addressed to that person at his usual or last known place of abode or business in Cochin State.

43. (1) The Court shall issue the same processes to the parties and witnesses whom the arbitrator or umpire desires to examine as the Court may issue in suits tried before it.

Power of Court to issue processes for appearance before arbitrator.

(2) Persons failing to attend in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the reference, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire as they would incur for the like offences in suits tried before the Court.

(3) In this section the expression "processes" includes summonses and commissions for the examination of witnesses and summonses to produce documents.

44. The High Court may make rules consistent with this Act as to—

Power to High Court to make rules.

(a) the filing of awards and all proceedings consequent thereon or incidental thereto;

(b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(c) the staying of any suit or proceeding in contravention of an arbitration agreement;

(d) the forms to be used for the purposes of this Act;

(e) generally, all proceedings in Court under this Act.

45. The provisions of this Act shall be binding on the Government.

Government to be bound.

46. The provisions of this Act, except sub-section (1) of section 6 and sections 7, 12 and 37, shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except in so far as this Act is inconsistent with that other enactment or with any rules made thereunder.

Application of Act to statutory arbitrations.

Act to apply
to all
arbitrations.

47. Subject to the provisions of section 46, and save in so far as is otherwise provided by any law for the time being in force, the provisions of this Act shall apply to all arbitrations and to all proceedings thereunder:

Provided that an arbitration award otherwise obtained may with the consent of all the parties interested be taken into consideration as a compromise or adjustment of a suit by any Court before which the suit is pending.

Saving for
pending
references.

48. The provisions of this Act shall not apply to any reference pending at the commencement of this Act, to which the law in force immediately before the commencement of this Act shall, notwithstanding any repeal effected by this Act, continue to apply.

Repeals and
amendments.

49. (1) The enactments specified in the Third Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) The enactments specified in the Fourth Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

FIRST SCHEDULE

(See section 3)

Implied conditions of arbitration agreements

1. Unless otherwise expressly provided, the reference shall be to a sole arbitrator.

2. If the reference is to an even number of arbitrators, the arbitrators shall appoint an umpire not later than one month from the latest date of their respective appointments.

3. The arbitrators shall make their award within four months after entering on the reference or after having been called upon to act by notice in writing from any party to the arbitration agreement or within such extended time as the Court may allow.

4. If the arbitrators have allowed their time to expire without making an award or have delivered to any party to the arbitration agreement or to the umpire a notice in writing stating that they cannot agree, the umpire shall forthwith enter on the reference in lieu of the arbitrators.

5. The umpire shall make his award within two months of entering on the reference or within such extended time as the Court may allow.

6. The parties to the reference and all persons claiming under them shall subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in difference and shall, subject aforesaid, produce before the arbitrators or umpire all books, deeds,

papers, accounts, writings and documents within their possession or power respectively, which may be required or called for, and do all other things which, during the proceedings on the reference, the arbitrators or umpire may require.

7. The award shall be final and binding on the parties and persons claiming under them respectively.

8. The costs of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to, and by whom, and in what manner, such costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof and may award costs to be paid as between legal practitioner and client.

THE SECOND SCHEDULE

[See section 41]

Powers of Court

1. The preservation, interim custody or sale of any goods which are the subject-matter of the reference.

2. Securing the amount in difference in the reference.

3. The detention, preservation or inspection of any property or thing which is the subject of the reference or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon or into any land or building in the possession of any party to the reference, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence.

4. Interim injunctions or the appointment of a receiver.

5. The appointment of a guardian for a minor or person of unsound mind for the purposes of arbitration proceedings.

THE THIRD SCHEDULE

[See section 49 (1)]

Enactments Repealed

Year	No.	Short title	Extent of Repeal
1	2	3	4
1108	V	The Cochin Arbitration Act, V of 1108.	The whole
1111	XXIX	The Code of Civil Procedure	Section 74 and clauses (a) to (f) both inclusive of subsection (1) of section 88

THE FOURTH SCHEDULE

[See section 49(2)]

Enactments Amended

Year	No.	Short title	Amendments
1	2	3	4
1097	IV	The Cochin Specific Relief Act	<p>In section 21.—</p> <p>(i) For the words and figures "Code of Civil Procedure and the Cochin Arbitration Act, V of 1108", the words and figures "the Cochin Arbitration Act, I of 1121", shall be substituted.</p> <p>(ii) After the words "but if any person who has made such a contract" the words "other than an arbitration agreement to which the provisions of the said Act apply" shall be inserted.</p>
1112	XII	The Cochin Limitation Act	<p>In the First Schedule.—</p> <p>(i) For Article 145 the following shall be substituted, namely.—</p> <p>"145. Under the Cochin Arbitration Act, I of 1121, to set aside an award or to get an award remitted for consideration</p> <p>Thirty days The date of service of the notice of filing of the award"</p> <p>(ii) In Article 146, for the words "same Code" in the first column, the words and figure "Code of Civil Procedure, XXIX of 1111" shall be substituted.</p> <p>(iii) For Article 162 the following shall be substituted, namely.—</p> <p>"162. Under the Cochin Arbitration Act, I of 1121, for the filing in Court of an award</p> <p>Ninety days The date of service of the notice of the making of the award"</p>

THE INDUSTRIAL STATISTICS ACT

(II OF 1121)

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1. Short title, extent and commencement.
2. Definition.
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5. Power of statistics authority to call for returns and information.
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THE INDUSTRIAL STATISTICS ACT

*Passed by His Highness the Maharaja of Cochin,
on the 18th day of Kanni 1121 corresponding
to the 4th day of October 1945*

**[Published in the Cochin Government Gazette
dated 20th Kanni 1121]**

WHEREAS it is expedient to facilitate the collection of statistics of certain kinds relating to industries; It is hereby enacted as follows:—

1. (1) This Act may be called the Industrial Statistics Act, II of 1121. Short title,
extent and
commence-
ment
- (2) It extends to the whole of Cochin State.
- (3) It shall be deemed to have come into force on the 1st day of April 1945.
2. In this Act "prescribed" means prescribed in rules made under this Act or in any form prescribed by those rules. Definition
3. (1) Government may, by notification in the Cochin Government Gazette, direct that statistics shall be Collection
of statistics

collected relating to any of the following matters, namely.—

- (a) any matter relating to factories;
- (b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely.—
 - (i) prices of commodities;
 - (ii) attendance;
 - (iii) living conditions, including housing, water supply and sanitation;
 - (iv) indebtedness;
 - (v) rents of dwelling houses;
 - (vi) wages and other earnings;
 - (vii) provident and other funds provided for labour;
 - (viii) benefits and amenities provided for labour;
 - (ix) hours of work;
 - (x) employment and unemployment;
 - (xi) industrial and labour disputes;

and thereupon the provisions of this Act shall apply to the collection of those statistics.

(2) In clause (a) of sub-section (1) "factory" means a factory as defined in clause (1) of section 2 of the Cochin Factories Act, II of 1113, or any premises deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of that Act.

**Appointment
of statistics
authority**

4. Government may appoint an officer to be the statistics authority for the purposes of the collection of any statistics under this Act.

**Power of
statistics
authority to
call for re-
turns and in-
formation**

5. (1) The statistics authority may serve or cause to be served on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed, such information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

(2) The notice referred to in sub-section (1) may be served by post.

**Right of ac-
cess to record
or document**

6. The statistics authority or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Act.

7. (1) No individual return, and no part of an individual return, made, and no information with respect to any particular undertaking given, for the purposes of this Act, shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or information was made or given, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

Restriction on the publication of returns and information

(2) Except for the purposes of a prosecution under this Act or under the Cochin Penal Code, no person not engaged in connection with the collection of statistics under this Act shall be permitted to see any individual return or information referred to in sub-section (1).

8. If any person required to furnish any information or any return—

Penalties

(a) wilfully refuses or without lawful excuse neglects to furnish such information or return as required under this Act, or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false, or

(c) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act ;

or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 6, he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues ; and in respect of false information, returns or answers the offence shall be deemed to continue until true information or a true return or answer has been given or made.

9. If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Cochin Penal Code, he shall be punishable with imprisonment for

Penalty for improper disclosure of information or returns

a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.

Cognisance of offences

10. No prosecution under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 9 shall be instituted except by or with the sanction of Government.

Power of Government to make rules

11. (1) Government may, subject to the condition of previous publication by notification in the Cochin Government Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section regulating the exercise of the right of access to documents and the right of entry conferred by section 6.

PROCLAMATION

(VII of 1121)

WAR RISKS (GOODS) INSURANCE SECTION 6 REPEALING PROCLAMATION

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

*on the 8th day of Vrischigam 1121, corresponding
to the 23rd day of November 1945.*

[Published in the Cochin Government Gazette, dated
16th Vrischigam 1121]

WHEREAS WE have decided to terminate the War Risks (Goods) Insurance Scheme put into operation by the War Risks (Goods) Insurance Proclamation, XXVII of 1117; WE are hereby pleased to command that section 6 of the War Risks (Goods) Insurance Proclamation, XXVII of 1117, shall be deemed to have been repealed with effect at and after midnight between the 30th day of September and the 1st day of October 1945,

PROCLAMATION
(VIII of 1121)
THE BANK NOTES (DECLARATION OF
HOLDINGS) PROCLAMATION

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Preamble

Sections

1. Short title, extent and commencement.
2. Interpretation.
3. Declaration of holdings of certain bank notes.
4. Powers of Inspection.
5. Penalties.

THE BANK NOTES (DECLARATION OF HOLDINGS)
PROCLAMATION

Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 11th day of Makaram 1121, corresponding
to the 24th day of January 1946.

[Published in the Cochin Government Gazette
 Extraordinary, dated 11th Makaram 1121]

WHEREAS it is necessary to provide for obtaining from banks information concerning bank notes of certain denominational values held by them; WE are pleased to command as follows.—

1. (1) This Proclamation may be called the Bank Notes (Declaration of Holdings) Proclamation, VIII of 1121. 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 Proclamation,—

(a) "bank" means a banking company as defined in section 277 F of the Indian Companies Act, 1913 (VII of 1913) as made applicable to Cochin, and includes any branch of a bank; Interpretation.

(b) "bank note" includes all currency notes of the Government of India issued either by the Government of India or by the Reserve Bank;

(c) "Reserve Bank" means the Reserve Bank of India.

**Declaration
of holdings
of certain
bank notes.**

3. (1) Every bank and Government Treasury shall prepare and send by registered post to the Reserve Bank at Bombay within four days from the coming into force of this Proclamation in the manner provided in this section a return—

(i) showing separately under each denominational value the total value of bank notes of the denominational values of one hundred rupees, five hundred rupees, one thousand rupees and ten thousand rupees held by it on each date after the close of business on the 11th day of January 1946 till the close of business on the 15th day of January 1946 with full particulars of sources of receipt of the bank notes of the denominational value of rupees five hundred, one thousand and ten thousand and the dates on which they were received.

(ii) giving details of such bank notes, if any, received by it by post or anchal in the ordinary course of business on or after the 12th day of January 1946 which appear to have been posted on or before the 11th day of January 1946, together with in each case the name and address of the sender, the post or anchal office of despatch and the registration number affixed by that post or anchal office to the cover containing the notes, and if no such bank notes are received as aforesaid, it shall be stated accordingly in the return.

(2) Every such return shall be prepared and presented in triplicate, and shall be signed by the manager of the bank, or the officer in charge of the bank or the officer in charge of the Government Treasury, as the case may be, before a salaried Magistrate. The Magistrate shall examine the manager or officer signing the return on oath and record a statement signed by the deponent that the said return is true to his knowledge and belief. The Magistrate shall after such examination certify on the body of the return that the return has been signed before him and that the contents thereof have been affirmed on oath to be true to the knowledge and belief of the person making the return.

4. (1) In order to verify any return made under section 3 or where any bank fails to present any such return in the manner provided by that section Government may, by general or special order, authorise any person to inspect the books, accounts and other documents of any bank, and it shall be the duty of the manager or other officer of the bank to produce to any person so authorised all such books, accounts and other documents in his custody or power relating to the bank's holdings of bank notes at all times between the 11th and 16th days both inclusive, of January 1946, as the person so authorised may require of him. **Powers of Inspection.**

(2) Any person making an inspection under subsection (1) may examine on oath any manager or other officer of the bank in relation to the bank's holdings of bank notes as aforesaid, and may administer an oath accordingly.

5. (1) If any bank fails to prepare and present in the manner provided by section 3 any return referred to in that section, or presents any such return which is false in any material particular, the manager or other officer of the bank shall unless he proves that the failure took place or the false return was presented without his knowledge or that he exercised all due diligence to prevent the same, be punishable with imprisonment for a term which may extend to three years or with fine or with both. **Penalties.**

(2) If any person refuses to produce any book, account or other document which under section 4 it is his duty to produce or to answer any question relating to the matters referred to in that section he shall be punishable with a fine which may extend to one thousand rupees in respect of each offence.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of Government.

**PROCLAMATION
(IX of 1121)
THE RECIPROCATING STATES EXTRADITION
PROCLAMATION
CONTENTS**

Preamble**Sections**

1. Short title, extent and commencement.
2. Definition.
3. Arrest and surrender of offenders who escape into Cochin.
4. Release on bail.
5. Arrest on suspicion.
6. Surrender of persons accused of offences in Cochin State or undergoing sentence.
7. Proclamation to apply to convicted persons escaping into Cochin.
8. Arrest and surrender of persons accused or convicted of abetment or attempt.
9. Relating of persons escaping from custody.
10. Rules.
11. Detention of persons arrested without warrant.
12. Procedure when an extradited offender is found guilty of only a minor offence.
13. Surrendered persons to be tried only in respect of offences for which they are surrendered.
14. Penalties higher than that prescribed in the Indian Penal Code not to be inflicted.

**THE RECIPROCATING STATES EXTRADITION
PROCLAMATION**

*Promulgated by His Highness Sree Ravi Varma,
Maharaja of Cochin,
on the 11th day of Makaram 1121, corresponding
to the 24th day of January 1946.*

[Published in the Cochin Government Gazette,
dated 27th Makaram 1121]

Preamble.

WHEREAS it is necessary to provide for the extradition of persons who escape into Cochin State after having committed offences within the territories of other Indian States with whom OUR Government have or may enter into reciprocal extradition arrangements; WE are hereby pleased to command as follows.—

1. (1) This Proclamation may be called the Reciprocating States Extradition Proclamation, IX of 1121.

Short title, extent and commencement.

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

2. In this Proclamation "reciprocating State" means any State in India with which arrangements have been made by OUR Government for the surrender of offenders who have committed or supposed to have committed the offences mentioned in the Schedule hereto annexed, and notified by OUR Government in the Cochin Government Gazette as a reciprocating State.

Definition.

3. (1) Where an offence mentioned in the Schedule has been committed or supposed to have been committed by a person in a reciprocating State (hereinafter referred to in this Proclamation as the State concerned) and such person escapes into or is in the State of Cochin and the Diwan or the Minister of the State concerned makes a requisition through the Resident for the Madras States to the Diwan of Cochin, the Diwan of Cochin on being satisfied that there is a *prima facie* case against him, shall issue orders to any Magistrate not below the rank of a Magistrate of the first class for his arrest and delivery at a place and to a person or authority as mentioned in the requisition.

Arrest and surrender of offenders who escape into Cochin.

(2) On receipt of the Diwan's orders, such Magistrate shall issue a warrant for the arrest and delivery of that person at the place and to the person or authority indicated therein, and such warrant shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall unless released in accordance with the provisions of this Proclamation be forwarded to the place and delivered to the person or authority indicated in the warrant.

(3) The provisions of the Code of Criminal Procedure for the time being in force, in relation to proclamation and attachment in the case of persons absconding, shall apply to warrants issued under this Proclamation.

4. (1) Where the offence is bailable one or where the Diwan or the Minister of the State concerned has so requested in the letter of requisition, the person whose surrender is required may be released on executing a bond

Release on bail.

with sufficient sureties for his attendance before a person or authority mentioned in the warrant at a specified time and place.

(2) When security is taken under this section the Magistrate shall report the fact to the Diwan and shall retain the bond. The Diwan shall thereupon certify the fact to the Diwan or the Minister of the State concerned through the Resident for the Madras States.

(3) If the person bound by any such bond does not appear at the time and place specified therein and the Diwan or the Minister of the State concerned informs the Diwan of Cochin of such default and request the re-arrest and surrender of the defaulter, the Diwan of Cochin shall, on being satisfied of such default, require a Magistrate of the first class having jurisdiction over the place where the accused is believed to be, to issue a warrant directing that the defaulter be re-arrested and delivered at a place and to a person or authority as mentioned in the requisition.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Arrest on suspicion.

5. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an extradition offence in a reciprocating State, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Diwan who will communicate the fact to the Diwan or the Minister of the State concerned through the Resident for the Madras States.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Diwan be detained more than 2 months, unless within

that period the Magistrate receives an order to issue a warrant under section 3.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Cochin State the offence with which he is charged.

6. (1) A person accused of an offence committed in Cochin State not being the offence for which his surrender is asked, or undergoing sentence under any conviction in Cochin State, shall not be surrendered in compliance with a requisition made on behalf of a reciprocating State under section 3, except on the condition that such person be re-surrendered to Cochin State on the termination of his trial for the offence for which his surrender has been asked:

Surrender of persons accused of offences in Cochin State or undergoing sentence.

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in Cochin State, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which had not expired at the date of his surrender. Such person shall be returned to the authorities of Cochin State, as soon as his trial in the reciprocating State is over and the sentence, if any, except that of death passed on him by the Court in a reciprocating State will take effect only after he is re-delivered by Cochin State and after he has undergone in a Cochin Jail the unexpired portion of the sentence passed upon him by the Cochin Court.

7. The provisions of this Proclamation with reference to accused persons shall, with any necessary modifications, apply to the case of a person who having been convicted in a reciprocating State, has escaped into or is in Cochin State before his sentence has expired.

Proclamation to apply to convicted persons escaping into Cochin.

8. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed for the purposes of this Proclamation, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Arrest and surrender of persons accused or convicted of abetment or attempt.

Retaking of persons escaping from custody.

9. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Proclamation to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of any offence against the law of Cochin may be re-taken upon an escape.

Rules.

10. (1) Government may make rules to carry out the purposes of this Proclamation.

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

(a) the removal of prisoners accused or in custody under this Proclamation and their control and maintenance until such time as they are handed over to the persons authorised to receive them.

(b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Proclamation applies.

(c) the pursuit and arrest in Cochin State by officers of the Cochin Government or other persons authorised in this behalf, of persons accused of offences committed in a reciprocating State, and

(d) the procedure and practice to be observed in extradition proceedings.

Detention of persons arrested without warrant.

11. Notwithstanding anything in the Code of Criminal Procedure, Act II of 1086, any person arrested without an order from a Magistrate and without warrant, in pursuance of the provisions of section 39, clause 7 of the said Code may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 5.

Procedure when an extradited offender is found guilty of only a minor offence

12. If, after a person accused of having committed any extraditable offence in Cochin has been surrendered by a reciprocating State, it is found during his trial in Cochin State that he is not guilty of the offence for which he was extradited but only of a minor offence, it shall be competent to the Magistrate or Judge to alter the charge under

section 203, Code of Criminal Procedure and under section 214 to convict him of the minor offence which the evidence has established, provided that the trial of the accused person must be for the graver offence for which extradition was obtained, that the conviction of the minor offence must be on the same facts and that the minor offence must itself be extraditable.

13. When a person accused or convicted of an offence in Cochin State is surrendered by a reciprocating State, such person shall not be triable or tried for any of the offences committed in Cochin State prior to surrender other than such of the said offences as may be proved by the facts on which the surrender is granted and as are extraditable unless the court concerned after submitting a *prima facie* case gets the assent of the authority which sanctioned the extradition.

Surrender of persons to be tried only in respect of offences for which they are surrendered.

14. Notwithstanding anything contained in any law for the time being in force in Cochin State, no Court shall inflict on an offender extradited under the provisions of this Proclamation a penalty higher than that prescribed by the Indian Penal Code for the offence for which he is tried.

Penalties higher than that prescribed in the Indian Penal Code not to be inflicted.

SCHEDULE

<i>Sections of the Cochin Penal Code</i>		<i>Corresponding sections of the Indian Penal Code</i>
1. Frauds upon creditors,	Section 192	Section 206.
2. Resistance to arrest	„ 210	„ 224.
3. Offences relating to coins and stamps	„ 215 to 239 A	„ 230 to 263 A.
4. Culpable homicide	„ 278 to 283	„ 299 to 304.
5. Attempt to murder	„ 287	„ 307.
6. Thuggee	„ 290 and 291	„ 310 and 311.
7. Causing miscarriage and abandonment of child	„ 292 to 297	„ 312 to 317.
8. Wrongful confinement	„ 327 and 328	„ 347 and 348.
9. Kidnapping and slavery	„ 340 to 353	„ 360 to 373.
10. Rape and unnatural offences	„ 355 to 357	„ 375 to 377.
11. Theft, extortion, robbery, etc.	„ 358 to 394	„ 378 to 414.
12. Cheating	„ 395 to 400	„ 415 to 420.
13. Fraudulent deeds	„ 401 to 404	„ 421 to 424.
14. Mischief	„ 405 to 420	„ 425 to 440.
15. Lurking, House-trespass and House-breaking by night }	„ 423, 424 and 426	„ 443, 444 and 446.
16. Forgery, using forged documents, etc.	„ 443 to 457 A	„ 463 to 477 A.

PROCLAMATION

(X of 1121)

PENAL ASSESSMENT FOR PLANTING SUGAR- CANE, &c. IN LANDS USED FOR CULTI- VATION OF PADDY (AMENDMENT) PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 13th day of Kumbham 1121, corresponding
to the 24th day of February 1946.*

[Published in the Cochin Government Gazette, dated
26th Kumbham 1121]

WHEREAS it is deemed necessary to amend Our Proclamation XIX of 1118, We are hereby pleased to command that the following proviso shall be added to sub-section (2) of section 3 of Proclamation XIX of 1118.—

“Provided that a person may, with the previous sanction of the Diwan Peishkar, plant sugar-cane in any such land if he utilises an equal extent of land for the cultivation of paddy from other lands in which sugar-cane used to be planted by him”.

THE COCHIN VILLAGE COURTS (AMENDMENT) ACT (III OF 1121)

CONTENTS

Preamble Sections

1. Short title and commencement.
2. Amendment of Section 7—Appointment of President and other Judges.
3. Amendment of Section 95.

THE COCHIN VILLAGE COURTS (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 13th day of Kumbham 1121 corresponding
to the 24th day of February 1946*

[Published in the Cochin Government Gazette, dated
26th Kumbham 1121]

WHEREAS it is necessary to amend the Cochin Village Courts Act, XII of 1118 for the purpose hereinafter appearing; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Village Courts (Amendment) Act, III of 1121 and shall come into force at once.

Amendment
of section 7.

2. For section 7 of the Cochin Village Courts Act, XII of 1118, hereinafter referred to as the Act, the following shall be substituted.—

Appointment
of President
and other
Judges.

7. The President, the Senior Judge and the other Judges of the Village Court shall be nominated by Government in accordance with such rules as may be prescribed by Government in this behalf, and shall hold office for a period of three years.

Provided that—

(1) the said period of three years may be extended by Government by notification in the Cochin Government Gazette;

(2) when casual vacancies arise, Government shall, in like manner, fill up the vacancies for the unexpired portion of the said term of three years or where such term has been extended, the unexpired portion of the term as so extended;

(3) every President, Senior Judge and Judge shall, notwithstanding the expiry of three years from his appointment or where such term has been extended the expiry of such extended term, remain in office, unless Government otherwise direct, until his successor assumes charge of his duties.

3. In sub-section (2) of section 95 of the Act after clause (e) the following shall be added as clause (ee).—

Amendment
of section 95.

“(ee) provide for the suspension and cancellation of licenses granted to agents in case of misconduct or for other sufficient cause.”

**THE COCHIN CO-OPERATIVE SOCIETIES
(AMENDMENT) ACT
(IV OF 1121)
CONTENTS**

Preamble**Sections**

1. Short title and commencement.
2. Amendment of Section 51.
3. Amendment of Section 72.

**THE COCHIN CO-OPERATIVE SOCIETIES
(AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin
on the 13th day of Kumbham 1121 corresponding
to the 24th day of February 1946*

[Published in the Cochin Government Gazette, dated
26th Kumbham 1121]

WHEREAS it is deemed expedient to amend the Cochin Co-operative Societies Act, XXVI of 1113 for the purposes hereinafter appearing; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Co-operative Societies (Amendment) Act, IV of 1121 and it shall come into force at once.

Amendment
of section 51.

2. In sub-section (1) of section 51 of the Cochin Co-operative Societies Act, XXVI of 1113, hereinafter referred to as the Act—

(a) for the words “has misappropriated” the words “has caused loss or waste or any misapplication of any money or other property owned or vested in the Society or misappropriated” shall be substituted; and

(b) for the words “in respect of the misappropriation” the words “in respect of the loss, waste, misapplication, misappropriation” shall be substituted.

Amendment
of section 72.

3. In sub-section (2) of section 72 of the Act—

(a) the word “and” at the end of clause (ee) shall be deleted;

(b) clause (ff) shall be re-lettered as clause (gg) and the following clause shall be inserted as clause (ff), namely.—

“(ff). provide for the compulsory affiliation of societies to supervising unions and the levy of supervision fees; and”

**THE RECIPROCITY ACT
(V OF 1121)
CONTENTS**

Preamble**Sections**

1. Short title, extent and commencement.
2. Definitions.
3. Power of Government to impose reciprocal disabilities on persons domiciled in British possessions.
4. Burden of proof on person claiming exemption.
5. Direction imposing disabilities in respect of entry, travel and residence not to apply to armed forces.
6. Power to make rules.

THE RECIPROCITY ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 13th day of Kumbham 1121 corresponding
to the 24th day of February 1946.*

[Published in the Cochin Government Gazette, dated
26th Kumbham 1121]

Whereas it is expedient to make provision on a basis of reciprocity in regard to entry into, travel, residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, or the carrying on of any occupation, trade, business or profession in Cochin State by, and the franchise in Cochin State of, persons domiciled in British Possessions; It is hereby enacted as follows.—

1. (1) This Act may be called the Reciprocity Act, V of 1121. **Short title,
extent and
commence-
ment.**
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once.

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

(a) "British Possession" means any part of His Majesty's dominions exclusive of British India, and includes a protectorate or other territory administered by a British Possession as a mandatory on behalf of the League of Nations; and where parts of those dominions are under both a central and local legislature, the expression shall mean either each part under a local legislature or all parts under the central legislature;

(b) "entry" includes landing at any port in Cochin State during the stay in Cochin State of a ship or aircraft on its way to a destination outside Cochin State.

Power of Government to impose reciprocal disabilities on persons domiciled in British possessions.

3. Where by the law or practice of any British possession persons of Indian origin are subject in that British Possession to disabilities in respect of entry into, travel, residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, the carrying on of any occupation, trade, business or profession, or the exercise of the franchise in that British Possession, to which in respect of the like matters persons domiciled in that British Possession are not subject in Cochin State, Government may, by notification in the Cochin Government Gazette, direct that the same disabilities or disabilities as similar thereto as may be, shall notwithstanding anything contained in any other law for the time being in force, be imposed in Cochin State on persons not being of Indian origin who are domiciled in that British Possession.

Burden of proof on person claiming exemption.

4. If any person alleged to be domiciled in any British Possession and to be subject to the provisions of this Act pleads, that he is not so domiciled, or that the provisions of that Act do not apply to him, the onus of proof shall be on him.

Direction imposing disabilities in respect of entry, travel and residence not to apply to armed forces.

5. Any direction made by Government under section 3 imposing disabilities in respect of entry into or travel or residence in Cochin State upon persons domiciled in a British Possession shall not, until the expiry of three months from the commencement of this Act, apply to any person domiciled in that British Possession who is a member of its armed forces.

Power to make rules.

6. (1) Government may, by notification in the Cochin Government Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules made under this section may provide—

(a) for the setting up of machinery to ascertain the disabilities in respect of any of the matters specified in section 3 to which persons of Indian origin are subject in any British Possession ;

(b) for the establishment of a suitable agency to administer the rules and for defining its functions and powers;

(c) for specifying the disabilities that shall, when a direction has been made under section 3, be imposed in Cochin State on persons not being of Indian origin who are domiciled in any British Possession and for the imposition on them of the disabilities so specified;

(d) for the enforcement, by the prescription of a penalty by way of imprisonment or fine or both, of any rule made under clause (c);

(e) for authorising the arrest of any person contravening or reasonably suspected of contravening any rule made under clause (c), and for prescribing the duties of public servants and others in regard to such arrests.

**THE COCHIN LEGISLATIVE COUNCIL
ELECTORAL ROLLS VALIDATING
PROCLAMATION
(XI OF 1121)**

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

*on the 18th day of Meenam 1121, corresponding
to the 31st day of March 1946.*

[Published in the Cochin Government Gazette Extraordinary,
dated 18th Meenam 1121]

WHEREAS it is expedient to provide that the Cochin Legislative Council Electoral Rolls published in 1120 shall not be questioned hereafter on the ground that the Revising Authorities revised the Rolls prior to their final publication without all the members of such authority taking part in such revision; We are hereby pleased to command that such of the Electoral Rolls of the Cochin Legislative Council, published in 1120, as have been revised before their final publication without all the members of the Revising Authority taking part in such revision, shall be valid for all purposes, and that such Rolls shall not be questioned hereafter on the aforesaid ground in any of Our Civil Courts or in any proceedings before Commissioners appointed to try election petitions.

**THE COCHIN PRESS AND REGISTRATION
OF BOOKS (AMENDMENT) ACT
(VI OF 1121)**

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 5.
4. Amendment of section 12 and 20.
5. Amendment of section 21.
6. Amendment of section 22.
7. Amendment of section 23.

**THE COCHIN PRESS AND REGISTRATION OF
BOOKS (AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin
on the 18th day of Meenam 1121
corresponding to the 31st day of March 1946*

[Published in the Cochin Government Gazette dated
24th Meenam 1121]

WHEREAS it is necessary further to amend the Cochin Press and Registration of Books Act, VII of 1097; It is hereby enacted as follows.—

**Short title
and com-
mencement.**

1. This Act may be called the Cochin Press and Registration of Books (Amendment) Act, VI of 1121 and shall come into force at once.

**Amendment
of section 3.**

2. In section 3 of the Cochin Press and Registration of Books Act, VII of 1097, hereinafter referred to as the Act, for the word "newspaper" the word "paper" shall be substituted in the two places where it occurs.

**Amendment
of section 5.**

3. In section 5 of the Act the word "printed" shall be omitted.

**Amendment
of sections 12
and 20.**

4. In section 12 of the Act for the word "newspaper" the word "paper" shall be substituted and in section 20 for the words "books or newspapers" the words "books, papers or newspapers" shall be substituted.

5. In section 21 of the Act—

(a) for the words “book or newspaper” the words “book, paper or newspaper” shall be substituted in the two places where they occur; and

Amendment
of section 21.

(b) in Explanation (2) for the words “books or newspapers” the words “books, papers or newspapers” shall be substituted.

6. In section 22 of the Act for the words “book or newspaper” the words “book, paper or newspaper” shall be substituted.

Amendment
of section 22.

7. In section 23 of the Act—

(1) In sub-section (2)—

(a) for the words “books or newspapers” the words “books, papers or newspapers” shall be substituted;

(b) In Proviso (2)—

(i) for the words “Chief Court” the words “High Court” shall be substituted;

(ii) for the words “book or newspaper” the words “book, paper or newspaper” shall be substituted; and

(2) In sub-section (3) for the words “Chief Court” the words “High Court” shall be substituted.

Amendment
of section 23.

THE GOVERNMENT OF COCHIN (AMENDMENT) ACT (VII OF 1121) CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendments of sections 4, 6, 7, 8, 9, 13 and 16.

THE GOVERNMENT OF COCHIN (AMENDMENT) ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin
on the 22nd day of Meenam 1121, corresponding
to the 4th day of April 1946.*

[Published in the Cochin Government Gazette Extraordinary,
dated 23rd Meenam 1121]

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

Short title
and com-
mencement.

1. This Act may be called the Government of Cochin (Amendment) Act, VII of 1121, and shall come into force at once.

Amendment
of Govern-
ment of
Cochin Act
XX of 1113

2. The Government of Cochin Act, XX of 1113, is hereby amended to the extent and in the manner mentioned in the Schedule hereto annexed.

SCHEDULE

Amendment

1. In section 4—

(a) for the word "Minister" where it occurs in the first two places the word "Ministers" shall be substituted;

(b) in the proviso for the words "Minister", "his", and "him", the words "Ministers", "their", and "them" respectively shall be substituted; and

(c) in the Explanation for the words "the Minister", the word "Ministers" shall be substituted.

2. In section 6—

(a) in sub-section (1) for the words "The Minister is" the words "The Ministers are", and for the words "holds office" the words "shall hold office" shall be substituted;

(b) in sub-section (2) for the words "The Minister" the words "A Minister" shall be substituted;

(c) in sub-section (3) for the words "the Minister" the words "each Minister" shall be substituted;

(d) in sub-section (4) between the words "Minister" and "unless" the word "concerned" shall be inserted; and

(e) in sub-section (5) after the word "Minister" the word "concerned" shall be added.

3. In section 7 for the words "the Minister" the words "a Minister" shall be substituted.

4. In clause (1) of section 8 for the words "the Minister" the word "Ministers" shall be substituted.

5. In section 9 for the words "the Minister" wherever they occur the words "the Ministers" shall be substituted and for the word "his" occurring in clause (c) the word "their" shall be substituted.

6. In the second proviso to sub-section (1) of section 13, for the words "the Minister" the words "every Minister" shall be substituted.

7. In Explanation (1) to clause (a) of sub-section (1) of section 16 for the words "The Minister" the words "The Ministers" shall be substituted.

**THE
RESTRICTION AND DETENTION (AMENDMENT)
PROCLAMATION
(XII of 1121)**

CONTENTS

Preamble

Sections

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

**THE RESTRICTION AND DETENTION (AMENDMENT)
PROCLAMATION**

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

*on the 22nd day of Meenam 1121, corresponding to the
4th day of April 1946*

**[Published in the Cochin Government Gazette Extraordinary,
dated 23rd Meenam 1121]**

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

1. This Proclamation may be called the Restriction and Detention (Amendment) Proclamation, XII of 1121, and shall come into force at once. Short title and commencement.

2. To sub-section (1) of section 9 of the Restriction and Detention Proclamation, XVII of 1119, the following shall be added at the end.— Amendment of section 9.

“and no Court shall have power to make any order under section 391-A of the Cochin Code of Criminal Procedure (II of 1086) in respect of any order made under or having effect under this Proclamation, or in respect of any person the subject of such an order.”

**THE TERMINATION OF WAR (DEFINITION)
PROCLAMATION
(XIII of 1121)
CONTENTS**

Preamble**Sections**

1. Short title, extent and commencement.
2. Declaration of date of termination of present war.

**THE TERMINATION OF WAR (DEFINITION)
PROCLAMATION**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 25th day of Meenam 1121, corresponding
to the 7th day of April 1946.*

[Published in the Cochin Government Gazette, dated
30th Meenam 1121]

WHEREAS an emergency has arisen which makes it necessary to provide for the determination of the date of the termination of the present war for certain purposes; WE are pleased to command as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Proclamation may be called the Termination of War (Definition) Proclamation, XIII of 1121.
- (2) It extends to the whole of Cochin State.
- (3) It shall come into force at once.

Declaration
of date of
termination
of present
war.

2. For the purposes of any provision made after the 2nd day of September 1939, in any Proclamation or other enactment or in any notification, rule or order under any Proclamation or any other enactment or in any contract, deed or other instrument, making any reference, express or implied and in whatever form of words, to the present war or the present hostilities, the present war and present hostilities shall, unless in the case of such a reference in any contract, deed or other instrument as aforesaid the subject or context otherwise requires, be deemed to continue to, and to end on, the day on which our Government notify in the Cochin Government Gazette that the present war or the present hostilities have ended:

Provided that nothing in this Proclamation shall apply to or prejudice the exercise of any power conferred in

whatever form of words in any such provision as aforesaid on Our Government, authority or person to declare for the purposes of such provision on what specified date the present war or the present hostilities or the present emergency shall be deemed to end.

**THE COCHIN BETEL-NUTS, COFFEE AND
TEA (EXCISE DUTY) (AMENDMENT)
PROCLAMATION
(XIV of 1121)**

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of First Schedule.

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

Promulgated by His Highness Sree Kerala Varma,

Maharaja of Cochin,

*on the 5th day of Medam 1121, corresponding
to the 18th day of April 1946.*

[Published in the Cochin Government Gazette
Extraordinary, dated 7th Medam 1121]

Whereas it is necessary to amend the Cochin Betel-nuts, Coffee and Tea (Excise Duty) Proclamation, II of 1120, with a view to reduce the duty of excise on betel-nuts; We are hereby pleased to command as follows.—

1. This Proclamation may be called the Cochin Betel-nuts, Coffee and Tea (Excise Duty) (Amendment) Proclamation, XIV of 1121, and shall be deemed to have come into force with effect from 30th March 1946. Short title
and com-
mencement.

2. In the First Schedule to the Cochin Betel-nuts, Coffee and Tea (Excise Duty) Proclamation, II of 1120— Amendment
of First
Schedule.

(1) for the entry in column 3 against item No. 1 the words "one anna per pound" shall be substituted; and

(2) for the entry in column 3 against item No. 2 the following shall be substituted, namely.—

"2 annas per pound".

**THE COCHIN FACTORIES (AMENDMENT) ACT
(VIII OF 1121)**

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 9.
3. Do. of section 19.
4. Do. of section 23.
5. Insertion of new section 35 A—Compensatory holidays.
6. Insertion of new chapter IV A—Holidays with pay.
 - (i) 49 A—Application of chapter.
 - (ii) 49 B—Annual holidays.
 - (iii) 49 C—Pay during annual holidays.
 - (iv) 49 D—Payment when to be made.
 - (v) 49 E—Power of Inspector to act for worker.
 - (vi) 49 F—Power to make rules.
 - (vii) 49 G—Exemption of factories from provisions of this chapter.
7. Insertion of new chapter V A.—
 - (i) 59 A—Small factories.
 - (ii) 59 B—Certain provisions of this Act to apply to small factories wherein child labour is employed.
 - (iii) 59 C—Certain other provisions of law not barred.
8. Amendment of section 60.
9. Do. of section 61.

THE COCHIN FACTORIES (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 5th day of Medam 1121
corresponding to the 18th day of April 1946*

[Published in the Cochin Government Gazette,
dated 14th Medam 1121]

WHEREAS it is expedient further to amend the Cochin Factories Act, II of 1113, for the purposes hereinafter appearing; It is hereby enacted as follows.—

**Short title
and com-
mencement.**

1. (1) This Act may be called the Cochin Factories (Amendment) Act, VIII of 1121.

(2) It shall come into force on such day as Government may by notification in the Cochin Government Gazette appoint.

2. In section 9 of the Cochin Factories Act, II of 1113, hereinafter referred to as the Act, in sub-section (1) the word "and" occurring at the end of clause (d) shall be omitted and after clause (e) the following word and clause shall be added, namely.—

“; and

(f) such other particulars as may be prescribed for the purposes of this Act.”

3. In sub-section (3) of section 19 of the Act, the words “in which any process involving contact by the workers with injurious or obnoxious substances is carried on” shall be omitted.

4. In sub-section (1) of section 23 of the Act, for the words “as can reasonably be required in the circumstances of each factory” the words “as may be prescribed” shall be substituted.

5. After section 35 of the Act, the following section shall be inserted, namely:—

“35A. (1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 35, a worker is deprived of any of the weekly holidays for which provision is made by sub-section (1) of that section, he shall be allowed, as soon as circumstances permit, compensatory holidays of equal number to the holidays so lost.

(2) Government may make rules prescribing the manner in which the holidays, for which provision is made in sub-section (1), shall be allowed”.

6. After Chapter IV of the Act the following Chapter shall be inserted, namely:—

“CHAPTER IV-A

Holidays with Pay

49A. (1) The provisions of this Chapter shall not apply to a seasonal factory.

(2) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other enactment, or under the terms of any award, agreement or contract of service.

**Annual
holidays.**

49B. (1) Every worker who has completed a period of twelve months' continuous service in a factory shall be allowed, during the subsequent period of twelve months, holidays for a period of ten or, if a child, fourteen consecutive days, inclusive of the day or days, if any, on which he is entitled to a holiday under sub-section (1) of section 35.

(2) If a worker fails in any one such period of twelve months to take the whole of the holidays allowed to him under sub-section (1), any holidays not taken by him shall be added to the holidays to be allowed to him under sub-section (1) in the succeeding period of twelve months, so however that the total number of days holidays which may be carried forward to a succeeding period shall not exceed ten or, in the case of a child, fourteen.

(3) If a worker entitled to holidays under sub-section (1) is discharged by his employer before he has been allowed the holidays, or if, having applied for and having been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under section 49-C in respect of the holidays.

Explanation.—A worker shall be deemed to have completed a period of twelve months' continuous service in a factory notwithstanding any interruption in service during those twelve months brought about by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three or by a lock-out, or by a strike which is not an illegal strike or by intermitant periods of involuntary unemployment not exceeding thirty days in the aggregate; and authorised leave shall be deemed not to include any weekly holiday allowed under section 35 which occurs at the beginning or end of an interruption brought about by the leave.

**Pay during
annual
holidays.**

49C. Without prejudice to the conditions governing the day or days, if any, on which the worker is entitled to a holiday under sub-section (1) of section 35, the worker shall, for the remaining days of the holidays allowed to him under section 49B, be paid at a rate equivalent to the daily average of his wages as defined in the Cochin Payment of Wages Act, IV of 1113, for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

49D. A worker who has been allowed holidays under section 49B shall, before his holidays begin, be paid half the total pay due for the period of holidays. Payment when to be made.

49E. Any Inspector may institute proceedings on behalf of any worker to recover any sum required to be paid under this Chapter by an employer which the employer has not paid. Power of Inspector to act for worker.

49F. (1) Government may make rules to carry into effect the provisions of this Chapter. Power to make rules.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section prescribing the keeping by employers of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors.

49G. Where Government are satisfied that the leave rules applicable to workers in a factory provide benefits substantially similar to those for which this Chapter makes provision they may, by written order, exempt the factory from the provisions of this Chapter." Exemption of factories from provisions of this Chapter.

7. After Chapter V of the Act the following Chapter shall be inserted, namely:— Insertion of new Chapter VA.

“CHAPTER V A.

Small Factories

59A. (1) In this Act, unless there is anything repugnant in the subject or context, “small factory” means any premises including the precincts thereof whereon ten or more but less than twenty workers are working or were working on any day of the preceding six months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on: Small Factories.

Provided that Government may, by notification in the Cochin Government Gazette, declare any premises to be a small factory, notwithstanding that less than ten workers are working thereon, if such premises would otherwise be a small factory.

(2) For the purposes of this Chapter an adolescent holding a certificate granted under this Act to work as an adult shall be deemed to be an adult.

Certain provisions of this Act to apply to small factories wherein child labour is employed.

59B. (1) All the provisions of this Act, except clause (i) of section 2, sections 4, 5, 6 and 7, sub-sections (1) and (4) of section 14, sections 15, 21, 22 and 25, sub-sections (1), (2) and (3) of section 33 and Chapter IV shall apply to, and in relation to, all small factories wherein any worker who is not, or is not deemed to be, an adult is employed; and in the provisions hereby made so applicable every reference to a factory shall be deemed to include, so far as may be, a reference to a small factory.

(2) The aforesaid provisions shall cease to apply to a small factory on the expiry of six months from the receipt by the Inspector of a notice in writing from the occupier that he has ceased to employ therein any worker who is not, or is not deemed to be, an adult, unless any such worker is employed therein on any day of the said six months:

Provided that if any such worker is thereafter employed in the small factory, the said provisions of this Act shall again apply thereto.

Certain other provisions of law not barred.

59C. The provisions of this Chapter shall be in addition to and not in derogation of, the provisions of the Cochin Employment of Children Act, XIII, of 1120."

Amendment of section 50

8. In section 60 of the Act,—

(a) at the end of clause (f), the word "or" shall be added;

(b) after clause (f) as so amended, the following clause shall be inserted, namely:—

"(g) there is any contravention of section 49B, 49C or 49D, or of any rule made under section 49F."

Amendment of section 61.

9. In section 61 of the Act, for the brackets and letter "(f)", the brackets and letter "(g)" shall be substituted.

THE COCHIN PAYMENT OF SALARIES AND ALLOWANCES (AMENDMENT) ACT

(IX OF 1121)

CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 3.
3. Substitution of section 4—Allowances to Minister and non-official members of the Legislative Council.

**THE COCHIN PAYMENT OF SALARIES AND ALLOWANCES
(AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin
on the 18th day of Medam 1121,
corresponding to the 1st day of May 1946.*

[Published in the Cochin Government Gazette,
dated 21st Medam 1121]

WHEREAS it is expedient to amend the Cochin Payment of Salaries and Allowances Act, XXXI of 1113, for the purposes hereinafter appearing; It is hereby enacted as follows.—

1. This Act may be called the Cochin Payment of Salaries and Allowances (Amendment) Act, IX of 1121 and shall be deemed to have come into force on the 1st day of Chingam 1121. Short title and commencement.

2. In section 3 of the Cochin Payment of Salaries and Allowances Act, XXXI of 1113, hereinafter referred to as the Act,— Amendment of section 3.

(1) for the figure "1,200" the figure "2,000" shall be substituted; and

(2) for the words "his allowances as a member of the Council" the words "travelling and daily allowances as a member of the Council under sub-section (2) of section 4" shall be substituted.

3. For section 4 of the Act the following shall be substituted, namely.— Substitution of section 4.

"4. (1) Every non-official member of the Legislative Council who does not hold any of the offices referred to in section 2 or section 3 shall be entitled to receive a consolidated allowance at the rate of Rs. 1,000 per annum. Allowances to Minister and non-official members of the Legislative Council.

(2) The Minister and the non-official members of the Legislative Council shall be entitled to receive travelling and daily allowances at such rates as may be prescribed from time to time for first class officers of Government in the Cochin Service Regulations :

Provided that the non-official members of the Legislative Council who draw the consolidated allowance referred to in sub-section (1) shall not be entitled to any travelling allowance or daily allowance for attending the meetings of the Legislative Council."

**THE COCHIN PAYMENT OF SALARIES AND
ALLOWANCES (AMENDMENT) ACT
(X OF 1121)
CONTENTS**

Preamble**Sections**

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

**THE COCHIN PAYMENT OF SALARIES AND
ALLOWANCES (AMENDMENT) ACT**

*Passed by His Highness the Maharaja of Cochin
on the 20th day of Medam 1121 corresponding
to the 3rd day of May 1946.*

**[Published in the Cochin Government Gazette,
dated 21st Medam 1121]**

**Short title
and com-
mencement.**

WHEREAS it is expedient to amend the Cochin Payment of Salaries and Allowances Act, XXXI of 1113, for the purposes hereinafter appearing; It is hereby enacted as follows:—

**Amendment
of section 2.**

1. This Act may be called the Cochin Payment of Salaries and Allowances (Amendment) Act, X of 1121, and shall come into force at once.

**Amendment
of section 4.**

2. In section 2 of the Cochin Payment of Salaries and Allowances Act, XXXI of 1113, hereinafter referred to as the Act, for the words "the Minister" the words "each Minister" shall be substituted.

3. In section 4 of the Act, for the words "The Minister", the words "The Ministers" shall be substituted.

**THE REPEALING PROCLAMATION
(XV OF 1121)
CONTENTS**

Preamble**Sections**

1. Short title, extent and commencement.
2. Repeal of certain Proclamations.
3. Savings.

THE REPEALING PROCLAMATION

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 1st day of Edavam 1121, corresponding
to the 15th day of May 1946.*

[Published in the Cochin Government Gazette, dated
4th Edavam 1121]

WHEREAS it is necessary to repeal wholly or partially certain Proclamations; WE are hereby pleased to command as follows.— Preamble.

1. (1) This Proclamation may be called the Repealing Proclamation, XV of 1121. Short title, extent and commencement.

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

2. The Proclamations specified in the Schedule are hereby repealed to the extent mentioned in the third column thereof. Repeal of certain Proclamations.

3. The repeal by this Proclamation of any Proclamation shall not affect— Savings.

(i) the previous operation of any Proclamation so repealed or the validity, invalidity, effect or consequences of anything already done or suffered thereunder, or

(ii) any right, title, privilege, obligation or liability acquired, accrued or incurred thereunder, or any release or discharge already granted of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing, or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Proclamation so repealed, or

(iv) any investigation, legal proceeding or remedy in respect of any such right, title, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Proclamation had not been made;

nor shall the repeal by this Proclamation of—

(a) any Proclamation by which the text of any law was amended by the express omission, insertion or substitution of any matter, affect the continuance of any such amendment in operation at the commencement of this Proclamation, unless a different intention was expressly stated in the Proclamation by which the amendment was made;

(b) any Proclamation which was expressed to have any retrospective effect or operation, affect or prejudice in any way such retrospective effect or operation;

nor shall this Proclamation revive or restore anything not in force or existing at the time of its commencement, or affect any law in which any Proclamation hereby repealed has been applied, incorporated or referred to, or affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that they respectively may have been in any manner affirmed, recognised or derived by, in or from any Proclamation hereby repealed.

SCHEDULE

Sl. No.	Title	Extent of repeal
1	The Air Raid Precautions Services Proclamation, I of 1117 ..	the whole
2	The Registration of Foreigners Act (Extending) Proclamation, XXII of 1117 ..	the whole
3	The Subversive Activities Proclamation, XVI of 1119 ..	the whole
4	The War Risks Insurance (Extending) Proclamation, XIX of 1119 ..	the whole
5	The War Risks (Factories) Insurance Proclamation, XXIV of 1117 ..	Section 3
6	The War Risks (Goods) Insurance Proclamation, XXVII of 1117 ..	Section 5

**THE EXCESS PROFITS TAX (AMENDMENT) ACT
(XI OF 1121)
CONTENTS**

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 2 (4).

THE EXCESS PROFITS TAX (AMENDMENT) ACT

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin on the 1st day of Edavam 1121,
corresponding to the 15th day of May 1946.*

[Published in the Cochin Government Gazette, dated
4th Edavam 1121]

WHEREAS it is expedient to provide that the excess profits tax shall be levied only on the profits arising in the accounting years ending before the 5th day of Kanni 1121 and whereas it is necessary further to amend the Excess Profits Tax Act, II of 1117, for the said purpose It is hereby enacted as follows:—

1. (1) This Act may be called the Excess Profits Tax (Amendment) Act, XI of 1121.

**Short title
and com-
mencement.**

(2) It shall come into force at once.

2. In sub-section (4) of section 2 of the Excess Profits Tax Act, II of 1117, after the words and figures "5th day of Kanni 1116", the following words and figures shall be added, namely.—

**Amendment
of section
2 (4).**

"and, before the 5th day of Kanni 1121".

**THE COCHIN VILLAGE COURTS (AMENDMENT)
ACT
(XII OF 1121)
CONTENTS**

Preamble

Sections

1. Short title and commencement.
2. Amendment of section 20.
3. Addition of new section 36A—Adjournment of cases and binding of witnesses for attendance on other hearing dates.
4. Amendment of section 44.

THE COCHIN VILLAGE COURTS (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Edavam 1121 corresponding
to the 24th day of May 1946*

[Published in the Cochin Government Gazette dated
11th Edavam 1121]

Whereas it is necessary further to amend the Cochin Village Courts Act, XII of 1118; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. This Act may be called the Cochin Village Courts (Amendment) Act, XII of 1121, and it shall come into force at once.

Amend-
ment of
section 20.

2. In section 20 of the Cochin Village Courts Act, XII of 1118, hereinafter referred to as the Act, after the words "Village Court" the words "or to the President of such court or to the clerk of the Village Court when authorised by the President" shall be inserted.

Addition of
new section
36-A.

3. After section 36 of the Act the following section shall be inserted as section 36-A.

Adjournment
of cases and
binding of
witnesses for
attendance
on other
hearing
dates.

"36-A. If the day to which the hearing of the case is posted happens to be a public holiday or when there is no sitting of the court for want of quorum, the President or such of the Judges as are present may, notwithstanding the provisions contained in section 6, adjourn the case and require the witnesses present to bind themselves with or without security to attend at the next or any other hearing".

Amend-
ment of
section 44.

4. In sub-section (2) of section 44 of the Act, for the words "and the amount of costs", the following shall be substituted.—

"the amount of costs and interest thereon if any awarded by the court, not exceeding six per cent per annum".

**THE COCHIN MOTOR VEHICLES ACT
(VIII OF 1116)—(CHAPTER VII—COM-
MENCEMENT) PROCLAMATION
(XVI of 1121)**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 28th day of Edavam 1121, corresponding
to the 11th day of June 1946.*

[Published in the Cochin Government Gazette, dated,
1st Mithunam 1121]

WHEREAS under sub-section (3) of section 1 of the Cochin Motor Vehicles Act, VIII of 1116, the provisions of Chapter VII regarding insurance of motor vehicles against third party risks shall not have effect until after a period of four years from the date of coming into force of the said Act and whereas it is considered necessary to bring into effect the provisions of the said Chapter from the 30th day of June 1946; We are pleased to command that notwithstanding the provisions contained in sub-section (3) of section 1 of the Cochin Motor Vehicles Act, VIII of 1116, Chapter VII of the said Act shall have effect from the 30th day of June 1946.

**THE NATIONAL SERVICE (EUROPEAN
BRITISH SUBJECTS) PROCLAMATION
(XVII of 1121)
CONTENTS**

Preamble

Sections

1. Short title and commencement.
2. Termination of liability to be called up for national service under Proclamation II of 1116.

**THE NATIONAL SERVICE EUROPEAN (BRITISH SDBJECTS
PROCLAMATION**

*Promulgated by His Highness Sree Kerala Varma,
Maharaja of Cochin,
on the 4th day of Mithunam 1121, corresponding
to the 18th day of June 1946.*

[Published in the Cochin Government Gazette, dated
8th Mithunam 1121]

WHEREAS it is necessary to provide that persons shall no longer be liable to be called up under the National Service (European British Subjects) Proclamation, II of 1116; It is hereby enacted as follows.—

Short title
and com-
mencement.

1. (1) This Proclamation may be called the National Service (European British Subjects) Termination of Calling-up Proclamation, XVII of 1121.

(2) It shall come into force at once.

Termination
of liability to
be called up
for national
service under
Proclama-
tion-II of
1116.

2. Notwithstanding anything to the contrary in the National Service (European British Subjects) Proclamation, II of 1116, no person shall be liable after the commencement of this Proclamation to be called up for national service under that Proclamation:

Provided that nothing in this Proclamation shall affect the provisions of the National Service (European British Subjects) Proclamation, II of 1116, in relation to any person on whom a calling-up notice thereunder has been served before the commencement of this Proclamation.

**THE COCHIN VEHICLES TAXATION ACT
(XIII OF 1121)**

CONTENTS

Preamble

Sections

1. Short title: extent and commencement.
2. Definitions.
3. Imposition of a tax on vehicles.
4. Payment of tax and issue of licences in respect of motor vehicles.
5. Payment of tax and issue of licences in respect of vehicles other than motor vehicles.

6. Owner of vehicle other than motor vehicle to report to licensing officer.
7. Carriage of licence on vehicle and duty to stop on demand by police officer.
8. Penalty for failure to pay tax.
9. Recovery of tax as an arrear of land revenue.
10. Compensation to Municipalities from the proceeds of the tax collected.
11. Exemptions.
12. Establishment and levy of tolls in special cases.
13. Protection in respect of acts done in good faith.
14. Trial of offences.
15. Procedure in certain cases.
16. Power of Government to make rules.
17. Power of Government to amend Schedules I, II or III.
18. Amendment to the Cochin Municipal Act, XVIII of 1113. Schedules I to IV.

THE COCHIN VEHICLES TAXATION ACT

*Passed by His Highness the Maharaja of Cochin
on the 30th day of Edavam 1121 corresponding
to the 13th day of June 1946.*

[Published in the Cochin Government Gazette
dated 1st Mithunam 1121]

WHEREAS it is expedient to abolish the levy of tolls and to abolish the levy of taxes on carriages by Municipal Councils, and whereas it is also expedient to provide for the levy of a tax on vehicles by Government; It is hereby enacted as follows.—

Preamble.

1. (1) This Act may be called the Cochin Vehicles Taxation Act, XIII of 1121.

Short title,
extent and
commence-
ment

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

(3) It shall come into force on the first day of Chingam 1122.

Definitions.

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

(1) the following expressions shall have the meanings assigned to them in the Cochin Motor Vehicles Act, VIII of 1116.—

- (a) “goods”,
- (b) “goods vehicle”,
- (c) “invalid carriage”,
- (d) “motor vehicle”,
- (e) “trailer”, and
- (f) “unladen weight”;

(2) “laden weight” in relation to a motor vehicle means if a permit is issued to the vehicle under the Cochin Motor Vehicles Act, VIII of 1116, the maximum laden weight specified in such permit, if no such permit is issued the maximum laden weight specified in the registration certificate of the vehicle and if such weight is not specified in such certificate, the maximum laden weight of the vehicle determined in such manner as the licensing officer may deem fit;

“laden weight” in relation to a trailer means, if a permit is issued to the vehicle to which the trailer is attached under the Cochin Motor Vehicles Act, VIII of 1116, the maximum laden weight specified in such permit in respect of the trailer, if no such permit is issued, the maximum laden weight specified in respect of the trailer in the registration certificate of the vehicle to which the trailer is attached, and if such weight is not specified in such certificate, the maximum laden weight of the trailer determined in such manner as the licensing officer may deem fit;

(3) “licensing officer” means an officer appointed by Government to exercise the powers and to perform the functions of a licensing officer under this Act;

(4) “owner” includes any agent or hirer using a vehicle;

(5) “prescribed” means prescribed by Government by rules made under this Act;

(6) “public road” means any street, road, square, court, alley, passage or riding path whether a thoroughfare or not over which the public have a right of way, or

over which the public are granted access, and includes the roadway over any public bridge or causeway;

(7) "registered owner" means in relation to a motor vehicle the person in whose name a motor vehicle is registered or deemed to be registered under the Cochin Motor Vehicles Act, VIII of 1116, and in relation to a vehicle other than a motor vehicle the person whose name is entered in a register to be maintained by the licensing officer under this Act;

(8) "tax" means the tax leviable under sub-section (1) of section 3;

(9) "vehicle" shall include bicycles and tricycles and automatic cars and every wheeled conveyance which is used or capable of being used on a public road, but does not include perambulators designed solely for the conveyance of children; and

(10) "year" means the financial year; "half-year" means the first six months of such year; and "quarter" means the first three months or the second three months of such half year.

3. (1) Government may, by notification in the Cochin Government Gazette direct that a tax shall be levied on every vehicle using any public road in Cochin State. Imposition of a tax on vehicles.

(2) The notification issued under sub-section (1) shall specify the rates at which, and the year, half-year or the quarter for which the tax shall be levied:

Provided that the rates shall not exceed the maxima specified in Schedule I in the case of motor vehicles and the maxima specified in Schedule III in the case of vehicles other than motor vehicles.

4. (1) (a) The tax levied in respect of a motor vehicle in pursuance of a notification issued under sub-section (1) of section 3 shall be paid by the registered owner or person having possession or control of the motor vehicle, at his choice, either quarterly, half-yearly, or annually, upon a quarterly, half-yearly or annual licence to be taken out by him. Payment of tax and issue of licences in respect of motor vehicles.

Explanation.—The tax for a half-yearly licence shall not exceed twice and the tax for an annual licence shall not exceed four times the tax for a quarterly licence. Government shall have power to grant a suitable rebate in case of the half-yearly and annual licences.

(b) Where the tax for any motor vehicle has been paid for any quarter, half-year or year and the vehicle has not been used during the whole of that quarter, half-year or year or a continuous part thereof not being less than one month, a refund of the tax at such rates as may, from time to time, be notified by Government, shall be payable subject to such conditions as may be specified in such notification.

(c) Notwithstanding anything contained in section 3 or clauses (a) and (b), Government may by notification in the Cochin Government Gazette, direct that a temporary licence for a period not exceeding thirty days at a time may be issued in respect of any class of motor vehicles on payment of such tax (not exceeding the maximum specified in Schedule II) and subject to such conditions as may be specified in such notification.

(d) No motor vehicle shall be used on any public road in Cochin State at any time after the issue of a notification under sub-section (1) of section 3, unless a licence permitting such use during such time has been obtained under clause (a) or clause (c).

(2) Notwithstanding anything contained in sub-section (1), no person shall be liable to tax during any period on account of any taxable motor vehicle, the tax due in respect of which for the same period has already been paid by some other person.

(3) (a) When any person pays the amount of tax due in respect of a motor vehicle using any public road in Cochin State or proves to the satisfaction of the licensing officer that no tax is payable in respect of such vehicle, the licensing officer shall—

(i) grant to such person a licence in such form as may be notified by Government to use the vehicle on public roads in Cochin State for the period concerned and

(ii) in the case referred to in clause (a) of sub-section (1) record that the tax has been paid for a specified period or that no tax is payable in respect of the vehicle, as the case may be in the certificate of registration granted or deemed to be granted in respect of the vehicle under the Cochin Motor Vehicles Act, VIII of 1116, or in the case of vehicles not registered or deemed to be registered

under that Act in a certificate in such form as may be notified by Government.

(b) Every licence granted under clause (a) shall be valid throughout Cochin State.

5. (1) (a) The tax levied in respect of a vehicle, other than a motor vehicle in pursuance of a notification issued under sub-section (1) of section 3 shall be paid by the owner or person having possession or control of the vehicle at his choice either half-yearly or, annually upon a half-yearly or annual licence to be taken out by him.

Payment of tax and issue of licences in respect of vehicles other than motor vehicles.

Explanation.—The tax for any annual licence shall not exceed twice the tax for a half-yearly licence.

(b) No vehicle other than a motor vehicle shall be used on any public road in Cochin State at any time after the issue of a notification under sub-section (1) of section 3 unless a licence permitting such use has been obtained under clause (a).

(2) Notwithstanding anything contained in sub-section (1), no person shall be liable to tax during any period on account of any taxable vehicle other than a motor vehicle the tax due in respect of which for the same period has already been paid by some other person.

(3) (a) When any person pays the amount of tax due in respect of a vehicle other than a motor vehicle using any public road in Cochin State or proves to the satisfaction of the licensing officer that no tax is payable in respect of such vehicle, the licensing officer shall—

(i) grant to such person a licence in such form as may be notified by Government to use the vehicle on public roads in Cochin State for the period concerned;

(ii) in the case referred to in clause (a) of sub-section (1) record that the tax has been paid for a specified period or that no tax is payable in respect of the vehicle as the case may, in a certificate in such form as may be notified by Government.

(b) Every licence granted under clause (a) shall be valid throughout Cochin State.

(4) Where the Cochin Hackney Carriage Act, II of 1098 is in force in any area, the person appointed to perform the functions of the registering officer under the said Act in respect of such area shall, before registering any

hackney carriage thereunder, satisfy himself that the tax, if any, due under this Act on account of the last preceding half-year and the current half-year has been paid.

Owner of vehicle other than motor vehicle to report to licensing officer.

6. (1) Every owner of a vehicle other than a motor vehicle shall report to the licensing officer within whose jurisdiction he resides the particulars of the vehicle he owns or possesses in such form and within such date as may be notified by Government.

(2) Any person failing to comply with the provision in sub-section (1) shall unless the offence is compounded by the licensing officer be punishable with fine which may extend to twenty rupees.

Carriage of licence on vehicle and duty to stop on demand by police officer.]

7. (1) The licence granted in respect of a vehicle under clause (a) of sub-section (3) of section 4 or clause (a) of sub-section (3) of section 5 shall be carried in a conspicuous place upon the vehicle in such manner as may be notified by Government and if such a licence is not so carried upon such vehicle, the registered owner or the person having possession or control thereof shall be punishable with fine which may extend to fifty rupees.

(2) Any police officer in uniform who is not below the rank of a Sub-Inspector or who being below such rank is specially authorised in this behalf by Government may require the driver of any vehicle on any public road to stop the vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that a licence has been duly obtained in respect of such vehicle.

(3) Any person failing to stop a vehicle when required to do so by a police officer under sub-section (2) or resisting such officer shall be punishable with fine which may extend to fifty rupees.

Penalty for failure to pay tax.

8. If the tax due in respect of any vehicle has not been paid, the registered owner or the person having possession or control thereof shall be punishable with fine which may extend to fifty rupees; and the amount of the tax due by him in respect of such vehicle for the quarter or quarters or half-year or year concerned shall also be recovered as if it were a fine.

9. Any tax due under this Act may also be recovered in the same manner as an arrear of land revenue. The vehicle in respect of which the tax is due or its accessories may be distrained and sold in pursuance of this section whether or not such vehicle or accessories are in the possession or control of the person liable to pay the tax.

Recovery of tax as an arrear of land revenue.

10. From the proceeds of the tax collected under this Act every year there shall be paid to each Municipality which at the commencement of this Act was levying toll or carriage tax or both such compensation as may be determined from time to time by Government and their determination shall be final.

Compensation to Municipalities from the proceeds of the tax collected.

11. Government may by notification in the Cochin Government Gazette make an exemption, reduction in the rate or other modification in regard to the tax payable—

Exemptions.

(i) by any person or class of persons, or

(ii) in respect of any vehicle or class of vehicles, or

(iii) in respect of any vehicle or class of vehicles using a specified route.

12. Where Government are satisfied that special circumstances exist for the levy of toll on any road or bridge they may, subject to such conditions as they may deem fit to impose, direct by notification in the Cochin Government Gazette the levy of tolls on vehicles using such road or bridge and thereupon the provisions of the Cochin Ferries and Tolls Act, III of 1082, shall apply thereto.

Establishment and levy of tolls in special cases.

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

Protection in respect of acts done in good faith.

14. No court inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act.

Trial of offences.

15. (1) A court taking cognizance of an offence punishable under sub-section (1) of section 7, or under sub-section (3) of that section, in so far as it relates to failure to stop a vehicle when required to do so by a police officer or under section 8, may state upon the summons to be served on the accused person that he—

Procedure in certain cases.

(a) may appear by pleader and not in person, or

(b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter and remit to the court such sum not exceeding fifty rupees and in the case of an offence punishable under section 8 also such sum on account of the tax due from him, as the court may specify.

(2) Where an accused person pleads guilty and remits the sum specified by the court, no further proceedings in respect of the offence shall be taken against him.

Power of Government to make rules.

16. (1) Government may make rules for carrying out all or any of the purposes of this Act.

(2) Any rule made under sub-section (1) may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees.

Power of Government to amend Schedules I, II or III.

17. (1) Government may by notification in the Cochin Government Gazette, amend, alter, add to or cancel in part or the whole of Schedule I, II or III appended to this Act.

(2) All references in this Act to Schedule I or Schedule II or Schedule III shall be construed as referring to such Schedule as for the time being amended in exercise of the powers conferred by sub-section (1).

Amendment to the Cochin Municipal Act, XVIII of 1113.

18. The Cochin Municipal Act, XVIII of 1113, is hereby amended to the extent and in the manner mentioned in the second column of Schedule IV.

SCHEDULE I

Classes of Vehicles	Maximum Quarterly tax	
	For vehicles fitted with pneumatic tyres Rs.	For other vehicles Rs.
1. Motor cycles (including motor scooters and cycles with attachment for propelling the same by mechanical power) not exceeding 8 cwt. in weight, unladen,		
(a) Bicycles below 3½ horse power if not used for drawing a trailer or side-car ..	6 0 0	8 0 0
(b) Bicycles below 3½ horse power if used for drawing a trailer or side-car and bicycles of and above 3½ horse power whether used for drawing a trailer or side-car or not ..	8 0 0	10 0 0

SCHEDULE I—(cont.)

Classes of Vehicles	Maximum Quarterly tax	
	For vehicles fitted with pneumatic tyres	For other vehicles
	Rs.	Rs.
(c) Tricycles ..	8 0 0	10 0 0
2. Invalid carriages ..	6 0 0	8 0 0
3. Goods vehicles		
(a) Goods vehicles not exceeding 20 cwt. in weight, laden ..	40 0 0	60 0 0
(b) Goods vehicles exceeding 20 cwt. but not exceeding 30 cwt. in weight, laden ..	80 0 0	120 0 0
(c) Goods vehicles exceeding 30 cwt. but not exceeding 45 cwt. in weight, laden ..	96 0 0	144 0 0
(d) Goods vehicles exceeding 45 cwt. but not exceeding 60 cwt. in weight, laden ..	120 0 0	180 0 0
(e) Goods vehicles exceeding 60 cwt. but not exceeding 85 cwt. in weight, laden ..	144 0 0	216 0 0
(f) Goods vehicles exceeding 85 cwt. but not exceeding 110 cwt. in weight, laden ..	176 0 0	264 0 0
(g) Goods vehicles exceeding 110 cwt. but not exceeding 150 cwt. in weight, laden ..	216 0 0	324 0 0
(h) Goods vehicles exceeding 150 cwt. but not exceeding 180 cwt. in weight, laden ..	256 0 0	384 0 0
(i) Goods vehicles exceeding 180 cwt. in weight, laden ..	280 0 0	420 0 0
(j) Additional tax payable in respect of goods vehicles used for drawing trailers—		
(i) for each trailer not exceeding 20 cwt. in weight, laden ..	16 0 0	24 0 0
(ii) for each trailer exceeding 20 cwt. but not exceeding 60 cwt. in weight, laden ..	60 0 0	90 0 0
(iii) for each trailer exceeding 60 cwt. in weight, laden ..	120 0 0	180 0 0
Provided that two or more goods vehicles shall not be chargeable under this clause in respect of the same trailer.		
4. Motor vehicles plying for hire and used for the transport of passengers—		
(a) Vehicles in respect of which permits have been issued under the Cochin Motor Vehicles Act, VIII of 1116, to carry in all not more than five persons ..	64 0 0	96 0 0
(b) Vehicles in respect of which permits have been issued under the Cochin Motor Vehicles Act, VIII of 1116, to carry more than five persons—for every person which the vehicle is so permitted to carry excluding the driver and the conductor ..	16 0 0	24 0 0
5. Motor vehicles not themselves constructed to carry any load (other than water, fuel accumulators and other		

SCHEDULE I—(cont.)

Classes of Vehicles	Maximum Quarterly tax	
	For vehicles fitted with pneumatic tyres Rs.	For other vehicles Rs.
equipment used for the purpose of propulsion, loose tools and loose equipment), used for haulage solely and weighing together with the largest number of trailers proposed to be drawn—		
(a) Not more than 80 cwt. laden ..	40 0 0	60 0 0
(b) More than 80 cwt. but not more than 120 cwt. laden ..	96 0 0	144 0 0
(c) More than 120 cwt. laden ..	236 0 0	354 0 0
6. Fire engines, fire tenders and road water springlers—		
(a) Not exceeding 20 cwt. in weight, laden ..	16 0 0	24 0 0
(b) Exceeding 20 cwt. but not exceeding 30 cwt. in weight, laden ..	24 0 0	36 0 0
(c) Exceeding 30 cwt. but not exceeding 45 cwt. in weight, laden ..	32 0 0	48 0 0
(d) Exceeding 45 cwt. but not exceeding 60 cwt. in weight, laden ..	40 0 0	60 0 0
(e) Exceeding 60 cwt. but not exceeding 85 cwt. in weight, laden ..	48 0 0	72 0 0
(f) Exceeding 85 cwt. but not exceeding 110 cwt. in weight, laden ..	60 0 0	90 0 0
(g) Exceeding 110 cwt. but not exceeding 150 cwt. in weight, laden ..	72 0 0	108 0 0
(h) Exceeding 150 cwt. but not exceeding 180 cwt. in weight, laden ..	88 0 0	132 0 0
7. Motor vehicles other than those liable to tax under the foregoing provisions of this Schedule—		
(a) Weighing not more than 15 cwt. unladen ..	14 0 0	20 0 0
(b) Weighing more than 15 cwt. but not more than 30 cwt. unladen ..	20 0 0	30 0 0
(c) Weighing more than 30 cwt. but not more than 45 cwt. unladen ..	26 0 0	40 0 0
(d) Weighing more than 45 cwt. but not more than 60 cwt. unladen ..	32 0 0	48 0 0
(e) Weighing more than 60 cwt. unladen ..	40 0 0	60 0 0
(f) Additional tax payable in respect of such vehicles used for drawing trailers—		
(i) for each trailer not exceeding one ton in weight, unladen ..	8 0 0	12 0 0
(ii) for each trailer exceeding one ton in weight, unladen ..	16 0 0	24 0 0
Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.		

SCHEDULE II

Classes of Vehicles	Maximum tax for Vehicles fitted with Pneumatic Tyres			Maximum tax for other Vehicles		
	For a period not exceeding seven days	For a period exceeding 7 days but not exceeding thirty days	For a period not exceeding seven days	For a period exceeding 7 days but not exceeding thirty days	For a period not exceeding seven days	For a period exceeding 7 days but not exceeding thirty days
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1. Motor cycles whether used for drawing a trailer or side car or not (including motor scooters and cycles with attachment for propelling the same by mechanical power).	.. 2 0 0	5 0 0	2 8 0	6 0 0		
2. Invalid carriages	.. 1 0 0	3 0 0	1 8 0	4 0 0		
3. Goods vehicles—						
(a) Goods vehicles not exceeding 20 cwt. in weight, laden?	.. 6 8 0	20 0 0	10 0 0	30 0 0		
(b) Goods vehicles exceeding 20 cwt. but not exceeding 30 cwt. in weight, laden	.. 13 0 0	40 0 0	20 0 0	60 0 0		
(c) Goods vehicles exceeding 30 cwt. but not exceeding 45 cwt. in weight, laden	.. 16 0 0	48 0 0	24 0 0	72 0 0		
(d) Goods vehicles exceeding 45 cwt. but not exceeding 60 cwt. in weight, laden	.. 20 0 0	60 0 0	30 0 0	90 0 0		
(e) Goods vehicles exceeding 60 cwt. but not exceeding 85 cwt. in weight, laden	.. 24 0 0	72 0 0	36 0 0	108 0 0		
(f) Goods vehicles exceeding 85 cwt. but not exceeding 110 cwt. in weight, laden	.. 29 8 0	88 0 0	44 0 0	132 0 0		
(g) Goods vehicles exceeding 110 cwt. but not exceeding 150 cwt. in weight, laden	.. 36 0 0	108 0 0	54 0 0	162 0 0		
(h) Goods vehicles exceeding 150 cwt. but not exceeding 180 Cwt. in weight, laden	.. 42 0 0	128 0 0	64 0 0	192 0 0		
(i) Goods vehicles exceeding 180 cwt. in weight, laden	.. 46 0 0	140 0 0	70 0 0	210 0 0		
(j) Additional tax payable in respect of goods vehicles used for drawing trailers—						
(i) for each trailer not exceeding 20 cwt. in weight, laden	.. 2 8 0	8 0 0	4 0 0	12 0 0		
(ii) for each trailer exceeding 20 cwt. but not exceeding 60 cwt. in weight, laden	.. 10 0 0	30 0 0	15 0 0	45 0 0		

SCHEDULE II (cont.)

Classes of Vehicles	Maximum tax for Vehicles fitted with Pneumatic Tyres		Maximum tax for other Vehicles			
	For a period not exceed- ing seven days	For a period exceeding 7 days but not exceeding thirty days	For a period not exceed- ing seven days	For a period exceeding 7 days but not exceeding thirty days		
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
(iii) for each trailer ex- ceeding 60 cwt. in weight, laden ..	20 0 0	60 0 0	30 0 0	90 0 0		
Provided two or more goods vehicles shall not be chargeable under this clause in respect of the same trailer.						
4. Motor vehicles plying for hire and used for the transport of passengers—						
(a) Vehicles in respect of which permits have been issued under the Cochin Motor Vehi- cles Act, VIII of 1116, to carry in all not more than four persons	10 0 0	32 0 0	16 0 0	48 0 0		
(b) Vehicles in respect of which permits have been issued under the Cochin Motor Vehi- cles Act, VIII of 1116, to carry more than four persons—for every person which the vehicle is permitted to carry ..	2 8 0	8 0 0	4 0 0	12 0 0		
5. Motor vehicles other than those liable to tax under the fore- going provisions of this Schedule—						
(a) Weighing not more than 15 cwt. unladen ..	2 0 0	8 0 0	5 0 0	12 0 0		
(b) Weighing more than 15 cwt. but not more than 45 cwt. unladen ..	4 0 0	12 0 0	5 0 0	14 0 0		
(c) Weighing more than 45 cwt. unladen ..	5 8 0	16 8 0	8 0 0	24 0 0		
(d) Additional tax payable in respect of such vehicles used for drawing trailers—						
(1) for each trailer not ex- ceeding one ton in weight, unladen ..	1 8 0	4 0 0	2 8 0	6 0 0		
(2) for each trailer exceed- ing one ton in weight, unladen..	3 0 0	8 0 0	4 0 0	12 0 0		
Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.						

*SCHEDULE III

Classes of Vehicles	Maximum half yearly tax		
	Rs.	A.	P.
1. For every four-wheeled vehicle constructed to be drawn by one or more animals ..	4	0	0
2. For every two wheeled vehicles constructed to be drawn by one or more animals ..	1	8	0
3. For every other bicycle or tricycle ..	1	0	0
4. For every rickshaw ..	2	0	0

SCHEDULE IV

ACT.

AMENDMENT

(1)

The Cochin
Municipal Act,
XVIII of 1113.

(2)

1. In section 72—
(a) for clauses (d), (e) and (f) of sub-section (1) the following shall be substituted:—

“(d) a tax on animals”; and (b) in sub-section (2) the words “or toll” shall be deleted wherever they occur.

2. In section 73, the words “or toll” shall be deleted wherever they occur.

3. For section 93 and the heading appearing above it the following shall be substituted.—

“Tax on Animals.

93. General provisions regarding tax on animals.

If the Council by resolution decides that a tax on animals shall be levied the executive authority shall levy the said tax by half-yearly instalments on animals kept within the Municipality at the rates not exceeding those mentioned in Schedule III.”

4. Section 93-A shall be deleted.

5. In section 94 the words “carriages or” shall be deleted wherever they occur.

6. In section 95.—

(i) in clause (a) the words “carriages and” shall be deleted;

(ii) in clause (b) the words “carriages and” and the words “carriage makers and” shall be deleted;

(iii) clause (c) shall be deleted; and

(iv) in clause (e) the words “carriages and” shall be deleted.

7. In section 96 the words “carriages and” and the words “carriage and” shall be deleted.

8. In section 97 the words “carriages and” shall be deleted wherever they occur.

9. In section 98 the words “carriage or” shall be deleted wherever they occur.

10. Section 99 and sections 100 to 108 both inclusive and the headings thereto shall be deleted.

11. In section 109 the words “or toll” shall be deleted.

12. In section 110 the word “toll” shall be deleted.

13. In section 115—

(a) in clause (c) the words "carriage and" and the words "and of tolls" shall be deleted; and

(b) in clause (e) for the words "dues and tolls" the words "and dues" shall be substituted.

14. For section 254 the following shall be substituted.

Recovery of
cart stand fees.

"254. (1) If the fee leviable under section 251 is not paid on demand the person appointed to collect it may seize and detain such portion of the appurtenances or load of such vehicle or animal as will, in his opinion, suffice to defray the amount due; in the absence of any such appurtenances or load or in the event of their value being insufficient to defray the amount due, he may seize and detain the vehicle or animal.

(2) All property seized under sub-section (1) shall be sent within twenty-four hours to the executive authority or to such person as he may have authorised to receive and sell such property and the executive authority shall forthwith give notice to the proprietor of the property seized, or, if the proprietor is not known or is not resident within the Municipality, to the person who was in charge of the said property at the time when it was seized, or, if such person cannot be found, publish by beat of drum, that, after the expiry of two days, exclusive of Sunday, from the date of service or publication of such notice the property will be sold in auction at a place to be specified in the notice.

(3) If at any time before the sale has begun the amount due on account of the fee, together with a sum of four annas on account of charges incurred in connection with the seizure and detention, is tendered to the executive authority or other person authorised as aforesaid, the property seized shall be forthwith released.

(4) If no such tender is made, the property may be sold and the proceeds of the sale applied to the payment of—

(i) the amount due on account of the fee;

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

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

15. Clause (c) of sub-section (1) of section 359 shall be deleted.

16. In section 362 the word "toll" shall be deleted wherever it occurs.

17. For Schedule III the following shall be substituted:—

"Maximum rates of tax on animals

	Half-yearly tax.	
	Rs.	As.
For every elephant	12	0
For every camel	6	0
For every horse or mule not under 12 hands	6	0
For every horse or mule under 12 hands	2	0
For every bullock or bull	0	8
For every male buffallo	0	8
For every ass	0	4
For every dog or bitch	0	8
For every pig	0	8

18. Schedule IV shall be deleted.

19. In Schedule VII the entry relating to section 107 shall be deleted.

THE COCHIN GOVERNMENT SAVINGS BANK ACT

(XIV OF 1121)

CONTENTS

Preamble

Sections

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2. Definitions.
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Saving of right of creditor.
5. Security for due administration.
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7. Deposit when excluded in computing court fees.
8. Act not to apply to deposits belonging to estates of European soldiers or deserters.
9. Payment of deposits to minor or guardian
10. Legislation of like payments heretofore made.
11. Payment of deposits belonging to lunatics.
12. Payment of married women's deposits.
13. Rules.

THE COCHIN GOVERNMENT SAVINGS BANKS ACT

*Passed by His Highness the Maharaja of Cochin
on the 10th day of Mithunam 1121*

corresponding to the 24th day of June 1946

[Published in the Cochin Government Gazette, dated
15th Mithunam 1121]

WHEREAS it is expedient to enact a law relating to the payment of deposits in Government Savings Banks; It is hereby enacted as follows.

Preliminary

1. (1) This Act may be called the Cochin Government Savings Banks Act, XIV of 1121. 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,—
 - (1) "depositor" means a person by whom or on whose behalf money has been deposited in a Government Savings Bank; and "deposit" means money so deposited; Definitions.
 - (2) "Secretary" means the Comptroller of Finance and Accounts or any other person empowered under the

rules issued by Government from time to time in that behalf to manage the affairs of a Government Savings Bank within the scope of this Act;

(3) "minor" means a person who is not deemed to have attained his majority under the Cochin Majority Act, XXXVII of 1112.

Deposits belonging to the estate of deceased persons

Payment on death of depositor.

3. If a depositor dies and probate of his will or letters of administration of his estate or a certificate granted under the Cochin Succession Certificate Act, VII of 1095, is not within three months of the death of the depositor produced to the Secretary of the Government Savings Bank in which the deposit is, then—

(a) if the deposit does not exceed three thousand rupees the Secretary may pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, or

(b) if the deposit does not exceed one hundred rupees the Secretary or any other officer specially empowered in this behalf by a general or special order of Government may pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate of the deceased,

after conducting such enquiry as is prescribed by the rules issued by Government from time to time in that behalf.

Payment to be a discharge.

4. Such payments shall be a full discharge from all further liability in respect of the money so paid.

Saving of right of executor.

But nothing herein contained precludes any executor or administrator, or other representative of the deceased, from recovering from the person receiving the same the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Saving of right of creditor.

And any creditor or claimant against the estate of the deceased may recover his debt or claim out of the money paid under this Act to any person, and remaining in his hands unadministered, in the same manner and to the same extent as if the latter had obtained letters of administration of the estate of the deceased.

Security for due administration.

5. The Secretary of any such Bank (or any officer empowered under section 3) may take such security as he thinks necessary from any person to whom he pays any money under section 3 for the due administration of the

money so paid, and he may assign the said security to any person interested in such administration.

6. For the purpose of ascertaining the right of the person claiming to be entitled as aforesaid, the Secretary of any such Bank or any officer empowered under section 3 may take evidence on oath or affirmation according to law for the time being relating to oaths and affirmations.

Power to administer oath.

Any person who, upon such oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true shall be deemed guilty of an offence under section 179 of the Cochin Penal Code.

Penalty for false statements.

7. Where the amount of the deposit belonging to the estate of a deceased depositor does not exceed three thousand rupees, such amount shall be excluded in computing the fee chargeable, under the Court Fees Act, II of 1080, on the probate, or letters of administration, or certificate (if any) granted in respect of his property :

Deposit when excluded in computing court fees.

Provided that the person claiming such probate or letters or certificates shall exhibit to the Court authorised to grant the same a certificate of the amount of the deposit in any Government Savings Bank belonging to the estate of the deceased. Such certificate shall be signed by the Secretary of such Bank, and the Court shall receive it as evidence of the said amount.

8. Nothing hereinbefore contained applies to money belonging to the estate of any European officer, non-commissioned officer or soldier dying in Government service or in the service of His Majesty in India, or of any European who, at the time of his death, was a deserter from any such service.

Act not to apply to deposits belonging to estates of European soldiers or deserters.

Deposits belonging to minors

9. Any deposit made by, or on behalf of, any minor may be paid to him personally if he made the deposit, or to his guardian for his use if the deposit was made by any person other than the minor, together with the interest accrued thereon.

Payment of deposits to minor or guardian.

The receipt of any minor or guardian for money paid to him under this section shall be a sufficient discharge therefor.

10. All payments of deposits heretofore made to minors or to their guardians by any Secretary of a Government Savings Bank shall be deemed to have been made in accordance with law.

Legalisation of like payments heretofore made.

Deposits belonging to lunatics

Payment of deposits belonging to lunatics.

11. If any depositor becomes insane or otherwise incapable of managing his affairs and if such insanity or incapacity is proved to the satisfaction of the Secretary of the Bank in which his deposit may be,

such Secretary may, from time to time, make payments out of the deposit to any proper person,

and the receipt of such person, for money paid under this section, shall be sufficient discharge therefor.

Where a committee or manager of the depositor's estate has been duly appointed, nothing in this section authorises payments to any person other than such committee or manager.

Deposits made by married women

Payment of married women's deposits.

12. Any deposit made by or on behalf of a married woman or by or on behalf of a woman who afterwards marries, may be paid to her, and her receipt for money paid to her under this section shall be a sufficient discharge therefor.

Rules

Rules.

13. All certificates under section 7 and all payments under section 9, section 11 or section 12, shall be respectively granted and made by the Secretary of the Bank, subject to such rules consistent with this Act as Government may, from time to time, prescribe.

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THE COCHIN SALES TAX ACT

Passed by His Highness the Maharaja of Cochin on the 31st day of Karkadagam 1121 corresponding to the 16th day of August 1946.

[Published in the Cochin Government Gazette Extraordinary, dated 31st Karkadagam 1121]

WHEREAS it is expedient to provide for the levy of a Preamble. tax on the sale of goods; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Sales Tax Act, XV of 1121. Short title, extent and commencement.

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

(3) This section shall come into force at once and the rest of this Act shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint.

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

(a) "Commissioner of Sales Tax" means any person appointed by name or by virtue of his office to be a Commissioner of Sales Tax under section 3;

(b) "contract" means any agreement for carrying out for cash or deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property;

(c) "dealer" means any person, local authority, company, firm, Hindu undivided family, undivided Marumakathayam Tarawad or other association of persons engaged in the business of selling or supplying goods in Cochin whether for commission, remuneration or otherwise and includes any society, club or association which sells or supplies goods to its members;

Explanation I.—The manager or agent of a dealer who resides outside Cochin and carries on the business of selling or supplying goods in Cochin shall, in respect of such business, be deemed to be a dealer for the purposes of this Act;

Explanation II.—A person who sells agricultural or horticultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, shall be deemed to be a dealer for the purposes of this Act;

(d) "Deputy Commissioner of Sales Tax" means any person appointed by name or by virtue of his office to be a Deputy Commissioner of Sales Tax under section 3;

(e) "goods" means all kinds of movable property other than actionable claims, stocks, shares and securities and includes all materials, articles and commodities, including electrical energy, whether or not to be used in the construction, fitting out, improvement or repair of immovable property;

(f) "licence" means a licence granted or renewed under this Act;

(g) "notification" means a notification published in the Cochin Government Gazette;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "sale" with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration, including a transfer of property in goods

involved in the execution of a contract but does not include a mortgage, hypothecation, charge or pledge;

Explanation I.—A transfer of goods on hire-purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains a title to any goods as security for payment of the price, be deemed to be a sale;

Explanation II.—Notwithstanding anything to the contrary in the Cochin Sale of Goods Act, XXV of 1112, the sale of any goods which are actually in Cochin at the time when the contract for sale (as defined in that Act) is made in respect thereof, shall, wherever the said contract of sale is made, be deemed for the purposes of this Act to have taken place in Cochin;

(j) "sale price" means the amount payable to a dealer as valuable consideration for—

(i) the sale or supply of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged; or

(ii) the carrying out of any contract less such portion as may be prescribed, of such amount, representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract;

(k) "Sales Tax Officer" means any person appointed by name or by virtue of his office to be a Sales Tax Officer under section 3;

(l) "turnover" means, subject to such deductions as may be prescribed, the aggregate of the amounts of sale prices received and receivable by a dealer in respect of sale or supply of goods or carrying out of any contract effected or made during a given period;

(m) "Year" means in relation to any particular dealer, the year for which the accounts of that dealer are ordinarily maintained in his books.

3. (1) There shall be the following classes of Sales Tax authorities for the purposes of this Act, namely.—

(a) Commissioner of Sales Tax,

Sales Tax
authorities.

- (b) Deputy Commissioner of Sales Tax, and
 (c) Sales Tax Officer.

(2) The Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax and the Sales Tax Officer shall be appointed by Government by notification in the Cochin Government Gazette. They shall perform their functions in respect of such persons or classes of persons and in respect of such area as Government may direct.

(3) Government may, by general or special notification in the Cochin Government Gazette, direct that the powers conferred on the Sales Tax Officer and the Deputy Commissioner of Sales Tax by or under this Act shall, in respect of any specified case or classes of cases be exercised by the Deputy Commissioner of Sales Tax and the Commissioner of Sales Tax respectively, and for the purposes of any case in respect of which such a notification applies, references in this Act or in any rules made hereunder to the Sales Tax Officer and the Deputy Commissioner of Sales Tax shall be deemed to be references to the Deputy Commissioner of Sales Tax and the Commissioner of Sales Tax respectively.

(4) The Deputy Commissioner of Sales Tax and the Sales Tax Officer appointed under sub-section (2) shall, for the purposes of this Act, be subordinate to the Commissioner of Sales Tax.

(5) The Commissioner of Sales Tax may transfer any case from one Sales Tax Officer to another. Such transfer may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Sales Tax Officer from whom the case is transferred.

Liability to
 tax under the
 Act.

4. Subject to the provisions of this Act, every dealer shall pay in each year a tax in accordance with the scale specified below.—

- | | |
|--|--------------------------------|
| (a) (i) If his turnover does not exceed Rs. 15,000 | Rs. 96 |
| (ii) If his turnover exceeds Rs. 15,000 but does not exceed Rs. 20,000 | Rs. 144 |
| (b) If his turnover exceeds Rs. 20,000 | One per cent of such turnover: |

Provided that any dealer whose turnover in any year is less than Rs. 10,000 shall not be liable to pay the tax under this sub-section for that year:

Provided further that the tax shall not be payable on sales involved in the execution of a contract entered into by the dealer concerned on or before the date of the notification under sub-section (3) of section 1.

5. (1) Subject to the conditions and exceptions, if any, mentioned in the Schedule to this Act, no tax shall be payable under this Act on the sale of goods specified therein. **Exemptions from taxation.**

(2) Government may, after previous publication, alter, add to or delete any item in the Schedule and thereupon the Schedule shall be deemed to be amended accordingly.

6. In respect of such finished articles of industrial manufacture as may be notified by Government and subject to such restrictions and conditions as may be prescribed, a rebate shall be allowed of one-half of the tax levied on sales of such articles for delivery outside the State if such articles are actually so delivered. **Sale of certain goods for delivery outside the State.**

7. Government may by notification in the Cochin Government Gazette make any reduction in rate in respect of the tax due under this Act on the sale of any goods or class of goods. **Power to make reductions in rates.**

8. The Sales Tax Officer may, on application and on payment of such fee as may be prescribed in that behalf, license any person under this section who for an agreed commission or brokerage sells on behalf of known principals specified in his accounts in respect of each transaction and may exempt from the tax under section 4 such of his transactions as are carried out in accordance with the terms and conditions of his licence. **Licensing and exemption of agents.**

Provided always that no such exemption shall be given unless the amounts for which the goods concerned in such transactions are sold, are included in the turnover of the principals.

9. (1) Every dealer whose turnover is Rs. 10,000 or more in a year shall submit to the Sales Tax Officer **Returns.**

such return or returns of his turnover in such manner and within such dates as may be prescribed.

(2) If any dealer having furnished a return under sub-section (1) discovers any omission or wrong statement therein, he may furnish a revised return in the manner prescribed, at any time before assessment is made.

**Provisional
assessment.**

10. (1) The sales Tax Officer shall, as soon as may be after the first day of Kanni each year make a provisional assessment, determining the tax payable for the current year.

(2) If the Sales Tax Officer is satisfied after such inquiry as he may consider necessary that the return submitted in this behalf is correct and complete, he shall fix provisionally on the basis of the return the amount of tax due from the dealer.

(3) If no return is submitted by the dealer in this behalf or if the returns submitted by him appear to the Sales Tax Officer to be incorrect or incomplete, the Sales Tax Officer shall, after making such inquiry as he considers necessary, determine the turnover of the dealer to the best of his judgment and fix provisionally the tax due from the dealer.

(4) Until an assessee receives notice of provisional assessment, he shall continue to pay tax as in the preceding year unless he is not liable to pay tax in the current year, and any tax so paid shall be adjusted towards the tax due when the provisional assessment or the final assessment has been fixed.

(5) The Sales Tax Officer may fix the turn-over of any dealer in any year under this section at the amount of his turnover in the previous year.

(6) The Sales Tax Officer may, until final assessment is made under section 11, revise from time to time, the tax provisionally fixed under this section.

(7) The dealer shall pay for each month of the year of assessment one-twelfth of the tax provisionally fixed under this section, the monthly instalment due for the month preceding the date of the demand notice being paid in a lump sum.

**Final assess-
ment.**

11. (1) The Sales Tax Officer shall, as soon as may be after the first day of Kanni each year make a final assessment determining the tax payable by the dealer for the preceding year.

(2) If the Sales Tax Officer is satisfied without requiring the presence of a dealer or the production by him of any evidence that a return made under section 9 is correct and complete, he shall assess the amount of tax payable by the dealer on the basis of such return.

(3) (a) If the Sales Tax Officer is not satisfied without requiring the presence of a dealer who furnished the return or the production of evidence that the return made under section 9 is correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of the return.

(b) On the day specified in the notice issued under sub-section (3) (a) or as soon afterwards as may be, the Sales Tax Officer shall, after hearing such evidence as the dealer may produce and such other evidence as the Sales Tax Officer may require on specified points, by an order in writing assess the amount of tax payable by the dealer.

(4) If a dealer having furnished the return, fails to comply with all the terms of a notice issued under sub-section (3), the Sales Tax Officer shall assess, to the best of his judgment, the amount of tax payable by the dealer.

(5) If a dealer does not furnish the return by the prescribed date, the Sales Tax Officer shall assess to the best of his judgment, the amount of tax, if any, payable by the dealer.

(6) An assessment under this section may be made at any time within four years from the end of the year to which the assessment relates :

Provided that nothing contained in this sub-section shall debar a re-assessment after the said period in pursuance of an order under section 16 or section 17 or section 18 or section 24.

12. (1) If any dealer liable to pay tax under this Act in respect of any period has wilfully failed to file the prescribed return, the Sales Tax Officer may direct that the dealer shall pay, by way of penalty, in addition to the tax assessed, a sum not exceeding one and a half times the tax due.

Penalty

(2) No prosecution shall be instituted for an offence in respect of which a penalty has been imposed under sub-section (1).

Tax to be calculated to nearest anna.

13. In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Notice of demand.

14. When any tax or penalty is due in consequence of an order passed under or in pursuance of this Act, the Sales Tax Officer shall serve upon the dealer a notice of demand in the prescribed form specifying the sum payable.

Appeals against assessment.

15. (1) Any assessee objecting to an assessment made under section 10, or section 11, or section 19 or to the imposition of a penalty under section 12, may appeal to the Deputy Commissioner of Sales Tax :

Provided that no appeal against an order of assessment shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as might have become payable as the case may be.

(2) The appeal shall ordinarily be presented within thirty days from the date of receipt of the notice of assessment or order ; but the Deputy Commissioner of Sales Tax may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

Hearing of appeal.

16. (1) The Deputy Commissioner of Sales Tax shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(2) The Deputy Commissioner of Sales Tax may, before disposing of any appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Sales Tax Officer.

(3) The Deputy Commissioner of Sales Tax may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of

appeal, if the Deputy Commissioner of Sales Tax is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(4) In disposing of an appeal, the Deputy Commissioner of Sales Tax may—

(i) confirm, reduce, enhance or annul the assessment or penalty; or

(ii) set aside the assessment and direct the Sales Tax Officer to make a fresh assessment after making such further inquiry as the Sales Tax Officer thinks fit or the Deputy Commissioner of Sales Tax may direct, and the Sales Tax Officer shall thereupon proceed to make such fresh assessment and determine where necessary the amount of tax payable on the basis of such fresh assessment:

Provided that the Deputy Commissioner of Sales Tax shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such an enhancement.

(5) Every order passed in appeal under this section shall subject to the provisions of sections 17, 18 and 24 be final.

17. (1) Any assessee objecting to an order passed by the Deputy Commissioner of Sales Tax under section 16 enhancing his assessment or penalty imposed under section 12 may appeal to the Commissioner of Sales Tax within 30 days from the date on which he was served with notice of such order:

Appeals
against order
of Deputy
Commis-
sioner of
Sales Tax.

Provided that the Commissioner of Sales Tax may admit the appeal after the expiration of thirty days if he is satisfied that the appellant had sufficient cause for not presenting it within the period.

(2) The appeal shall be in the prescribed form and verified in the prescribed manner.

(3) In disposing of the appeal the Commissioner of Sales Tax may after giving the appellant an opportunity of being heard pass such orders thereon as he thinks fit.

(4) Every order passed in appeal under this section shall subject to the provisions of section 24 be final.

Revision.

18. (1) The Commissioner of Sales Tax may, upon application or of his own motion, call for the record of any proceeding under this Act or the Rules thereunder which has been taken by any authority subordinate to him or by himself when exercising the powers of the Deputy Commissioner of Sales Tax under sub-section (3) of section 3.

(2) On receipt of the record, the Commissioner of Sales Tax may make such inquiry or cause such inquiry to be made and notwithstanding the provisions, contained in section 16, 17 and 19 enhance or reduce any assessment or penalty or pass such other orders as he thinks fit:

Provided that he shall not enhance an assessment or a penalty or pass any other order prejudicial to the assessee without hearing him or giving him a reasonable opportunity of being heard:

Provided further that the Commissioner of Sales Tax shall not initiate any proceeding under this section after the expiration of one year from the date of the order sought to be revised.

**Supple-
mentary
assessment.**

19. (1) If, for any reason, any part of the turnover of the business of a dealer has escaped assessment in any year, the Sales Tax Officer may, after issuing a notice to the dealer and after making such inquiry as he considers necessary, assess the tax payable on the turnover which has escaped assessment.

(2) If for any reason the tax has been assessed at too low a rate in any year, the Sales Tax Officer may re-assess the tax at the correct rate after issuing a notice to the dealer and after making such inquiry as he considers necessary.

(3) No assessment or re-assessment under this section shall be made after the expiry of four years from the end of the year to which the assessment relates:

Provided that nothing in this sub-section shall apply to a re-assessment made in pursuance of an order under section 16 or section 17 or section 18 or section 24.

**Rectification
of mistakes.**

20. (1) The Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax or the Sales Tax Officer may, at any time within four years from the date of the order

passed by him, rectify any mistake apparent from the record:

Provided that no such rectification shall be made, having the effect of enhancing an assessment or reducing a refund unless the Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax or the Sales Tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Sales Tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund, the Sales Tax Officer shall serve on the assessee, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 14, and the provisions of this Act shall apply accordingly.

21. The Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax and the Sales Tax Officer shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1111, when trying a suit in respect of the following matters, namely—

Power to
take evidence
on oath, etc.

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents, and

(c) issuing commissions for the examination of witnesses, and any proceeding before a Sales Tax Officer, Deputy Commissioner of Sales Tax or Commissioner of Sales Tax under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 179 and 214 and for the purposes of section 182 of the Cochin Penal Code.

22. The tax or penalty due in consequence of an order under this Act shall, subject to the provisions of section 10, be paid in such manner and in such instalments, if any, and within such time, as may be specified in the notice of demand, not being less than fifteen days from the date of service of the notice. In default of such payment the whole of the amount then

Payment and
recovery of
tax.

remaining due may be recovered as if it were an arrear of land revenue.

Refunds.

23. The Sales Tax Officer shall, in the prescribed manner, refund to a dealer any amount of tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of any other period:

Provided that no claim to refund of any tax paid under this Act shall be allowed unless it is made within two years from the date on which the order of assessment was passed or within one year of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later.

**Statement
of case by
Commissioner to
High Court.**

24. (1) Within sixty days of the date on which he is served with notice of an order under section 16, or of an order under section 17 or of an order under section 18, enhancing an assessment or penalty or otherwise prejudicial to him, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees require the Commissioner of Sales Tax to refer to the High Court any question of law arising out of such order, and the Commissioner of Sales Tax shall, within sixty days of the receipt of such application, draw up a statement of the case and refer it with his own opinion on the question of law to the High Court:

Provided that a reference shall lie from an order under section 18 only on a question of law arising out of that order itself, and not on a question of law arising out of a previous order revised by the order under section 18:

Provided further that, if in exercise of his power of revision under section 18, the Commissioner of Sale Tax decides the question or if the Commissioner of Sales Tax rejects the application on the ground that it is time-barred or otherwise incompetent, or if, in exercise of his powers under sub-section (2), the Commissioner of Sales Tax refuses to state the case, the assessee may within thirty days from the date on which he receives notice of the order passed by the Commissioner of Sales Tax withdraw his application, and if he does so, the fee paid shall be refunded.

(2) If, on any application being made under sub-section (1), the Commissioner of Sales Tax refuses to state the case on the ground that no question of law arises, the assessee may within six months from the date on which he is served with notice of the refusal apply to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the Commissioner of Sales Tax may require the Commissioner of Sales Tax to state the case and to refer it, and on receipt of any such requisition, the Commissioner of Sales Tax shall state and refer the case accordingly.

(3) If, on any application being made under sub-section (1), the Commissioner of Sales Tax rejects it on the ground that it is time-barred, the assessee may, within two months from the date on which he is served with notice of the order of the Commissioner of Sales Tax, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the Commissioner of Sales Tax, may require the Commissioner of Sales Tax to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statements in the case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner of Sales Tax by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner of Sales Tax by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar and the Commissioner of Sales Tax shall dispose of the case accordingly.

(6) Where a reference is made to the High Court, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, tax shall be payable in accordance with the assessment made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid

shall be refunded with such interest as the Commissioner of Sales Tax may allow.

(8) Section 5 of the Cochin Limitation Act, 1112, shall apply to an application to the High Court by an assessee under sub-section (2) or sub-section (3).

(9) When any case has been referred to the High Court under this section, it shall be heard by a Bench of not less than two judges of the High Court, and in respect of such case the provisions of section 83 of the Code of Civil Procedure, 1111, shall, so far as may be, apply.

Accounts

25. Every dealer and every person licensed under section 8 shall keep and maintain a true and correct account showing the value of goods bought and sold by him, and if the Commissioner of Sales Tax considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns, he may require such dealer by notice in writing to keep such accounts (including records of sales) as he may, subject to anything that may be prescribed in that behalf, in writing direct.

Production and inspection of accounts and documents, and premises.

26. (1) The Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax or the Sales Tax Officer may, subject to such conditions as may be prescribed, require any dealer to produce before him any account or documents, or to furnish any information, relating to the stocks of goods of, or purchase, sales and deliveries of goods by, the dealer as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to the stocks of goods of, or purchase, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax, the Sales Tax Officer or any other Officer authorised in this behalf by the Commissioner of Sales Tax.

(3) For the purpose of sub-section (2) the Commissioner of Sales Tax, the Deputy Commissioner of Sales Tax, the Sales Tax Officer or any other Officer empowered by the Commissioner of Sales Tax by notification in the Cochin Government Gazette in this behalf may enter any office, shop, warehouse, godown, vessel, vehicle or any place in which business is done.

27. If any dealer to whom the provisions of sub-section (1) of section 9 apply—

(a) sells or otherwise disposes of his business or any part of his business or effects, or comes to know of any other change in the ownership of the business, or

(b) discontinues his business or changes his place of business or opens a new place of business, or

(c) changes the name or nature of his business,

he shall, within the prescribed time, inform the Sales Tax Officer accordingly, and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Information to be furnished regarding changes of business.

28. When the ownership of the business of a dealer is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee as if he had been carrying on the business throughout the period of which the tax is due.

Tax payable by transferee of business.

29. In the case of any guardian, trustee or agent of any minor or other incapacitated person carrying on a business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he were of full age or sound mind and if he were conducting the business himself; and all the provisions of this Act and the Rules made thereunder shall apply accordingly.

Guardians, Trustees and Agents.

30. In the case of business owned by a dealer whose estate or any portion of whose estate is under the control of the Court of Wards, or any Receiver or Manager (including any person whatever his designation, who in fact manages the business on behalf of the dealer) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Receiver or Manager, in like manner and on the same terms as it would be leviable upon and recoverable from the dealer if he were conducting the business himself and all the provisions of this Act and the Rules made thereunder shall apply accordingly.

Court of Wards, etc.

Offences and penalties.

31. (1) Whoever—

(a) fails, without sufficient cause, to submit any return as required by section 9 or knowingly submits a false return, or

(b) fails to pay the tax due from him, or

(c) fraudulently evades payment of any tax due under this Act, or

(d) fails, when directed so to do under section 25, to keep any accounts or records of sales in accordance with the direction, or

(e) refuses to comply with any requirement made of him under sub-section (1) of section 26, or

(f) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information, or

(g) obstructs any officer making an entry or inspection, under section 26, or

(h) neglects to furnish any information required by section 27, or

(i) wilfully acts in contravention of any of the provisions of this Act, or the Rules made thereunder,

shall, in addition to the recovery of any tax that may be due from him, be, on conviction before a Magistrate, punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) No Court shall take cognizance of any offence under this Act or under the Rules made thereunder, except with the previous sanction of the Commissioner of Sales Tax, and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, II of 1938, all offences punishable under this Act shall be cognizable and bailable.

Investigation of offences.

32. (1) Subject to such conditions as may be prescribed, the Commissioner of Sales Tax may authorise any officer under him to investigate all offences punishable under this Act.

(2) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, II of 1086, upon an officer in charge of a Police Station for the investigation of a cognizable offence.

33. (1) The Commissioner of Sales Tax may, either ^{Compound-} before or after the institution of proceedings under ^{ing of} section 31, accept from any person who has committed or ^{offences.} is reasonably suspected of having committed an offence against this Act, by way of composition of such offence—

(a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater, and

(b) in other cases, a sum of money not exceeding one thousand rupees.

(2) On payment of such sum as may be determined by the Commissioner of Sales Tax under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence.

34. (1) All particulars contained in any statement ^{Disclosure of} made, return furnished, or accounts or document produced ^{information} under the provisions of this Act, or the Rules made there- ^{by a public} under, or in any evidence given in the course of any ^{servant.} proceedings under this Act other than proceedings before a Criminal Court or in any record or any proceeding relating to the recovery of a demand under this Act, shall save as provided in sub-section (3) be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, as made applicable to Cochin, no Court shall, save as provided, be entitled to require any public servant to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any public servant discloses any of the particulars referred to in sub-section (1), he shall on conviction before a Magistrate be punishable with imprisonment which may extend to six months or with fine or with both.

(3) Nothing in sub-section (1) shall apply to the disclosure—

(a) of any such particulars for the purpose of a prosecution under the Cochin Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit, or deposition or for the purpose of a prosecution, under this Act or the Rules made thereunder, or

(b) of any such particulars to any person acting in the execution of this Act, or the Rules made thereunder, or

(c) of any such particulars occasioned by the lawful employment under this Act or the Rules made thereunder any process for the recovery of any demand, or

(d) of any such particulars to a Civil Court in any suit to which the Government are a party, which relates to any matter arising out of any proceeding under this Act or the Rules made thereunder, or

(e) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Cochin Stamp Act to impound an insufficiently stamped document, or

(f) of any such particulars for any of the purposes of the Cochin Income-Tax Act, VI of 1117.

(4) No prosecution shall be instituted under this section except with the previous sanction of the Commissioner of Sales Tax and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

Income-tax papers to be available for the purposes of this Act.

35. Notwithstanding anything contained in the Cochin Income-Tax Act, VI of 1117, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

Bar to certain proceedings.

36. Save as is provided in section 24, no assessment made and no order passed under this Act or the Rules made thereunder by any Officer appointed under section 3 shall be called into question in any Civil Court.

Indemnity.

37. No suit, prosecution or other legal proceedings shall lie against any public servant for anything which is in good faith done or intended to be done under this Act or the Rules made thereunder.

38. (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 prescribe—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the portion referred to in sub-clause (ii) of clause (j) of section 2;

(c) the procedure to be followed for assessment under sections 10, 11 and 19;

(d) the intervals at which and the manner in which the tax shall be payable under section 22;

(e) the manner in which refunds under section 23 shall be made;

(f) the accounts and forms thereof required to be kept under section 25;

(g) the conditions under which the production of account or documents or the furnishing of information may be required under sub-section (1) of section 26;

(h) the procedure for licensing of persons engaged in the sale of goods and the conditions in respect of the same for the purpose of enforcing the provisions of this Act and fees for licences;

(i) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act; and

(j) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of Government, necessary for giving effect to the purposes of this Act.

(3) 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.

39. In computing the period of limitation prescribed for an appeal under this Act, or for an application under section 24 the day on which the order complained of was made, and time requisite for obtaining a copy of such order, shall be excluded. **Computation of periods of limitation.**

40. If any difficulty arises in giving effect to the provisions of this Act, Government may, as occasion may require, by order, remove the difficulties by appropriate orders published in the Cochin Government Gazette. **Power to remove difficulties.**

SCHEDULE

Exempted Articles

(Section 5)

1. Salt.
2. Rice, Paddy, Wheat, other cereals and pulses.
3. Jaggery.
4. Sugar.
5. Vegetables.
6. Fresh Milk.
7. Fresh fish, except fresh fish intended for export outside the State or when sold in containers.
8. Meat, except which is cured or frozen.
9. Cooked food, including coffee and tea, when served at a Hotel, Restaurant, Refreshment room, Eating House, or Boarding House or any other place, provided the annual turnover of such sales does not exceed Rupees fifteen thousand and when notices are displayed prominently at such places that no Sales Tax is payable in respect of the food, coffee or tea served there.
10. Cheap cloth of such variety and cost as may be specified by Government by notification in the Cochin Government Gazette.
11. Hand-spun yarn.
12. Hand-woven cloth including Khadar.
13. Fire-wood, charcoal, cocoanut shell and other fuel sold for domestic purposes.
14. Water excepting aerated or mineral waters.
15. Agricultural implements.
16. Fertilisers, except when sold for purposes of export.
17. Cattle fodder including grass, straw, cotton seeds and gingili oil-cake and bran.
18. Groundnut oil-cake and Cocoanut oil-cake, except when sold for purposes of export.
19. Newspapers in circulation.
20. Text books approved by Government for primary classes I to IV.
21. Tobacco as defined in the Cochin Tobacco Act, VII of 1084.
22. Any goods on which duty is or may be levied under the Abkari Act, I of 1077 or the Cochin Opium Act, VIII of 1076, or the Cochin Matches (Excise Duty) Act, VIII of 1110.
23. Bullion and specie.
24. Finished products of coir or jute, manufactured in Cochin State.
25. Cocoanut husks, cocoanut fibre, coir yarn and coir sold for local consumption.
26. Cocoanut oil sold for domestic consumption and use within the State.
27. Betel-nuts.

THE COCHIN ANCHAL (AMENDMENT) ACT**(XVI OF 1121)****CONTENTS****Preamble****Sections**

1. Short title and commencement.
2. Modifications of heading to Chapter VI.

3. Insertion of sections.—

31A— Insurance of Anchal articles.

31B— Power to require Insurance of Anchal articles.

31C— Power to make rules as to insurance.

31D— Liability in respect of Anchal articles insured.

THE COCHIN ANCHAL (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 31st day of Karkadagam 1121 corresponding
to the 16th day of August 1946*

[Published in the Cochin Government Gazette Extraordinary,
dated 31st Karkadagam 1121]

Preamble.

WHEREAS it is expedient to amend the Cochin Anchal Act, XVII of 1119, for the purposes hereinafter appearing; It is hereby enacted as follows:

Short title and commencement.

1. This Act may be called the Cochin Anchal (Amendment) Act, XVI of 1121, and it shall come into force at once.

2. For the heading to Chapter VI of the Cochin Anchal Act, XVII of 1119, hereinafter referred to as the Act, the following shall be substituted, namely:—

Modification of heading to Chapter VI.

“Registration, Insurance and Value payable Anchal”.

3. After section 31 of the Act, the following sections shall be inserted, namely:—

Insertion of sections 31A, 31B, 31C, and 31D.

“31A. Government may, by notification in the Cochin Government Gazette, direct—

Insurance of Anchal articles.

(a) that any anchal article may, subject to the other provisions of this Act, be insured at the Anchal Office at which it is posted against the risk of loss or damage in course of transmission by Anchal, and that a receipt therefor shall be granted to the person posting it; and

(b) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the insurance of anchal articles.

31B. Government may, by notification in the Cochin Government Gazette, declare in what cases insurance shall be required, and direct that any anchal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification:

Power to require Insurance of Anchal articles.

Provided that the levy of such penalty as aforesaid shall not impose any liability upon Government in respect of the anchal article.

Power to
make rules
as to insur-
ance.

31C. (1) Government may make rules as to the insurance of anchal articles.

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

(a) declare what classes of anchal articles may be insured under section 31A;

(b) fix the limit of the amount for which anchal articles may be insured; and

(c) prescribe the manner in which the fees for insurance shall be paid.

(3) Anchal articles made over to the Anchal Office for the purpose of being insured shall be delivered, when insured, at such places and times and in such manner as the Superintendent of Registration and Anchal may, by order, from time to time appoint.

Liability in
respect of
Anchal
articles
insured.

31D. Subject to such conditions and restrictions as Government may, by rule, prescribe, Government shall be liable to pay compensation, not exceeding the amount for which an anchal article has been insured, to the sender thereof for the loss of the anchal article or its contents, or for any damage caused to it in course of transmission by anchal:

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused."

THE COCHIN INCOME-TAX (AMENDMENT) ACT (XVII OF 1121) CONTENTS

Preamble

Sections

1. Short title and commencement.
2. Amendment to section 3.
3. Insertion of new section 18A.—
Exemption of portion of earned income.
4. Amendment to section 19.
5. Do. to section 20.
6. Do. to section 78.
7. Do. to section 79.
8. Do. to Schedules II and III.

THE COCHIN INCOME-TAX (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 31st day of Karkadagam 1121 corresponding
to the 16th day of August 1946*

[Published in the Cochin Government Gazette Extraordinary,
dated 31st Karkadagam 1121]

WHEREAS it is expedient further to amend the Cochin Income-tax Act, VI of 1117; It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Income-tax (Amendment) Act, XVII of 1121. Short title and commencement.

(2) The provisions of this Act, except section 8, shall come into force on the first day of Chingam 1122; and section 8 shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint.

2. In section 3 of the Cochin Income-tax Act, VI of 1117, hereinafter referred to as the Act, after clause (7) the following clause shall be inserted, namely.— Amendment to section 3.

“(7-A) “earned income” means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company, a local authority, a registered firm or a firm treated as registered under clause (b) of sub-section (5) of section 28—

(a) which is chargeable under the head “Salaries”, or

(b) which is chargeable under the head “Profits and gains of business, profession or vocation” where the business, profession or vocation is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business, profession or vocation; or

(c) which is chargeable under the head “other sources” if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person,

and includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of this Act, but does not include any such income which is exempt from tax under sub-section (2) of section 17 or under a notification issued under section 103”.

Insertion of
new section
18-A.

3. After section 18 of the Act, the following section shall be inserted, namely.—

Exemption
of portion of
earned in-
come.

“18-A. The tax shall not be payable by an assessee in respect of such portion of the earned income included in his total income as is equal to one-fifth of such earned income but not exceeding in any case four thousand rupees, and for the purpose of determining the rates at which income-tax (but not super-tax) is payable by the assessee, his total income shall be deemed to be the total income reduced by the said portion.”

Amendment
to section 19.

4. To clause (a) of sub-section (1) of section 19 of the Act, the following shall be added, namely.—

“and any sum exempted under section 18-A shall also be included except for the purpose of determining the rates at which income-tax (but not super-tax) is payable by the assessee to whom the exemption is given.”

Amendment
to section 20.

5. To section 20 of the Act, the following sub-section shall be added, namely.—

“(5). Where the amount of the total income of any assessee is deemed to be total income reduced under the provisions of section 18-A by an allowance for earned income, the expression ‘total income’ in this section shall, for the purpose of determining the amount of income-tax (but not super-tax) payable by the assessee, be deemed to refer to his total income so reduced.”

Amendment
to section 78.

6. In section 78 of the Act, before the words “subject to the provisions of this Chapter”, insert the words “except in case to which section 18-A applies, and”

Amendment
to section 79.

7. In sub-section (1) of section 79 of the Act between the figures “18,” and “22,” the figures and letter “18-A,” shall be inserted.

Amendment
to Schedules
II and III.

8. For the existing Schedules II and III of the Act, the following shall be substituted.

"SCHEDULE II

(See Section 4)

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, undivided Marumakkathayam tarwad, unregistered firm and other association of persons not being a case to which paragraph B of this Schedule applies.—

	<i>Rate</i>
1. On the first Rs. 1,500 of total income	Nil.
2. On the next Rs. 3,500 of total income	Nine pies in the rupee
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee
4. On the next Rs. 5,000 of total income	Two annas in the rupee
5. On the balance of total income	Two annas and six pies in the rupee :

Provided that—

(i) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 2,000;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceed Rs. 2,000;

(iii) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(a) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 2,000 the same proportion as such reduced total income bears to the unreduced total income, or

(b) the income-tax payable on the income so reduced at the rates specified in this Schedule whichever is less.

B. In the case of every company and local authority, and in every case in which under the provisions of the Cochin Income-tax Act, VI of 1117, income-tax is to be charged at the maximum rate—

	<i>Rate</i>
On the whole of total income	Two annas and six pies in the rupee.

SCHEDULE III

(See Section 77)

Rates of Super-Tax

A. In the case of every individual, Hindu undivided family, undivided Marumakkathayam Tarwad, unregistered firm and other association of persons, not being a case to which paragraphs B and C of this Schedule apply.—

	<i>Rate</i>
1. On the first Rs. 25,000 of total income	Nil
2. On the next Rs. 10,000 of total income	One anna in the rupee

3. On the next Rs. 20,000 of total income	Two annas in the rupee
4. On the next Rs. 70,000 of total income	Three annas in the rupee
5. On the next Rs. 75,000 of total income	Four annas in the rupee
6. On the next Rs. 1,50,000 of total income	Five annas in the rupee
7. On the next Rs. 1,50,000 of total income	Six annas in the rupee
8. On the balance of total income	Seven annas in the rupee
B. In the case of every local authority.—	
On the whole of total income	One anna in the rupee
C. In the case of an association of persons being a Co-operative Society, for the time being registered under the Co-operative Societies Act, XXVI of 1113.—	
	<i>Rate</i>
1. On the first Rs. 25,000 of total income	Nil
2. On the balance of total income	One anna in the rupee
D. In the case of every company.—	
	<i>Rate</i>
On the whole of total income	One anna and six pies in the rupee.

THE COCHIN TRADE MARKS (AMENDMENT)

ACT

(XVIII OF 1121)

CONTENTS

Preamble

Sections

1. Short title.
2. Amendment of section 1.
3. Do. of section 4.
4. Do. of section 10.
5. Do. of section 16.
6. Do. of section 19.
7. Do. of section 21.
8. Do. of section 22.

9. Amendment of section 23.
10. Do. of section 26.
11. Do. of section 46.
12. Do. of section 56.
13. Do. of section 57.
14. Do. of section 58.
15. Insertion of new section 61A.—Textile goods.
16. Substitution of section 62—Restrictions on registration of textile goods.
17. Insertion of new sections 62A and 62B—Refused Textile Marks List and Advisory Committees.
18. Amendment of section 64.
19. Do. of section 65.
20. Do. of section 70.
21. Insertion of new section 70A—Costs of Registrar in proceedings before High Court.
22. Amendment of section 71.
23. Insertion of new section 78A—Power to make reciprocal arrangements with British India and Indian States.
24. Amendment of section 79.
25. Do. of section 80.
26. Repeal of section 81.

THE COCHIN TRADE MARKS (AMENDMENT) ACT

*Passed by His Highness the Maharaja of Cochin
on the 31st day of Karkadagam 1121 corresponding
to the 16th day of August 1946.*

[Published in the Cochin Government Gazette Extraordinary,
dated 31st Karkadagam 1121]

WHEREAS it is expedient to amend the Cochin Trade Marks Act, XIX of 1119, for the purposes herein-after appearing; It is hereby enacted as follows.—

1. This Act may be called the Cochin Trade Marks Short title.
(Amendment) Act, XVIII of 1121.

2. For sub-section (3) of section 1 of the Cochin Amendment
of section 1.
Trade Marks Act, XIX of 1119, hereinafter referred to as the said Act, the following shall be substituted, namely.—

“This Act shall come into force on such date as Government may by notification in the Cochin Government Gazette appoint in this behalf.”

*Brought into force from 16th Chingam 1122 by Development Department Notification No. 6, dated 22nd August 1946 (6th Chingam 1122).

Amendment
of section 4.

3. (1) In sub-section (1) of section 4 of the said Act—

the words “at the Patent Office” shall be deleted and for the words “a Trade Mark Registry” the words “a Trade Marks Registry at Trichur or such other place as Government may by notification in the Cochin Government Gazette specify” shall be substituted.

(2) In sub-section (2) of section 4 of the said Act—

for the words “the Controller of Patents and Designs, who shall for the purposes of this Act be called the Registrar of Trade Marks and is in this Act referred to as the Registrar”, the words “an officer appointed by Government who shall be called the Registrar of Trade Marks” shall be substituted.

(3) After sub-section (2) of section 4 of the said Act, the following sub-section shall be inserted, namely.—

“(2A) The Cochin Government shall appoint a Deputy Registrar of Trade Marks and an Additional Registrar of Trade Marks to discharge under the superintendence and direction of the Registrar such functions of the Registrar under this Act as he may from time to time authorise them to discharge; and any reference in this Act to the Registrar shall include a reference to the Deputy Registrar of Trade Marks or Additional Registrar of Trade Marks, as the case may be, when so discharging any such function.”

(4) After sub-section (3) of section 4 of the said Act, the following sub-section shall be added, namely.—

“(4) There shall be a seal for the Trade Marks Registry.”

Amendment
of section 10.

4. In sub-section (1) of section 10 of the said Act, for the words “already on the register” the words, figures and letter “either already on the register or already registered in British India or in any Indian State to which section 78A for the time being applies,” shall be substituted.

Amendment
of section 16.

5. In sub-section (2) of section 16 of the said Act, for the words “Patent Office” the words “Trade Marks Registry” shall be substituted.

Amendment
of section 19.

6. In section 19 of the said Act, after the words, “from the register” the words, figures and letter “under

this Act or from the register of trade marks in British India or in any Indian State to which section 78A for the time being applies," shall be inserted.

7. (1) Section 21 of the said Act shall be renum- Amendment
of section 21.
bered as sub-section (1) of that section, and in the section as so renumbered, the words and commas "if valid shall," shall be omitted.

(2) To the said section as so renumbered the following sub-section shall be added, namely.—

"(2) A person registered in British India or in any Indian State to which section 78A for the time being applies as proprietor of a trade mark shall have the same rights in respect thereof as are conferred by this section on a person registered under this Act as proprietor of a trade mark."

8. In sub-section (3) of section 22 of the said Act, Amendment
of section 22.
for the words "two or more registered trade marks" the words, figures and letter "two or more trade marks registered under this Act or in British India or in any Indian State to which section 78A for the time being applies," shall be substituted.

9. In section 23 of the said Act, for the words "re- Amendment
of section 23.
gistered trade mark," the words, figures and letter "trade mark registered under this Act or in British India or in any Indian State to which section 78A for the time being applies," shall be substituted.

10. In section 26 of the said Act, for the words "in Amendment
of section 26.
clause (b) of section 21 or in clause (b) of section 57" the words "in clause (b) of sub-section (1) of section 21 or in clause (b) of sub-section (1) of section 57" shall be substituted.

11. To sub-section (2) of section 46 of the said Act, Amendment
of section 46.
the following *Explanation* shall be added, namely.—

"*Explanation.*—For the purposes of sub-section (1) and this sub-section, a person who has registered a trade mark in British India or in any Indian State to which section 78A for the time being applies, may be a 'person aggrieved'."

12. In sub-section (1) of section 56 of the said Act, Amendment
of section 56.
for the words "Patent Office" the words "Trade Marks Registry" shall be substituted.

Amendment
of section 57.

13. (1) Section 57 of the said Act shall be renumbered as sub-section (1) of that section, and in the section as so renumbered, the words and commas, “;if valid,” shall be omitted.

To the said section as so renumbered, the following sub-section shall be added, namely.—

“(2) A person registered in British India or in any Indian State to which section 78A for the time being applies as proprietor of a certification trade mark shall have the same rights in respect thereof as are conferred by this section on a person registered under this Act as proprietor of a certification trade mark.”

Amendment
of section 58.

14. In sub-section (3) of section 58 of the said Act, for the words “registered certification trade marks” the words, figures and letter “certification trade marks registered under this Act or in British India or in any Indian State to which section 78A for the time being applies,” shall be substituted.

Insertion of
new section
61A.
Textile
goods.

15. After section 61 of the said Act, the following section shall be inserted in Chapter IX, namely.—

“61A. Government shall prescribe classes of goods (in this Chapter referred to as textile goods) to the trade marks used in relation to which the provisions of this Chapter shall apply; and subject to the said provisions, the other provisions of this Act shall apply to such trade marks as they apply to trade marks used in relation to other classes of goods.”

Substitution
of section 62.

16. For section 62 of the said Act, the following section shall be substituted, namely.—

Restrictions
on registra-
tion of
textile goods.

“62. (1) In respect of textile goods being piece goods—
(a) no mark consisting of a line heading alone shall be registrable as a trade mark;

(b) a line heading shall not be deemed to be adapted to distinguish;

(c) the registration of a trade mark shall not give any exclusive right to the use of a line heading.

(2) In respect of any textile goods, the registration of letters or numerals, or any combination thereof, shall be subject to such conditions and restrictions as may be prescribed.”

17. After section 62 of the said Act, the following sections shall be inserted, namely.—

“62A. Trade Marks in respect of textile goods of which registration has been refused shall be entered by the Registrar in a list called the Refused Textile Marks List, and the said list shall at all convenient times be open to the inspection of the public, subject to such conditions and restrictions as may be prescribed.

62B. (1) Government may in the prescribed manner constitute one or more Advisory Committees of persons versed in the usages of the textile trade for the purpose of this section.

(2) The Registrar shall consult any such Committee with respect to any circumstances peculiar to the textile trade arising on an application to register a trade mark in respect of textile goods.

(3) The place of meeting and the conduct of business of such Committees shall be determined by rules made under this Act.”

18. After sub-section (3) of section 64 of the said Act, the following sub-section shall be inserted, namely.—

“(4) Nothing in this section shall—

(a) apply to a trade mark, application for the registration of which has been made before the 1st day of January 1947 until such application has been disposed of

(b) affect the use of the word ‘registered’ in respect of a trade mark registered in British India or in any Indian State to which section 78A for the time being applies, or until the application has been disposed of, in respect of a trade mark, application for the registration of which has been made in British India or in any such Indian State before the aforesaid date.”

19. At the end of section 65 of the said Act, the following shall be added, namely.—

“Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing any such Arms, device, emblem or title, to continue to use such trade mark.”

20. (1) In sub-section (2) of section 70 of the said Act, for the words “Patent Office” the words “Trade Marks Registry” shall be substituted.

(2) Sub-section (3) of section 70 of the said Act shall be omitted.

Insertion of
new section
70A.

21. After section 70 of the said Act, the following section shall be inserted, namely.—

Costs of
Registrar in
proceedings
before High
Court.

“70A. In all proceedings under this Act before the High Court the costs of the Registrar shall be in the discretion of the High Court but the Registrar shall not be ordered to pay the costs of any of the parties.”

Amendment
of section 71.

22. In sub-section (1) of section 71 of the said Act.—

(a) for the word “of” appearing after the words “without further proof”, the word “or” shall be substituted; and

(b) for the words “Patent Office” the words “Trade Marks Registry” shall be substituted.

Insertion of
new section
78A.

23. After section 78 of the said Act, the following section shall be inserted, namely.—

Power to
make reci-
procal ar-
rangements
with British
India and
Indian
States.

“78A. (1) Government may enter into reciprocal arrangements with British India and any Indian State whereby trade marks and certification trade marks registered under this Act shall have in British India or that Indian State protection as if registered in British India or in that Indian State and where such arrangements have been entered into with British India or any Indian State, Government shall by notification in the Cochin Government Gazette declare that this section will apply to British India or to that Indian State.

(2) Where any such arrangements as aforesaid with British India or any Indian State are terminated, Government shall, by a further like notification cancel the notification under sub-section (1) relating to British India or to that Indian State.”

Amendment
of section 79.

24. In section 79 of the said Act, for the words “Cochin State” where they first occur the word “India” shall be substituted.

Amendment
of section 80.

25. (1) In sub-section (2) (e) of section 80 of the said Act, after the word “register” the words “and the Refused Textile Marks List” shall be inserted.

(2) After sub-section (2) (h) of section 80 of the said Act, the following sub-sections shall be inserted, namely.—

“(hh) prescribe classes of goods as textile goods for the purposes of Chapter IX;

(hhh) provide for the constitution of Advisory Committees referred to in section 62B, and prescribe the places of meeting, and conduct of business at meetings, of such Committees;”

(3) After sub-section (2) (n) of section 80 of the said Act, the following sub-section shall be added, namely—

“(o) make such supplementary provision as may be necessary or expedient to give effect to reciprocal arrangements entered into with British India or any Indian State under section 78A.”

26. Section 81 of the said Act shall be repealed.

Repeal of
section 81.

APPENDIX

Amendments to the Defence of India Act, 1939

1. *THE DEFENCE OF INDIA (AMENDMENTS) ORDINANCES XXV, XXXI, XXXV AND XLV OF 1945

(Law Department Notification No. 62, dated 29th April 1946 (16th Madam 1121) published on page 663, Part I, Gazette, dated 21st Madam 1121.)

The following Ordinances of the Government of India in the Legislative Department, Ordinance Nos. XXV, XXXI, XXXV and XLV of 1945, making further amendments to the Defence of India Act, 1939, are published for general information.—

New Delhi, the 14th July 1945.

ORDINANCE No. XXV OF 1945

An Ordinance further to amend the Defence of India Act, 1939.

Whereas an emergency has arisen which makes it necessary, further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purposes hereinafter appearing;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the 9th Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Amendment) Ordinance, 1945.

(2) It shall come into force at once.

*The amendments effected to the Defence of India Act, 1939 are in force by virtue of the provision contained in Proclamation VIII of 115.

2. *Amendment of section 2, Act XXXV of 1939*—In subsection (3) of section 2 of the Defence of India Act, 1939, at the end of clauses (i), (v), (vi) and (vii) the words "or any order issued thereunder" shall be inserted, and shall be deemed always to have been inserted.

3. *Amendment of section 17, Act XXXV of 1939*.—To sub-section (1) and (2) of section 17 of the Defence of India Act, 1939, the words "or any orders issued under any such rule," shall be added, and shall be deemed always to have been added.

WAVELL.

Viceroy and Governor-General

New Delhi, the 1st September 1945.

ORDINANCE No. XXXI OF 1945

An Ordinance further to amend the Defence of India Act, 1939.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purposes hereinafter appearing;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the 9th Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement*.—(1) This Ordinance may be called the Defence of India (Second Amendment) Ordinance, 1945.

(2) It shall come into force at once.

2. *Amendment of section 6, Act XXXV of 1939*.—For clause 6 of the Defence of India Act, 1939, the following shall be substituted, namely.—

"(6) The Motor Vehicles Act, 1939 (IV of 1939) (in this clause referred to as the said Act) shall have effect subject to the following provisions, namely,—

(a) Notwithstanding anything to the contrary in section 58 or section 62 of the said Act, the Provincial Transport Authority or a Regional Transport Authority, acting in accordance with such directions as the Provincial Transport Authority may think fit to issue, may grant a permit or a temporary permit under Chapter IV of the said Act to be effective for any specified period not exceeding five years in the case of a permit or one year in the case of a temporary permit.

(b) Without prejudice to the provisions of section 60 of the said Act, the Provincial Transport Authority may, if for reasons to be recorded in writing it is of opinion that the public interest so requires, direct by order passed not later than the 28th day of February 1946, that any permit under Chapter IV of the said Act, shall, on a specified date not earlier than six months after the date of the passing of the order, cease to be effective without renewal.

(c) The Provincial Government may—

(i) by general or special order in writing exempt from all or any of the provisions of Chapter IV of the said Act any transport vehicle used or required for use in connection with any work or purpose declared by the Provincial Government in the order to be a work or purpose connected with the defence of British India or the prosecution of war.

(ii) by the same or a like order authorise any authority to issue temporary permits and give directions, not inconsistent with the other provisions of the said Chapter, in respect of any such transport vehicles.

(d) If the Provincial Government by general or special order in writing so directs, the provisions of sub-section (2) of section 38 of the said Act shall have effect in relation to any controlled motor vehicle or class of controlled motor vehicles specified in the order as if the words "not being in any case less than six months" were omitted.

Explanation.—In sub-clause (d) "controlled motor vehicle" means a motor vehicle to which the provisions of the Civil Motor Transport Vehicles Control Order, 1944, or of any other substantially similar Order for the time being in force, apply."

JOHN COLVILLE,

Viceroy and Acting Governor-General.

New Delhi, the 14th September 1945.

ORDINANCE No. XXXV OF 1945.

An Ordinance further to amend the Defence of India Act, 1939.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939, (XXXV of 1939), for the purpose hereinafter appearing;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the 9th Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Third Amendment) Ordinance, 1945.

(2) It shall come into force at once.

2. *Amendment of section 2, Act XXXV of 1939.*—In sub-section (3) of section 2 of the Defence of India Act, 1939, to clause (iii) the following shall be added namely.—

"and for the adjudication of such forfeiture whether by a Court or by any other authority".

JOHN COLVILLE,

Viceroy and Acting Governor-General

New Delhi, the 11th december 1945

ORDINANCE No. XLV OF 1945

An Ordinance further to amend the Defence of India Act, 1939.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939, (XXXV of 1939) for the purposes hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act., as set out in the Ninth Schedule to the Government of India Act.1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement*—(1) This Ordinance may be called the Defence of India (Fourth Amendment) Ordinance, 1945.

(2) It shall come into force at once.

2. *Amendment of section 19, Act XXXV of 1939*.—In sub-section (1) of section 19 of the Defence of India Act, 1939 (hereinafter referred to as the said Act),—

(a) after the word “Where” where it occurs for the first time, the words, figures and letter “under section 19A or” shall be inserted;

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

“Provided that where any property requisitioned under any rule made under this Act is subsequently acquired under section 19A or any such rule, the arbitrator in any proceedings in connection with such acquisition shall for the purposes of the provisions of the said section 23, take into consideration the market-value of the property at the date of its requisition as aforesaid and not at the date of its subsequent acquisition”.

3. *Insertion of new sections 19A and 19B in Act XXXV of 1939*.—After section 19 of the said Act the following sections shall be inserted, namely.—

“19A. *Power to acquire requisitioned property*—(1) Without prejudice to any power to acquire property conferred by any rule made under this Act, any immovable property which has been requisitioned under any rule so made may, in the manner provided by any such rules for the acquisition of the property, be acquired in the circumstances and by the Government hereinafter specified, namely.—

(a) where any works have, during the period of requisition, been constructed on, in or over the property wholly or partly at the expense of any Government, by that Government if it decides that the value of, or the right to use, such works shall, by means of the acquisition of the property, be preserved or secured for the purposes of any Government, or

(b) where the cost to any Government of restoring the property to its condition at the time of its requisition as aforesaid would, in the determination of that Government, be excessive having regard to the value of the property at that time, by that Government;—

and at the beginning of the day on which notice of such acquisition is served or published under the aforesaid rules, the immovable property shall vest in the acquiring Government free from any mortgage, pledge, lien or similar encumbrance, and the period of the requisition thereof shall end.

(2) Any decision or determination of a Government under sub-section (1) shall be final and shall not be called in question in any Court.

(5) For the purposes of this section, “works includes buildings, structures and improvements of the property, of every description.

19B. *Release from requisition*.—(1) Where any property requisitioned under any rule made under this Act is to be released from such requisition, the Government by which or under whose authority the property was requisitioned or any person generally or specially authorised by it in this behalf may, after such enquiry, if any, as it or he may in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(2) the delivery of possession of the property to the person specified in an order under sub-section (1) shall be a full discharge of the Government from all

liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given."

4. *Declaration as to application to pending Proceedings.*—For the avoidance of doubts it is hereby declared that the provisions of section 19 of the said Act as amended by clause (b) of section 2 of this Ordinance shall apply to proceedings before an arbitrator under the said section 19 pending on the date of the commencement of this Ordinance, but such amendment shall not affect any case in which the arbitrator has before the said date made his award under that section, or operate to revive or reopen any case in which, before the said date.—

(i) compensation has been paid and accepted without protest formally recorded in writing, or

(ii) the amount of compensation payable has been fixed by agreement, whether or not at the said date such amount has been paid.

WAVELL,

Viceroy and Governor-General

2. THE DEFENCE OF INDIA (AMENDMENT) ORDINANCES

Nos. XI AND XII OF 1946

Law Department Notification No. 67, dated 9th May 1946 (26th Madam 1121), published on page 721, Part I, Gazette, dated 4th Edavam 1121.

The following Ordinances of the Government of India in the Legislative Department, Ordinance Nos. XI and XII of 1946 making further amendments to the Defence of India Act, 1939, are republished for general information.—

New Delhi, the 23rd February 1946

ORDINANCE No. XI OF 1946

An Ordinance further to amend the Defence of India Act, 1939.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2.), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Amendment) Ordinance, 1946.

(2) It shall come into force at once.

2. *Amendment of section 6, Act XXXV of 1939.*—In clause (6) of section 6 of the Defence of India Act, 1939,—

(a) sub-clauses (a) and (b) shall be omitted and sub-clauses (c) and (d) shall be relettered as sub-clauses (a) and (b) respectively ;

(b) in sub-clause (a) as relettered by this section, for the words "prosecution of war" the words "maintenance of supplies and services essential to the life of the community" shall be substituted;

(c) in the Explanation, for the brackets and letter "(d)" the brackets and letter "(b)" shall be substituted.

WAVELL

Viceroy and Governor-General

New Delhi the 30th March 1946

ORDINANCE No. XII OF 1946

An Ordinance further to amend the Defence of India Act, 1939.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939) for the purpose hereinafter appearing;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2.), the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Second Amendment) Ordinance, 1946.

(2) It shall come into force at once.

2. *Amendment of section 1, Act XXXV of 1939.*—To sub-section (4) of section 1 of the Defence of India Act, 1939, the following shall be added, namely.—

"but its expiry under the operation of this sub-section shall not affect—

(a) the previous operation of, or anything duly done or suffered under, this Act or any rule made thereunder or any order made under any such rule, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under this Act or any rule made thereunder or any order made under any such rule, or

(c) any penalty, forfeiture or punishment incurred in respect of any contravention of any rule made under this Act or of any order made under any such rule, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishments as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not expired."

WAVELL

Viceroy and Governor-General