

**SUPPLEMENT TO THE
ACTS AND PROCLAMATIONS
OF COCHIN**

Volume II



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NOTE

This Volume contains reprints of pages of Acts and Proclamations as amended which are intended for being substituted for the relevant pages of the Consolidated Volumes of Acts and Proclamations. The page number of the Volume which has to be substituted by the particular page is given at the top of the page.

Huzur Secretariat,
Law Department,
22nd February 1949.
11th Kumbham 1124.

N. S. RADHAKRISHNA SARMA

Secretary to Government (Law)

¹[Provided that where such husband is under the age of eighteen years, or is an idiot or lunatic or is from sickness or infirmity unable to make a complaint some other person may with the leave of the Court make a complaint on his behalf.]

²[Provided further that where such husband is serving in any of the armed forces of this State, or His Majesty, under conditions which are certified by his Commanding Officer, as precluding him from obtaining leave of absence to enable him to make a complaint in person, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 176B may, with the leave of the Court, make a complaint on his behalf.]

³[176A. When in any case falling under section 175 or section 176 the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian and the Court shall before granting the application give him a reasonable opportunity of objecting to the granting thereof.]

Objection by lawful guardian to complaint by person other than person aggrieved.

⁴[176B. (1) The authorisation of a husband, given to another person to make a complaint on his behalf, under the second proviso to section 175, or the second proviso to section 176, shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by the Officer referred to in the said provisos, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot, for the time being, be granted to the husband.]

Form of authorisation under second proviso to section 175 or 176.

¹ Added by section 47, Act XVI of 1113.

² Added by section 3, Act II of 1120.

³ Inserted by section 48, Act XVI of 1113.

⁴ Inserted by section 4, Act II of 1120.

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

CHAPTER XVI

Of Complaints to Magistrates

Examination
of complain-
ant.

177. 5[* * *] A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows.—

(a) when the complaint is made in writing nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 170 ;

6[(aa) when the complaint is made in writing nothing herein contained shall be deemed to require.

⁵ Deleted by section 49, Act XVI of 1113.

⁶ Inserted by *ibid.*

CHAPTER XXII

Of Summary Trials

¹[236. (1) Notwithstanding anything contained in this Code— Power to try summarily.

(a) the District Magistrate,

(b) any Magistrate of the First Class specifically empowered in this behalf by Government, and

(c) any Bench of Magistrates invested with the powers of a Magistrate of the First Class and especially empowered in this behalf by Government,

may, if he or they think fit, try in a summary way all or any of the following offences.—

(a) offences not punishable with death or imprisonment for a term exceeding six months ;

(b) offences relating to weights and measures under sections 240, 241 and 242 of the Cochin Penal Code ;

(c) hurt, under section 303 of the same Code ;

(d) theft, under section 359, 360 or 361 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

(e) dishonest misappropriation of property under section 383 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;

(f) receiving or retaining stolen property under section 391 of the same Code, where the value of such property does not exceed fifty rupees ;

(g) assisting in the concealment or disposal of stolen property, under section 394 of the same Code, where the value of such property does not exceed fifty rupees ;

(h) mischief, under section 407 of the same Code ;

(i) house-trespass, under section 428, and offences under sections 431, 433, 434, 436 and 437 of the same Code ;

(j) insult with intent to provoke a breach of the peace, under section 484, and criminal intimidation, under section 486, of the same Code ;

¹ Substituted by section 2, Act VI of 1118,

(k) abetment of any of the foregoing offences :

(l) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

(m) offences under section 20 of the Cochin Cattle Trespass Act, III of 1071.

(2) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to rehear the case in manner provided by this Code.

Power to invest Magistrates and Bench of Magistrates with summary powers.

237. Government may confer on any Magistrate or Bench of Magistrates power to try summarily all or any of the following offences.—

(a) offences against the Cochin Penal Code, sections 253, 254, 255, 261, 262, 265, 266, 268, 269, 270, 303, 314, 316, 321, 332, 406, 427 and 484 ;

(b) offences against the Cochin Municipal Act, XVIII of 1113, the conservancy clauses of the Police Act, I of 1058, the Hackney Carriage Act, II of 1098 and offences under the Nuisances Act, IV of 1098 which are punishable with fine or with imprisonment for a term not exceeding one month with or without fine ;

(c) abetment of any of the foregoing offences ;

(d) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure of summons and warrant cases applicable.

237-A. (1) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.]

(2) Such judgment shall be the only record in cases coming within this section.

240. ¹[(i) Records made under section 238 and judgments recorded under section 239 shall be written by the presiding officer, either in English or in Malayalam, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.] Language of record and judgment.

²[(2) Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment].

CHAPTER XXIII

Of Trials before Courts of Session

A—PRELIMINARY

241. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor. Trial before Court of Session to be conducted by Public Prosecutor.

B.—COMMENCEMENT OF PROCEEDINGS

242.—(1) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him and he shall be asked whether he is guilty of the offence charged, or claims to be tried. Commencement of trial.

(2) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon. Plea of guilty.

¹ Renumbered by section 4, Act VI of 1118.

² Added by *ibid.*

Refusal to
plead, or claim
to be tried.

243. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to try the case.

C.—TRIAL TO CLOSE OF CASES FOR PROSECUTION
AND DEFENCE

Opening case
for prosecution.

244.—(1) The prosecutor shall open his case by reading from the Cochin Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

payment of duty or to any other conditions, and to regulate within the whole or any specified part of the Cochin State, all or any of the following matters:—

- (a) the possession of opium,
- (b) the transport of opium,
- (c) the import or export of opium ¹[....]
- (d) the sale of opium, and the farm of duties leviable on the sale of opium by retail, ²[and]

³[(e) the forfeiture, notwithstanding provisions to the contrary contained in the Cochin Contract Act, XXIII of 1112, or in any other law, of the whole or any portion of the kists deposited by persons who purchase the right to sell opium, in addition to the damages recoverable by Government on account of the breach of the conditions of sale laid down by the Diwan from time to time:]

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the ⁴[law] relating to Sea Customs for the time being in force ⁵[or under the Dangerous Drugs Act].

7. The Diwan may, by notification in the Sirkar ^{Warehousing of opium.} Gazette,

(a) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon into the Cochin State or any specified part thereof, or intended to be exported thence, and

(b) cancel any such declaration.

So long as any declaration under clause (a) remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

¹ Deleted by section 2 (a) of Act XIV of 1119.

² Added by section 2 (b), *ibid.*

³ Added by section 2 (c), *ibid.*

⁴ Substituted for 'Sirkar notifications' by section 5 (1) of Act LI of 1112.

⁵ Added by section 5 (ii), *ibid.*

Power to
make rules
relating to
warehouses.

8. The Diwan may, from time to time, by notification in the Sirkar Gazette, make rules consistent with this Act, to regulate the safe custody of opium warehoused under section seven, the levy of fees for such warehousing, the removal of such opium for sale or export, and the manner in which it shall be disposed of if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

allowance, the monthly rate of '[hundred] rupees the whole be not exceeded.

²[(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 389 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.]

Enforcement
of order of
maintenance.

391. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

3[CHAPTER XXXVI A

Directions of the nature of Habeas Corpus

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

Power to issue
directions
of the nature
of a Habeas
Corpus.

(a) that a person within Cochin State be brought up before the High Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody in Cochin State be set at liberty;

(c) that a prisoner detained in any Jail situate within Cochin State be brought before the High Court to be there examined as a witness in any matter pending or to be enquired into in such Court;

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

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

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

¹ Substituted for "fifty" by sub-section (1) of section 115 of Act XVI of 1113.

² Added by sub-section (2) *ibid.*

³ Added by section 2, Act IX of 1120.

PART IX

Supplementary Provisions

CHAPTER XXXVII

Of the Public Prosecutor

Power to
appoint Public
Prosecutors.

392.—(1) The Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) ⁴[****]The District Magistrate may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of

with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Government.]

(2) The Government may determine the person by whom, the manner in which, the offence or offences for which the prosecution of such Judge, ¹[Magistrate] or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Power of Government as to prosecution.

175. No Court shall take cognizance of an offence falling under Chapter XVIII or Chapter XX of the Cochin Penal Code or under sections 473 to 476 (both inclusive) of the same Code except upon a complaint made by some person aggrieved by such offence :

Prosecution for breach of contract, defamation and offences against marriage.

²[Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.]

³[Provided further that, where the husband aggrieved by an offence under section 474 of the said Code, is serving in any of the armed forces of this State, or of His Majesty, under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 176B may, with the leave of the Court, make a complaint on his behalf.]

176. No Court shall take cognizance of an offence under section 477, or section 478 of the Cochin Penal Code, except upon a complaint made by the husband of the woman, or, in his absence ⁴[made with the leave of

Prosecution for adultery or enticing a married woman.

¹ Inserted by section 45 (2) of Act, XVI of 1113.

² Added by section 46, *ibid.*

³ Added by section 2, Act II of 1120.

⁴ Inserted by section 47, Act XVI of 1113.

Jurisdiction of Criminal Courts [Secs. 172—176
in Inquiries and Trials

Criminal Powers—Volume II, Page 301—(cont.)

the Court,] by some person who had care of such woman on his behalf at the time when such offence was committed:

238. In cases where no appeal lies, the Magistrate ^{Record in} ^{cases where} ^{there is no} ^{appeal.} ¹[or Bench of Magistrates] need not record the evidence of the witnesses or frame a formal charge; but he ¹[or they] shall enter in such form as the Government may direct the following particulars.—

(a) the serial number;

(b) the date of the commission of the offence ²[and in cases coming under clause (d), clause (e), clause (f) or clause (g) of sub-section (1) of section 236 the value of the property in respect of which the offence has been committed];

(c) the date of the report or complaint;

(d) the name of the complainant (if any);

(e) the name, parentage and residence of the accused;

(f) the offence complained of and the offence (if any) proved;

(g) the plea of the accused and his examination (if any);

(h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(i) the sentence or other final order; and

(j) the date on which the proceedings terminated.

239. (1) In every case tried summarily by a Magistrate ³[or Bench] in which an appeal lies, such ^{Record in} ^{appealable} ^{cases.} Magistrate ³[or Bench] shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 238.

¹ Inserted by section 5 of Act, II of 1092.

² Added by section 3, Act VI of 1118.

³ Inserted by section 6 *ibid.*

SCHEDULE III.—(cont.)

(33) Power to sell property alleged or suspected to have been stolen, etc., section 423.

(34) Power to withdraw cases other than appeals, and to try or refer them for trial, section 426.

(35) Power to compel restoration of abducted female, section 447.

(36) 1[* * * * *]

SCHEDULE IV

(See sections 22 and 23)

Additional Powers with which Magistrates may be invested

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED

BY THE GOVERNMENT

- (1) Power to require security for good behaviour in case of sedition, section 93:
- (2) Power to require security for good behaviour, section 95:
- (3) 2[* * *]
- (4) Power to make orders prohibiting repetitions of nuisances, section 124:
- (5) Power to make orders under section 125:
- (6) 2[* * *]
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 66:
- (8) Power to take cognizance of offences upon complaint, section 168:
- (9) Power to take cognizance of offences upon police-reports, section 168:
- (10) Power to take cognizance of offences without complaint, section 168:
- (11) Power to try summarily, section 236:
- (11a) 3[Power to try summarily, section 237]
- (12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 321:

¹Deleted by section 63 of Act, XVII of 1113.

²Deleted by section 64, *ibid.*

³Added by section 5, Act VI of 1118.

approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as, it may consider, will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

33. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Peishkar shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI

Temporary Occupation of Land

34. (1) Subject to the provisions of Part VII of this Act, whenever it appears to ¹[the Diwan] that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, ¹[the Diwan] may direct the Peishkar to procure the occupation and use of the same for such term as he shall think fit not exceeding ²[five years] from the commencement of such occupation.

(2) The Peishkar shall, thereupon, give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

¹ Substituted for "the Government" by section 15 of Act, IV of 1074.

² Substituted by section 2 of Act, XVIII of 1120.

make and subscribe the following declaration before any of the Judges of the ¹[High Court.]

"I, A. B, appointed District Judge, Additional District Judge ²[Munsiff or Additional Munsiff] of , do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment".

The High Court to report vacancy in office of District Judge or Munsiff.

19. The District Judge on the occurrence within his District of any vacancy in the office of Munsiff ³[or Additional Munsiff] shall at once report such vacancy to the ¹[High Court,] which shall report the same to the Diwan.

The ¹[High Court] shall likewise report to the Diwan the occurrence of any vacancy in the office of District Judge.

District Judge to control Munsiffs' Courts subordinate to him.

20. Subject to the other provisions of this Act, and to the rules for the time being in force and prescribed by the ¹[High Court] in this behalf, the general control over all the Munsiffs' Courts under this Act in any District is vested in the District Judge.

Adjournment of District and Munsiffs' Courts.

21. The ¹[High Court] may, with the sanction of His Highness the ⁴[Maharaja], permit the Civil Courts under its control to adjourn for periods not exceeding 60 days in each year ⁵[or for such longer period as His Highness may, for special reasons, allow].

The dates of commencement and termination of the adjournment shall be fixed and notified in the Cochin Government Gazette.

¹ Substituted by section 32, Act, XX of 1113.

² Substituted for the words "or Munsiff" by section 6 of Act, XI of 1097.

³ Inserted by section 7 *ibid.*

⁴ Substituted for "Raja" by section 2 of Act, I of 1109.

⁵ Added by section 2, Act, IV of 1117.

Settlement Proclamation

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24. Our Settlement Peishkar or any other officer whom Our Diwan may, with Our sanction, authorise in this behalf, is the officer competent in the first instance to carry out the purposes of this Proclamation, such as the classification of lands and soils under paragraphs 4 and 5, determination of tenures under paragraph 6, charging the assessment under paragraphs 7, 8, 10, 11, 12, 15, 16, and 17 and issuing rough pattahs and disposing of objection petitions under paragraph 22. All his decisions and orders are subject to appeal only to Our Diwan, whose orders thereupon shall be final and shall not be questioned by any Court of Law.

Settlement authorised to conduct all enquiries.

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

Rules issued by the Diwan to have the force of Proclamation.

26. To secure Our land-holders the utmost freedom of action in improving their properties and turning them to the best advantage according to their means and inclination, We hereby declare that the new Settlement shall be current for a term of thirty years. During this period the assessment shall not, in any way, be enhanced on the ground that Payattupattom paramba has been converted into nilom or has been planted with taxable trees, or that nilom has been converted into paramba, or that more trees have been planted than those already assessed. In short, no interference of any kind will be permitted with the new Settlement when it is completed, for the next thirty years.

The Settlement to be current for a period of 30 years.

27. We apprehend that, subsequent to the Kandzhuthus of 996 and 1032, though the families of some Puravaka jenmies had become extinct, no enquiries have hitherto been made in regard to the disposal of landed properties of such jenmies, and that persons

Escheats.

¹ Substituted by Proclamation XX of 1119.

SCHEDULE IV.—(cont.)

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED

BY THE DISTRICT MAGISTRATE

BY THE GOVERNMENT

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED

- (13) Power to sell property alleged or suspected to have been stolen, etc., section 423:
- (14) 1[* * *]
- (15) Power to try cases under section 120 of the Cochin Penal Code:
- (1) Power to make orders prohibiting repetitions of nuisances, section 24:
- (2) Power to make orders under section 125:
- (3) 1[* * *]
- (4) Power to take cognizance of offences upon complaint section 168:
- (5) Power to take cognizance of offences upon police-reports, section 168:
- (6) Power to transfer cases, section 170:
- (1) Power to pass sentences of whipping, section 18:
- (2) Power to make orders prohibiting repetitions of nuisances, section 124:
- (3) Power to make orders under section 125
- (4) Power to hold inquests, section 155:
- (5) Power to take cognizance of offences upon complaint, section 168:
- (6) Power to take cognizance of offences upon police-reports, section 163:
- (7) Power to take cognizance of offences without complaint, section 168
- (8) Power to commit for trial, section 183:
- (9) Power to try summarily, section 236
- 2(9a) Powers to try summarily, [section 237]
- (10) Power to make order as to first offenders, 3[section 455]

1. Deleted by section 64 of Act, XVII of 1113.
2. Added by section 5, Act VI of 1122.
3. Substituted for "456" by section 2 of Act, III of 1089.

may be deemed necessary for the purposes of this Act;

(h) prohibiting the use of any article which the Diwan shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug;

(l) (1) declaring the process by which spirit manufactured in or imported into Cochin State shall be denatured;

(2) for causing such spirit to be denatured through the agency or under the supervision of Excise Officers;

(3) for ascertaining whether such spirit has been denatured;

(m) regulating the bottling of liquor for purposes of sale;

(n) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised and prescribing the time and manner of presenting appeals and the procedure for dealing therewith;

(o) for the grant of batta to witnesses and of compensation for loss of time to persons released by any Abkari Officer under section 40 (3) of this Act on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;

(p) regulating the power of Abkari Officers to summon witnesses from a distance under section 44;

(q) for the disposal of articles confiscated and of the proceeds thereof.]

¹[(r) for the forfeiture, notwithstanding provisions to the contrary contained in the Cochin Contract Act, XXIII of 1112, or in any other law, of the whole or any portion of the kists deposited by persons who purchase the right to sell toddy, arrack, foreign liquors or ganja, in addition to damages recoverable by Government on account of the breach of the conditions of sale laid down by the Diwan from time to time.]

¹ Added by section 2 of Act XIII of 1119.

SCHEDULE IV.—(cont.)

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLSS MAY BE INVESTED	{ BY THE DISTRICT MAGISTRATE	{ (1) Power to make orders prohibiting repetitions of nuisances, section 123: (2) Power to make orders under section 25: (3) Power to hold inquests, section 155: (4) Power to take cognizance of offences upon complaint, section 168: (5) Power to take cognizance of offences upon police-reports, section 168:					
			POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED	{ BY THE GOVERNMENT	{ (1) Power to make orders prohibiting repetitions of nuisances, section 124: (2) 1[* * *] 2[(2)] Power to hold inquests, section 155: 2[(3)] Power to take cognizance of offences upon complaint, section 168: [(4)] Power to take cognizance of offences upon police-reports, section 168. [(5)] Power to commit for trial section 183:		
						{ BY THE DISTRICT MAGISTRATE	{ (1) Power to make orders prohibiting repetitions of nuisances, section 124: (2) 1[* * *] 3[(2)] Power to hold inquests, section 155: 3[(3)] Power to take cognizance of offences upon complaint, section 168: 3[(4)] Power to take cognizance of offence upon police-reports, section 168: 4[6. Powers to try summarily, section 237]

1. Item (2) regarding power to make orders under section 125 deleted by Act, XVI of 1113.
 2. Items 3 to 6 renumbered as 2 to 5 by *ibid.*
 3. Items 3 to 5 renumbered as 2 to 4 by *ibid.*
 4. Added by section 5, Act VI of 1118.

15. (a) No non-testamentary document relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same. Description of parcels.

(b) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c) No non-testamentary document containing a map or plan of any property, comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, ¹[Documents containing maps or plans.]

16. Failure to comply with the provisions of section 15, clause (b), shall not disentitle a document to be registered if the description of the property to which it relates, is sufficient to identify that property. Description of houses and lands by reference to the Government maps or surveys.

Provided that, where it is, in the opinion of the Diwan, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the Diwan may, by rule, require that such houses and lands as aforesaid shall, for the purposes of section 15, be so described.

¹ Deleted by section 2, Act X of 1119.

Procedure on
presenting
document in
language
unknown to
Registrar.
[* * *]

55. When a document is presented for registration under section 13, the translation shall be transcribed in the register of documents of the nature of the original, and together with the copy referred to in section 13 shall be filed in the registration office.

The endorsements and certificates respectively mentioned in sections 52 and 53 shall be made on the original, and, for the purpose of making the copies and memoranda required by sections 50 and 57 the translation shall be treated as if it were the original.

Power to
administer
oaths.

56. Every Registrar [* * *] may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Record of
substance of
statements.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and, if he admits the correctness of such note, it shall be signed by the Registrar [* * *].

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the person and under the circumstances therein stated.

(C). SPECIAL DUTIES OF REGISTRAR [* * *]

Procedure on
registering
documents
relating to
land.

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

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

¹ The words "or Joint Registrars" inserted by Act I of 1108 were deleted by section 9 of Act LXX of 1112.

² Substituted by section 3, Act X of 1119.

(D). OF THE CONTROLLING POWERS OF THE
SUPERINTENDENT OF REGISTRATION
AND THE DIWAN

58. Every Registrar ¹ [* * *] shall perform the duties of his office under the superintendence and control of the Superintendent of Registration.

Superintendent of Registration to superintend and control Registrars.

The Superintendent of Registration shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Registrar ¹ [* * *] or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

59. The Diwan shall have power from time to time to make rules consistent with this Act—

Diwan's power to make rules.

providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

declaring what languages shall be deemed to be commonly used in each district;

declaring what territorial divisions shall be recognised under section 15;

regulating the amount of fines imposed under sections 18 and 27, respectively;

regulating the exercise of the discretion reposed in the Registrar ¹ [* * *] by section 56;

² [prescribing the form in which memoranda to be transmitted under section 57 shall be prepared];

regulating the authentication by Registrars of the books kept in their offices under section 44;

declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;

declaring the holidays that shall be observed in the registration offices;

¹ The words "or Joint Registrars" inserted by Act I of 1108 were deleted by section 9 of Act LXX of 1112.

² Inserted by section 4, Act X of 1119.

(c) documents which, under any law for the time being in force, are filed periodically in any Revenue-office by any officer charged with the preparation of village records;

(d) sanads, inam title-deeds and other documents purporting to be or to evidence grants or assignments by the Sirkar of land or of any interests in land;

¹ [(e) kychits or assignments executed to or in favour of the Government ² [or any Municipality or Town Constituted under the Cochin Municipal or Town Councils Act] under which sites required for public purposes are surrendered or assigned;]

(f) bonds issued by the Diwan for State debenture loans and endorsements relating to the transfers of such bonds;

but all such documents and maps shall, for the purposes of sections 41 and 42, be deemed to have been and to be registered in accordance with the provisions of this Act.

Inspection
and copies
of such
documents.

81. Subject to such rules and the previous payment of such fees as the Diwan from time to time prescribes in this behalf, all documents and maps mentioned in section 80, clauses (a), (b) and (c) and all registers of the documents mentioned in clauses (d) and (e) shall be open to the inspection of any person, applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

¹. Inserted and original clause (e) relettered as (f) by section 8 of Act LXX of 1112.

². Inserted by section 2, Act II of 1116.

(vii) regulating the procedure to be adopted for collecting the fees payable under this Act: and

¹ [(viii) for the collection of Pilgrim Taxes, if any imposed by this Government or for the collection on behalf of other Governments of Pilgrim Taxes imposed by such other Government and]

[(ix)] generally for the purposes of this Act.

10. Any person navigating a public canal in contravention of section 4 of this Act, shall be liable, on conviction before a criminal court, to a fine not exceeding ² [five hundred] rupees.

Penalty for navigating public canal in contravention of section 4.

11. Any person who breaks any rule made under this Act shall be punishable on conviction by a criminal court, with fine not exceeding fifty rupees in case of a single offence and in case of a continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger human life, the punishment may extend to imprisonment of either description for one year, or to fine of five hundred rupees, or both.

Penalty for breach of rules.

³ [11 A. Any person who refuses or evades payment of any fee payable under this Act or without due authority levies any fee under colour of this Act or, being empowered to collect fees under this Act, collects or receives any sum in excess of the lawful due, shall on conviction by a Criminal Court be punishable with imprisonment of either description not exceeding one month, or with fine not exceeding one hundred rupees, or with both.

Penalty for evasion of fee and for unauthorised levy of fee, etc.

11 B. On conviction had of any offence under this Act, the court may order that any vessel or other thing used in the commission of such offence shall be confiscated.]

Power of Court to order confiscation.

12. No prosecution under this Act shall be instituted without the previous sanction of the Diwan.

Prosecution under the Act not to be instituted without sanction.

¹ Inserted by section 2, Act VII of 1122.

² Substituted for the word "fifty" by section 8 of Act LXIX of 1112.

³ Inserted by section 9 *ibid*.

Penalty for
prawn fishing
in contraven-
tion of the
Act and Rules.

¹[5C. (a) Whoever, in contravention of section 5 A, or, any of the rules framed under section 5 B, carries on, or causes any other person to carry on, prawn fishing in wet lands in his actual possession, shall, in addition to the payment of the prescribed licence fees, be punishable with fine which may extend to one hundred rupees and when the breach is a continuing breach, with a further fine, which may extend to ten rupees for every day, after the date of the first conviction during which the breach is proved to have been persisted in.

(b) Fixed engines erected or used or other contrivances used, or prawn caught by the use of any such fixed engine or net, including products of such prawn, in contravention of the section and rules, aforesaid, shall be liable to seizure, forfeiture and removal by persons empowered by Government to do so, either generally or, specially.]

² [Explanation.—For the purposes of sections 5A, 5 B and 5 C the term 'wet lands' includes parambas assessed as Payattu pattam parambas as well as puduval accretion parambas not assessed at the normal rate of Rs. 13—2—0 per acre.]

Arrest without
warrant for
offences under
his Act.

6. (1) Any Police Officer, or other person specially empowered by the Diwan in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 3 or 4 or under any rule under section 5,

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

¹ Inserted by section 4 of Act XIII of 1113.

² Added by section 2 of Act XXIII of 1115.

of a minor offence, it shall be competent to the Magistrate or Judge to alter the charge under section 203, Criminal Procedure Code, 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 is surrendered by the State of Travancore, such person shall not be triable or tried for any of the offences committed in Cochin prior to surrender other than such of the said offences as may be proved by the acts 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.

Prohibition of trial for offences committed prior to the surrender.

SCHEDULE

EXTRADITION OFFENCES

1. Frauds upon creditors section 192, Cochin Penal Code.
2. Resistance to arrest, section 210, Cochin Penal Code.
3. Offences relating to coins and stamps, sections 215—1[239A] Cochin Penal Code.
4. Culpable Homicide, sections 278—283, Cochin Penal Code.
5. Attempt to murder, section 287, Cochin Penal Code.
6. Thuggee, sections 290 and 291, Cochin Penal Code.

¹ Substituted by section 2, Act I of 1120.

7. Causing miscarriage and abandonment of child, sections 292—297, Cochin Penal Code.
8. Causing hurt, sections 303—313, Cochin Penal Code.
9. Wrongful confinement, sections 327 and 328, Cochin Penal Code.
10. Kidnapping and slavery, sections 340—353, Cochin Penal Code.
11. Rape and unnatural offences, sections 355—357, Cochin Penal Code.
12. Theft extortion, robbery, etc., sections 358—394, Cochin Penal Code.
13. Cheating, sections 395—400, Cochin Penal Code.
14. Fraudulent deeds, etc., sections 401—404, Cochin Penal Code.
15. Mischief, sections 405—420, Cochin Penal Code.
16. Lurking house trespass and house-breaking by night, sections 423 to 426, Cochin Penal Code.
17. Forgery, using forged documents, etc., sections 442—¹[457A] Cochin Penal Code.
- ²[18. Using as genuine forged or counterfeit currency notes, section 469 B, Cochin Penal Code.
19. Possession of forged or counterfeit currency notes or bank-notes, section 469 C, Cochin Penal Code.
- ³[20. Offences under sections 55 and 58 of the Abkari Act, I of 1077.
21. Offences under section 9 of the Opium Act, VIII of 1076.
22. Offences under section 6 of the Tobacco Act, VII of 1084.
23. Offences under section 32 of the Salt Act, V of 1083.]
- ⁴[24. Desertion from the Cochin State Forces.]

Substituted by section 2, Act I of 1120.

² Inserted by section 2, Act I of 1114.

³ Added by section 2, Act IX of 1111 and renumbered as 20 and 23 by section 2, Act I of 1114.

⁴ Added by section 2, Act V of 1120.

into an asylum of a lunatic other than a lunatic so found by inquisition;

(11) "relative" includes any person related by blood, marriage or adoption; and

(12) "rule" means a rule made under this Act.

PART II

RECEPTION, CARE AND TREATMENT OF LUNATICS

CHAPTER II

Reception of Lunatics

3. (1) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum without a reception order save as provided by sections 7 and 14 ¹[of this Act and by section 39A of the Cochin Prisons Act, VI of 1076].

Reception of person in asylum.

Provided that any person in charge of an asylum may, with the consent of two of the visitors, of such asylum, which consent shall not be given except upon a written application from the intending boarder, receive and lodge as a boarder in such asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in an asylum under the proviso to sub-section (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception orders on petition

4. (1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer.

Application for reception order.

¹ Added by section 2, Act XXV of 1115.

delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a Medical Officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

Discharge of person subsequently found on inquisition not to be of unsound mind.

30. If any lunatic detained in an asylum on a reception order made under section 6, 9, 12 or 13 is subsequently found on an inquisition under Chapter IV, not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Removal of lunatics

Removal of lunatics and of criminal lunatics.

31. ¹[(1) Any lunatic may be removed from any asylum established by Government, to any other asylum in accordance with any general or special order of the Government.

Provided that no lunatic admitted into an asylum on a reception order made on petition shall be removed in accordance with the provisions of this sub-section until notice of such intended removal has been given to the petitioner.

[(2) Government may make such general or special order as they think fit directing the removal of any person for whose detention an order has been made under section 367 or section 372 of the Code of Criminal Procedure, Act II of 1086, from the place where he is for the time being detained, to any asylum, jail or other place of safe custody in Cochin State].

Escape and Recapture

Order to justify detention and.

32. Every person received into an asylum under any such order as is required by this Act may be detained therein until he is removed or discharged. •

¹ Original section 31 renumbered as sub-section 1 of section 31 and sub-section 2 added by section 3 of Act, XXV of 1115.

extending over a longer period than three years from its date;

(h) a contract of which a material part of the subject-matter, supposed by both parties to exist, has, before it has been made, ceased to exist.

And, save as provided ¹[by the Cochin Arbitration Act, I of 1121] no contract to refer ²[present or future differences] to arbitration shall be specifically enforced: but if any person, who has made such a contract ³[other than an arbitration agreement to which the provisions of the said Act apply] and has refused to perform it, sues in respect of any subject which has contracted to refer, the existence of such contract shall bar the suit.

Illustrations

to a.—A contracts to sell, and B contracts to buy a lakh of rupees in the four per cent loan of the Government of India.

A contracts to sell, and B contracts to buy 40 chests of indigo at Rs. 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second, both A and B and in the third A, would be reimbursed by compensation in money.

to b.—A contracts to render personal service to B;

A contracts to employ B on personal service;

A, an author, contracts with B, a publisher, to complete a literary work;

B cannot enforce specific performance of these contracts;

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer but, before the valuation is made, A instructs his valuer not to proceed:

By a charter-party entered into in Cochin between A, the owner of a ship, and B, the charterer, it is agreed that the ship

1. Substituted by section 49(1), Act I of 1121.

2. Substituted for the words 'a controversy' by Act V of 1108.

3. Inserted by section 49(1), Act I of 1121.

Sections.

- 64. Final dividend.
- 65. No suit for dividend.
- 65A. Lapse and credit to Government of unclaimed dividends.
- 65B. Claims to monies credited to Government under section 65A.
- 66. Management by and allowance to insolvent.
- 67. Right of insolvent to surplus.
- 67A. Committee of inspection.

Appeal to Court against Receiver

- 68. Appeal to Court against Receiver.

PART IV
PENALTIES

- 69. Offences by debtors.
- 70. Procedure on charge under section 69.
- 71. Criminal liability after discharge or composition.
- 72. Undischarged insolvent obtaining credit.
- 73. Disqualification of insolvent.

PART V

SUMMARY ADMINISTRATION

- 74. Summary administration.

PART VI

APPEALS

- 75. Appeals.

PART VII

MISCELLANEOUS

- 76. Costs.
- 77. Courts to be auxiliary to each other.
- 78. Limitations.
- 79. Power to make rules.
- 80. Delegation of powers to Official Receivers.
- 81. Power of Government to bar applications of certain provisions to certain Courts.
- 82. Repeal.
- 83. Pending proceedings under Act IX of 1095.
Schedule I.
Schedule II

Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(5) Subject to the provisions of this Act, all debts entered in the schedule shall be paid rateably according to the amounts of such debts respectively and without any preference.

(6) ¹ [In cases where a sum of eight annas in the rupee has been paid as dividend to the creditors, the court may, where the court is satisfied that the conduct of the insolvent has been *bona fide* and that he has placed all his assets at the disposal of the court, grant him an amount equal to one-fourth of the value of the remaining property of the insolvent not exceeding a sum of Rs. 2,500 in any case;

Explanation.—In calculating the one-fourth to be granted to the insolvent, his surplus assets, if any, outside Cochin, shall be taken into account.]

²(7) Where there is any surplus after payment of the ³[foregoing debts and the amount, if any, granted to the insolvent under sub-section (6),] it shall be applied in payment of the interest from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts entered in the schedule.

62. (1) In the calculation of dividends, the receiver shall retain in his hands sufficient assets to meet—

Calculation of dividends.

(a) debts provable under this Act and appearing, from the insolvent's statements or otherwise to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs;

(b) debts provable under this Act, the subject of claims not yet determined;

(c) disputed proofs or claims; and

(1) Inserted by section 2 Act XX of 1115.

(2) Original sub-section (6) renumbered as sub-section (7) by *ibid.*

(3) Substituted by section 2 *ibid.*

(d) the expenses necessary for the administration of the estate or otherwise.

(2) Subject to the provisions of sub-section (1) all money in hand shall be distributed as dividends.

Right of
creditor who
has not proved.

63. Any creditor who has not proved his debt before the declaration of any dividend or dividends

shall be entitled to be paid, out of any money for the time being in the hands of the receiver, any dividend or dividends which he may have failed to receive, before that money is applied to the payment of any future dividend or dividends; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Proved debt before declaration of a dividend.

64. When the receiver has realised all the property of the insolvent or so much thereof as can, in the opinion of the court, be realised without needlessly protracting the receivership, he shall declare a final dividend; but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified but not proved that if they do not prove their claims within the time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or if the court on application by any such claimant, grants him further time for establishing his claim, then on the expiration of such further time the property of the insolvent shall be divided among the creditors entered in the schedule without regard to the claims of any other persons.

Final dividend.

65. No suit for a dividend shall lie against the receiver; but where the receiver refuses to pay any dividend, the court may, on the application of any creditor who is entered in the schedule order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

No suit for dividend.

¹[65-A. Where the receiver has under his control any dividend which has remained unclaimed for 15 years from the date of declaration or such less period as may be prescribed, he shall pay the same to the account and credit of Government unless the Court otherwise directs.

Lapse and credit to Government of unclaimed dividends.

65-B. Any person claiming to be entitled to any monies paid to the account and credit of Government under section 65-A may apply to the Court for an order for payment to him of the same; and the Court, if satisfied that the person claiming is entitled, shall make an order for payment to him of the sum due:

Claims to monies credited to Government under section 65-A.

(¹) Inserted by section 2 of Act III of 1116.

Management
by and allow-
ance to
insolvent.

Provided that before making an order for the payment of a sum which has been carried to the account and credit of Government, the Court shall cause notice to be served on the Government Pleader calling on him to show cause, within one month from the date of service of the notice, why the order should not be made].

66. (1) The Court may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof; or to carry on the trade (if any) of the insolvent for the

SECTIONS

Charges

- X. Methods of charging.
- XI. Maximum charges.
- XIA. Minimum charges.
- XII. Charge for supply for public lamps.

Testing and Inspection

- XIII. Licensee to establish testing stations and keep instruments for testing.
- XIV. Facilities for testing.
- XV. Testing of works.

Plans

- XVI. Plan of area of supply to be made and kept open for inspection.

Additional notice of certain works

- XVII. Notice to Electric Inspector.

THE COCHIN ELECTRICITY ¹ [ACT]

(III OF 1102)

HISTORY OF LEGISLATION

Year	Number	Short title	Amendments
1102	III	The Cochin Electricity Act	Amended by Proclamation V, Act LXVII of 1112 and ² [Proclamation XIV of 1117]

Passed by His Highness the Maharaja on the 10th day of Vrischigam 1102 corresponding to the 25th day of November 1926.

Whereas it is expedient to make provision for the supply and use of electrical energy; We are pleased to enact as follows:—

(¹) Substituted for "Regulation" throughout the enactment by Proclamation V of 1112.

(²) "That alterations or amendments in the terms and conditions of a licence in respect of the prices chargeable by a licensee for the supply of high tension energy for industrial loads may be made by Government without reference to the local authority concerned"—Empowered by Proclamation XIV of 1117.

Maximum
charges.

¹[XI. Save as provided by clause IX, sub-clause (3), the prices charged by the licensee for energy supplied by him shall not exceed the maxima fixed by his licence, or, in the case of a method of charge approved by Our Government, such maxima as our Government shall fix on approving the method:

Provided, that, if, at any time after the expiration of seven years from the commencement of the licence, Our Government considers that the maxima so fixed or approved as aforesaid should be altered, it shall refer the matter to an Advisory Board and, if the Board recommends any alteration, may make an order in accordance with such recommendation, which shall have effect from such date as may be mentioned therein.

Provided, also, that, where an order in pursuance of the foregoing proviso has been made, no further order altering the maxima fixed thereby shall be made until the expiration of another period of five years.]

Minimum
charges.

XIA. A licensee may charge a consumer a minimum charge for energy of such amount and determined in such manner as may be specified by his licence, and such minimum charge shall be payable notwithstanding that no energy has been used by the consumer during the period for which such minimum charge is made.

Charge for
supply for
public lamps.

XII. The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and Our Government or the local authority as the case may be, and, where any difference or dispute arises, the matter shall be determined by arbitration.

¹ Operation of this clause suspended by Proclamation XIV of 1117.

trade mark being, or purporting to be the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) the country in which that place is situated is in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark.

(e) piece goods, such as are ordinarily sold by length or by the piece which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Cochin Factories Act.

²[(ee) goods made or produced beyond the limits of Cochin and intended for sale, and having applied thereto, a design in which copyright exists under the Cochin Patents and Designs Act, XI of 1112, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the licence or written consent of the registered proprietor of the design].

(f) matches made with white phosphorus.

18. The Government may, from time to time, by notification in the Cochin Government Gazette, prohibit or restrict the bringing or taking ²[by sea, air or land] Power to prohibit or restrict importation or exportation of goods.

¹ Inserted by section 21, Act XIV of 1115.

² Substituted by section 2, Act X of 1114.

goods of any specified description into or out of Cochin or any specified part thereof, either generally or from or to any specified country, region, port or place beyond the limits of Cochin.

Detention and
confiscation of
goods whose
importation
is prohibited.

19. (1) Before detaining any such goods as are or may be specified in or under section 17 or section 18, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Chief Customs-authority in this behalf may require the rules under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those rules that the goods are such as are prohibited to be imported.

(2) The Government may make rules, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such rules determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 17 and 18 as if it were the name of a place in the United Kingdom or British India.

(e) "veneers" means veneers such as are ordinarily used for making match-boxes.

3. A duty of excise at the rates specified in section 4 shall be levied on all matches manufactured in any manufactory in Cochin and issued out of such manufactory on or after the 1st day of April 1934 and shall be payable by the owner of the manufactory. Imposition of duty on matches.

¹[4. The duty payable under section 3 shall be levied at the following rates, namely.— Rates of duty.

(a) on matches in boxes or booklets containing on an average not more than eighty—

(i) if the average number is 40 or less, at the rate of two rupees per gross of boxes or booklets;

(ii) if the average number is more than forty, but not more than sixty, at the rate of three rupees per gross of boxes or booklets; and

(iii) if the average number is more than sixty, at the rate of four rupees per gross of boxes or booklets.

(b) on all other matches at such rates as the Government may prescribe.]

5. (1) If any duty payable under section 3 is not paid within the time fixed by rules made in that behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding four times the amount of duty unpaid which such authority may, in its discretion, think it reasonable to require. Recovery of duty with penalty.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land revenue and shall be recoverable in addition to, and not in substitution for any other penalty incurred under this Act.

¹ Substituted by section 2, Act X of 1116.

Issue of matches from manufactory.

6. No person shall issue any matches out of a manufactory, except in accordance with the provisions of rules made in that behalf by the Government under this Act¹ [.....]

Power of Government to prohibit import of matches.

7. The Government may, by notification in the Cochin Government Gazette, prohibit absolutely, or with such exceptions as they think fit, the bringing of matches into Cochin from the territory of any specified Prince or Chief in India.

Power of Government to direct use of banderols.

8. (1) The Government may, by notification in the Cochin Government Gazette, direct that after a date to be specified in the notification no matches manufactured after the date of the issue of the notification shall be used from a manufactory in Cochin except in packets, boxes or booklets bearing a banderol or stamp of such nature and affixed in such manner as may be prescribed by rules made under this Act.

(2) The Government may, by a like notification, direct that, after a date to be specified in the notification, no matches shall be sold or offered or kept for sale in Cochin except in packets, boxes or booklets bearing such a banderol or stamp so affixed.

(3) The Government may exempt from the operation of any notification made under sub-section (1) matches intended for export from Cochin.

(4) The Government may exempt from the operation of any notification made under sub-section (2) matches of a particular kind or packed in a particular manner.

¹ Deleted by section 2, Act VI of 1114.

19. If it be found after duly considering the objections that the work proposed should be executed in the interests of the proprietors the Diwan may order the work to be carried out at the cost of the Government.

When the Government may carry out the work.

20. (a) Notwithstanding anything hereinbefore contained, the Government may levy a cess on any area, benefited by a new Major Irrigation Work constructed, restored or repaired, after the passing of this Regulation.

Power to Government to levy cess.

(b) Such cess shall be fixed upon an acreage basis and so as to ensure to the Government a return of 3 per cent on the capital outlay after making provision for depreciation and maintenance.

[Provided that, where the new major irrigation work is undertaken as a temporary experimental measure, Government may levy for a specified period on any area benefited or sought to be benefited by such undertaking such cess as they may deem fit on an acreage basis.]

21. It shall be the duty of the Irrigation Officer to periodically inspect all the Major Irrigation Works and report to the Chief Engineer the condition of these works and he may, on being satisfied from such report or from other reliable information that any work is to be executed for the proper maintenance of the work, execute the same at Government cost.

Irrigation Officer to report periodically on condition of Major Irrigation Works.

PART IV

Private Irrigation Works

22. Any person desiring the construction of a new Irrigation Work for irrigating his lands may apply in writing to the Diwan Peishkar stating—

Application for construction of a new Irrigation Work.

(1) that he has been unable to come to terms with the owners of the land on which such work has to be constructed or through which it will pass,

(2) that he desires the Irrigation Officer, in his behalf and at his cost to do all things necessary for acquiring a right to so much of the said land as will be necessary for such Irrigation work, and

(3) that he is able to defray all costs involved in acquiring such land and constructing such work.

If the Diwan Peishkar considers —

(a) that the construction of such work is necessary,

Procedure of the Diwan Peishkar thereupon.

(1) Added by section 2, Act V of 1117.

seller, the transaction is called a mortgage by conditional sale, and the mortgagee a mortgagee by conditional sale:

Provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale.

Usufructuary
mortgage.

(d) Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage-money, or partly in lieu of interest or partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

English
mortgage.

(e) Where the mortgagor binds himself to repay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

(f) Where a person in '[The Municipal areas of Mattancheri, Ernakulam and Trichur] or in any other town or place which the Government may, by notification in the Cochin Government Gazette, specify in this behalf, delivers to a creditor or his agent documents of title to immovable property, with intent to create as security thereon, the transaction is called a mortgage by deposit of title-deeds.

1. Substituted by section 2, Act VII of 1115.

(b) if such person has not property within the local limits of the jurisdiction of the court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other court; or

(c) if the decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the Court which passed it; or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may, of its own motion, send it for execution to any subordinate Court of competent jurisdiction.

37. The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution or where the former Court fails to execute the same, the circumstances attending such failure.

Result of execution proceedings to be certified.

38. The Court executing a decree sent to it shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its order in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

Powers of Court in executing transferred decree.

39. (a) The Government may, from time to time, by notification in the Cochin Government Gazette, (i) declare that the decrees of all or any of the Civil Courts situate in ¹[British India, Burma or Aden] or in the territories of any Indian Prince or State in alliance with His Majesty the King Emperor of India may be executed in Cochin as if they had been made by the Courts of Cochin; and (ii) cancel any such declaration.

Execution of decrees passed by Courts of British India or of any Indian State.

(b) It shall be competent to the Chief Court, with the sanction of the Government, to make such rules as may be necessary for the guidance of the subordinate Courts in executing the decrees mentioned in subsection (a).

¹. Substituted by section 2; Act V of 1116.

The provisions of Part IX of this Code shall not apply to such rules.

Precepts. 40. (1) Upon the application of the decree-holder, the Court which passed the decree may, whenever it thinks fit, issue a precept to any

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require:

¹[Provided that where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

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

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

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

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

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

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

¹ Added by section 2, Act IX of 1114.

(d) books of account ;

(e) a mere right to sue for damages ;

(f) any right of personal service ;

(g) stipends and gratuities allowed to pensioners of the Government, ¹[Compassionate gratuities allowed to families of deceased Government Servants under the Cochin Service Regulations] and political pensions ;

(h) allowances (being less than salary) of any public officer or of any servant of a local authority while absent from duty ;

(i) the salary or allowances equal to salary of any such public officer or servant as is referred to in clause (h), while on duty, to the extent of—

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

¹. Inserted by section 2, Act XIII of 1115.

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly; and

(iii) one moiety of the salary in any other case;

(j) the pay and allowances of persons to whom the Indian Articles of War apply;

¹[(jj) Any allowance forming part of the emoluments of any public officer or of any servant of a local authority which Government may by notification in the Cochin Government Gazette exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension;]

(k) the wages of labourers and domestic servants whether payable in money or in kind;

(l) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(m) a right to future maintenance;

(n) where the judgment-debtor is a person liable for the payment of land revenue, any movable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue; and

(o) amounts subscribed in State Provident Funds under the rules relating to State Provident Funds.

Explanation.—The particulars mentioned in clauses (g), (h), (i), ²[(j), (jj) and (k)] are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this section shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of such house, building, site or land.

1. Added by section 2, Act II of 1119.

2. Substituted by section *ibid.*

PART III
INCIDENTIAL PROCEEDINGS
Commissions

Power of court
to issue
Commissions.

61. Subject to such conditions and limitations as may be prescribed, the court may issue a commission—

- (a) to examine a person ;
- (b) to make a local investigation ;
- (c) to examine or adjust accounts ; or
- (d) to make a partition ;

Letter of
Request.

62. In lieu of issuing a commission, the court may issue a letter of request to examine a witness residing at any place not within Cochin.

Commissions
issued by
foreign courts.

63. The provisions as to the execution and return of Commissions for examination of witnesses shall apply to commissions issued by—

(a) Courts situate within the limits of British India and established or continued by the authority of His Majesty or the Governor General in Council, or

(b) Courts situate in any part of the British Empire other than British India, or

(c) Courts of any foreign country for the time being in alliance with His Majesty.

PART IV
SUITS IN PARTICULAR CASES

Suits by or against the Government or Public Officers in their official capacity.

Suits by or
against
Government.

64. Suits by or against Government shall be instituted by or against the '[Secretary to Government of Cochin.]

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

65. No suit shall be instituted against the ¹[Secretary to the Government] of Cochin or against a public officer in respect of any act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the ²[Secretary to the Government] delivered to ²[him] or left at the ²[Huzur Secretariat] and, in the case of a public officer, delivered to him or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

66. In a suit instituted against a public officer in respect of any act purporting to be done by him in his official capacity—

Exemption from arrest and personal appearance.

(a) the defendant shall not be liable to arrest nor his property to attachment otherwise than in execution of a decree, and

(b) where the Court is satisfied that the defendant cannot absent himself from his duty without detriment to the public service, it shall exempt him from appearing in person.

67. (1) Where the decree is against the ²[Secretary to the Government] of Cochin or against a public officer in respect of any such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Government.

Execution of decree.

(2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such report.

¹ Substituted by section 3, Act XX of 1113.

² Substituted by section 4, *ibid.*

Suits by or
against any
member of the
Ruling Family
other than
His Highness
or of the
Cranganur
Chief,

1[68. (1) Members of the Ruling Family other than His Highness the Maharaja, the Cranganur Chief and the members of his family may sue and shall be sued in the name of an agent declared as such by notification in the Cochin Government Gazette and such agents shall have power to sign and verify plaints and written statements on their behalf:

Provided that in the absence of such notification suits may be filed against such members or Chief other than Her Highness the Senior Rani and the Elaya Raja.

(2) If no such notification is issued by Her Highness the Senior Rani or the Elaya Raja the Government pleaders of the several courts shall be deemed to be their agents in all suits in which His Highness the Maharaja or the Government is not a party.]

Suits by or against His Majesty the King Emperor of India or Indian Rulers

Suits by or
against the
Government
of His Majesty
the King
Emperor of
India.

69. (1) Suits by or against the Government of His Majesty the King Emperor of India shall be instituted by or against the Secretary of State for India in Council.

(2) All pleadings signed or verified, and all appearances, applications and acts made or done, in any such suits, by any officer or officers authorised in that behalf by the law for the time being in force with respect to similar suits in British India, shall be deemed valid in the same manner and to the same extent as they are in British India.

¹ Substituted by section 5, Act XXII of 1113.

suit, though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case.

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

77. In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the ^{Public charities.} ¹[Secretary to the Government] or two or more persons having an interest in the trust and having obtained the consent in writing of the ¹[Secretary to the Government], may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree—

- (a) removing any trustee;
- (b) appointing a new trustee;
- (c) vesting any property in a trustee;
- (d) directing accounts and inquiries;
- (e) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust;
- (f) authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged;
- (g) settling a scheme; or
- (h) granting such further or other relief as the nature of the case may require.

¹ Substituted by section 6, Act XXIII of 1113.

Inter pleader

Where inter pleader suit may be instituted.

73. Where two or more persons claim adversely to one another the same debt, sum of money or other property, movable or immovable, from another person who claims no interest therein other than for charges or costs and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and of obtaining indemnity for himself.

Provided that, where any suit is pending in which the right of all parties can properly be decided, no such suit of inter pleader shall be instituted.

PART V
SPECIAL PROCEEDINGS

74. '[]

Special Case

Power to state case for opinion of Court.

75. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

Suits relating to Public Matters

Public nuisances.

76. (1) In the case of a public nuisance, the ²[Secretary to the Government], or two or more persons having obtained the consent in writing of the ²[Secretary to the Government], may institute a

¹ Deleted by section 49, Act I of 1121.

² Substituted by section 6, Act XXIII of 1113.

Appeal from orders

88. (1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders:—

Orders from which appeal lies.

(a) ¹[

(b)

(c)

(d)

(e)

(f)

(g) an order under section 80;]

(h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree;

(i) any order made under rules from which an appeal is expressly allowed by rules.

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

89. (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court ^{Other orders.}

¹ Deleted by section 49, Act I of 1121.

Exemption of
other persons.

103. (1) The Government may, by notification in the Cochin Government Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of the Government, entitles him to the privilege of exemption.

(2) The names and residences of the persons so exempted shall, from time to time, be forwarded to the Chief Court by the Government and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the Chief Court shall be kept in such subordinate Court.

(3) Where any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission.

Where such person refuses to deposit the costs of the commission, the party requiring his evidence shall deposit such costs. The Court may, if satisfied that the evidence of the person is material, order the costs of such commission to be paid by such person to the party concerned and such order shall be executable as a decree.

1104. The members of the Ruling Family and those of the Cranganur Chief shall be exempt from personal attendance in Courts.

The agent of such member declared as such by notification in the Cochin Government Gazette shall be deemed to be a recognised agent under Schedule I, Order III, and shall have power to sign and verify complaints and written statements on behalf of the said member according to the provisions contained in this Code.

If no such notification has been issued by Her Highness the Senior Rani or by the Elaya Raja, the Government pleaders of the several courts shall be deemed to be the recognised agents, under Schedule I, Order III, of Her Highness the Senior Rani or the Elaya Raja, in all suits in which His Highness the Maharaja or the Government is not a party and in which Her Highness the Senior Rani or the Elaya Raja is a party.

Procedure in
suits and
appeals in
which a mem-
ber of the
Ruling Family
or that of the
Cranganur
Chief is a
party.

¹ Substituted by section 7, Act XXII of 1113.

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Civil Procedure

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In the absence of such a notification, suits may be filed against such members other than Her Highness the Senior Rani and the Elaya Raja.

Her Highness the Senior Rani, the Elaya Raja and such members who have by notification appointed an agent may sue by and shall be sued in the name of the agent.]

Arrest other than in execution of decree.

105. The provisions of sections 47, 49 and 51 shall apply, so far as may be, to all persons arrested under this Code.

Exemption from arrest of the members of the family of Highness the Maharaja or the Chief of Cranganur.

106. Members of the family of His Highness the Maharaja of Cochin or of the Chief of Cranganur shall not be arrested in execution of any civil process issued before or after decree in any proceeding under this Code.

Exemption from arrest under civil process.

107. (1) No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to presiding in, or returning from his Court.

(2) Where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, and recognized.

(6) The Court or such officer as it may appoint in this behalf, shall cause the document to be registered if its registration is required by the law for the time being in force or the decree-holder desires to have it registered, and may make such order as it thinks fit as to the payment of the expenses of the registration.

33. (1) Where a decree is for the delivery of any immovable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property. Decree for immovable property.

(2) Where a decree is for the joint possession of immovable property, such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming by beat of drum, or other customary mode, at some convenient place, the substance of the decree.

(3) Where possession of any building or enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court through its officers, may, after giving reasonable warning and facility to any woman to withdraw, remove or open any lock, or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

34. Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order, delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property. Decree for delivery of immovable property when in occupancy of tenant.

Arrest and detention in the civil prison

35. (1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is liable to be arrested in Discretionary power to permit judgment-debtor to show cause against detention in prison.

pursuance of the application, the Court ¹[shall] instead of of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to the civil prison.

²[Provided that such notice shall not be necessary if the Court is satisfied, by affidavit or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.]

¹ Substituted by section 3, Act IX of 1114.

² Added by *ibid.*

¹[38 (1) When a judgment-debtor appears before the Court in obedience to a notice issued under Rule 35, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution and shall then give the judgment-debtor an opportunity of showing cause why he should not be committed to the civil prison.

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

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

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

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

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

¹ Substituted by section 4, Act IX of 1114.

Attachment of property

Examination of judgment-debtor as to his property.

39. Where a decree is for the payment of money, the decree-holder may apply to the Court for an order that—

- (a) the judgment-debtor, or
- (b) in the case of a corporation, any officer thereof, or
- (c) any other person,

be orally examined as to whether any or what debts are owing to the judgment-debtor and whether the judgment-debtor, has any and what other property or means of satisfying the decree ; and the Court may make an order for the attendance and examination of such judgment-debtor, or officer or other person, and for the production of any books or documents.

Attachment in case of decree for rent or mesne profits or other matter, amount of which to be subsequently determined.

40. Where a decree directs an inquiry as to rent or mesne profits or any other matter, the property of the judgment-debtor may, before the amount due from him has been ascertained, be attached, as in the case of an ordinary decree for the payment of money.

Attachment of movable property, other than agricultural produce, in possession of judgment-debtor.

41. Where the property to be attached is movable property, other than agricultural produce, in the possession of the judgment-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof :

Provided that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

THE COCHIN MECHANICAL LIGHTERS (EXCISE DUTY)

[ACT], XXXV of 1111

*Passed by His Highness the Maharaja
on the 6th day of Karkadagam 1111 corresponding
to the 21st day of July 1946*

WHEREAS it is expedient to impose an excise duty on mechanical lighters and to provide for the collection thereof; it is hereby enacted as follows.— Preamble.

1. (1) This Act may be called “ the Cochin Mechanical Lighters (Excise Duty) Act, XXXV of 1111.” Short title and extent.

(2) It extends to the whole of Cochin.

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

(a) “manufactory” means any premises wherein mechanical lighters are manufactured;

(b) “mechanical lighter” means any mechanical or chemical contrivance for causing ignition which is portable and which operates by producing a spark or flame whether by itself or when brought into contact with gas, and includes a mechanical lighter issued from a manufactory in an incomplete state or requiring for its completion the addition of a flint; and

(c) “owner” includes any person expressly or impliedly authorised by an owner of a manufactory to be his agent in respect of the manufactory.

3. A duty of excise at the rate of ¹[three rupees] per lighter shall be levied on every mechanical lighter manufactured in any manufactory in Cochin and issued out of such manufactory after the commencement of this Act, and shall be payable by the owner of the manufactory. Imposition of duty.

1. Substituted by section 2, Act XI of 1116.

Sections

17. Exclusion of time during which judgment-debtor, etc., is attempting to set aside execution sale.
18. Effect of death before right to sue accrues.
19. Effect of fraud.
20. Effect of acknowledgment in writing.
21. Effect of payment on account of debt or of interest on legacy.
Effect of receipt of produce of mortgaged land.
22. Agent of person under disability.
Acknowledgment of payment by one of several joint contractors, etc.
23. Effect of substituting or adding new plaintiff or defendant.
24. Continuing breaches and wrongs.
25. Suit for compensation for act not actionable without special damage.
26. Computation of time mentioned in instruments.

PART IV

ACQUISITION OF OWNERSHIP BY POSSESSION

27. Repealed.
28. Repealed.
29. Extinguishment of right to property.

PART V

SAVINGS AND REPEALS

30. Savings.
31. Provisions for suits for which the period prescribed is shorter than that prescribed by the Cochin Limitation Act, 11 of 1079.
32. Repeal of enactments.
The First Schedule.
The Second Schedule.

**THE COCHIN LIMITATION [ACT],
(XII of 1112)
HISTORY OF LEGISLATION**

Year	Number	Short title	Repeal and Amendments
1112	XII	The Cochin Limitation Act.	Partly repealed by Act XXII of 1112 and amended by Proclamation V of 1112, Act LXI of 1112, ² [Proclamation VII of 1116], Acts V of 1118 and I of 1121 and ³ [Proclamation VII of 1112].

Passed by His Highness the Maharaja on the 24th day of Thulam 1112 corresponding to the 9th day of November 1936.

An Act to consolidate and amend the law for the limitation of suits and for other purposes.—

Whereas it is expedient to consolidate and amend ^{Preamble.} law relating to the limitation of suits, appeals and certain applications to courts; and whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; it is hereby enacted as follows.—

**PART I
PRELIMINARY**

1. (1) This Act may be called “The Cochin ^{Short title, extent and commencement.} Limitation Act, XII of 1112.”

(2) It extends to the whole of Cochin, and shall come into force on the 24th day of Thulam 1112.

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

(1) “applicant” includes any person from or through whom an applicant derives his right to apply;

¹ Substituted for ‘Regulation’ throughout the enactment by Proclamation V of 1112.

² Extends the period of limitation in cases affected by cyclone.

³ Period of limitation not to run for periods for which the person instituting the suit is detained by enemy or other war conditions.

come within the words “or by some person who is, either by operation of law or by contract, entrusted with the general management of the affairs of a family” in sub-section (1).

Explanation IV.—For the purposes of this section an application for the execution of a decree or order is an application in respect of a right.

Effect of payment on account of debt or of interest on legacy.

¹ [21. ² [(1) Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy, or by his duly authorised agent, a fresh period of limitation shall be computed from the time when the payment was made.]

Provided that an acknowledgment of the payment appears in the hand-writing of, or in a writing signed by, the person making the payment.

Effect of receipt of produce of mortgaged land.

(2) Where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment for the purpose of sub-section (1).

Explanation.—Debt includes money payable under a decree or order of Court.]

Agent of person under disability.

22. (1) The expression “agent duly authorised in this behalf” in sections 20 and 21, shall, in the case of a person under disability, include his lawful guardian, committee or manager, or an agent duly authorised by such guardian, committee or manager, to sign the acknowledgment or make the payment.

Acknowledgment of payment by one of several joint contractors, etc.

(2) Nothing in the said sections renders one of several joint contractors, partners, executors or mortgagees

1. Substituted by section 8 of Act, LXI of 1112.

2. The substantive portion of the sub-section (1) substituted by section 2, Act V of 1118.

Description of appeal	Period of limitation	Time from which period begins to run
142. Under the same Code to the 1 [High Court] except in the cases provided for by 2 [Articles] 139 and 144.	<i>Part IX-contd.</i> 3 [Sixty days]	The date of the sentence or order appealed 4 [from].
143. Under the Code of Civil Procedure, to the 1 [High Court.]	5 [Ninety days]	The date of the decree or order appealed 6 [from].
144. Under the Code of Criminal Procedure, from a judgment of acquittal.	Six months	The date of the judgment appealed 7 [from].

THIRD DIVISION—APPLICATIONS

Description of application	Period of limitation	Time from which period begins to run
145. 8 [Under the Cochin Arbitration Act, I of 1121 to set aside an award or get an award remitted for consideration.	Thirty days	The date of Service of the notice of filing of the award's.]
146. For an order under the 9 [Code of Civil Procedure, XXIX of 1111] to restore to the file an application for review rejected in consequence of the failure of the applicant to appear when the application was called on for hearing.	Fifteen days	When the application for review is rejected.
147. For a review of judgment in suits tried as small causes.	do.	The date of the decree.
148. By a plaintiff, for an order to set aside a dismissal for default of appearance or for failure to pay costs of service of process or to furnish security for costs.	Thirty days	The date of the dismissal.

1. Substituted by section 32, Act XX of 1113.
2. Substituted for 'Nos.' by section 9 (h) i of Act, LXI of 1112.
3. Substituted for 'Forty-five days' by section 9 (h), ii *ibid.*
4. Substituted for 'against' by section 9 (h), iii *ibid.*
5. Substituted for 'do' by section 9 (i), i *ibid.*
6. Substituted for 'against' by section 9 (i), ii *ibid.*
7. Substituted for 'against' by section 9 (g), *ibid.*
8. Substituted by section 49, Act I of 1121.
9. Substituted by section 49, *ibid.*

Description of application	Period of limitation	Time from which period begins to run
157. Under the same Code, by the assignee or the receiver of an insolvent plaintiff or appellant, for an order to set aside the dismissal of a suit or an appeal.	<i>Part IX-contd.</i> Sixty days	The date of the order of dismissal.
158. For a review of judgment except in cases provided for by Article 147.	Ninety days	The date of the decree or order.
159. For the issue of a notice under the same Code, to show cause why any payment made out of court of any money payable under a decree or any adjustment of the decree should not be recorded as certified.	do.	When the payment or adjustment is made:
160. Under the same Code, to have the legal representative of a deceased plaintiff or of a deceased appellant made a party.	do.	The date of the death of the deceased plaintiff or appellant.
161. Under the same Code, to have the legal representative of a deceased defendant or of a deceased respondent made a party.	do.	The date of the death of the deceased defendant or respondent.
162. ¹ [Under the Cochin Arbitration Act, I of 1121, for the filing in court of an award.]	Ninety days	The date of service of the notice of the making of the award]
163. For payment of the amount of a decree by instalments.	do.	The date of the decree.

(1) Substituted by section 49, Act I of 1121.

and any sale contravening this rule may be treated as fraudulent by the buyer;

(5) the sale may be notified to be subject to a reserved or upset price;

(6) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

¹[64A. In the event of any duty of customs or excise on any goods being imposed, increased, decreased, or remitted after the making of any contract for the sale of such goods without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such goods duty-paid where duty was chargeable at that time—

In contracts of sale amount of increased or decreased duty to be added or deducted.

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, or any part thereof, is paid, the seller may add so much to the contract price as will be equivalent to the amount paid in respect of such duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the buyer may deduct so much from the contract price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay, or be sued for or in respect of such deduction].

65. (1) Nothing in this Act shall affect or be deemed to affect—

(a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(b) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(c) anything done or suffered before the commencement of this Act, or

(d) any enactment relating to the sale of goods which is not expressly repealed by this Act, or

(1) Inserted by section 2, Act III of 1118.

Sale of Goods
Volume V, Page 312 (Cont.)

[1112: Act XXV

- (e) any rule of law not inconsistent with this Act.
- (2) The rules of insolvency relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Act.
- (3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

(2) An agreement made under sub-section (1) shall within thirty days from the date of the making thereof, be registered under the Cochin Registration Act, V of 1084, by the Chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of the Government empowered to execute such agreement within the meaning of section 78 of the Cochin Registration Act, V of 1084.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the Board or a civil court under sub-section (3) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled; the application under section 4 shall be deemed to have been received in the office of the Board on the date of such revival; and all the provisions of this Act shall apply in respect of the application accordingly.

15. In any scheme of debt conciliation under this Act such properties as are exempt from attachment under the Cochin Civil Procedure Code shall not be taken into account and shall be left to the judgment-debtor free from any liability for his debts. Properties exempt from attachment not to be taken into account.

16. In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal. Maximum amount allowable in satisfaction of a debt.

17. (1) If no amicable settlement is arrived at under sub-section (1) of section 14 within twelve months from the date of the application under section 4, the Board shall, unless it extends the period under sub-section (2) of this section, dismiss the application. Power of Board to dismiss application.

(2) The Board may in its discretion, instead of dismissing the application at the end of twelve months, extend the time by a period which in no case shall exceed three months if it is satisfied that there is reasonable chance of a settlement being effected if the period is so

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

extended. If a settlement is not effected within the period the Board shall dismiss the application.

(3) The dismissal of an application under sub-section (1) or sub-section (2) shall be a bar to the presentation of any further application under section 4.]

Grant of
certificate in
respect of
certain debts.

18. (1) Where during the hearing of any application made under section 4 any creditor refuses to agree

Insolvency Act, nor shall such alienation be voidable as made with intent to defeat or delay creditors.

22. No appeal or application for revision shall lie against any order passed by a board.

Bar of appeal or revision.

23. A board may, on application from any person interested made within ninety days of the passing of an order, or on its own motion at any time, review any order passed by it and pass such order in reference thereto as it thinks fit :

Power of board to review its order.

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

24. In any proceedings before a board any party may appear in person or with the permission of the board by a legal practitioner or an agent authorised in writing.

Appearance of parties before board.

25. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall not be proceeded with until the board has disposed of the application.

Stay of pending suits or other proceedings.

¹[Provided that in such cases the civil court may, at any time, on application, appoint a receiver or receivers of any property whether before or after decree in accordance with the provisions contained in Order XXXIX of the Cochin Code of Civil Procedure, Act XXIX of 1111.]

26. Where in the course of an enquiry into an application made under section 4 a board finds that there is any sum owing to Government the board shall report the fact to the Government.

Report by board regarding sums due to Government.

27. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

Computation of period of limitation for suits and proceedings.

(2) The period during which proceedings under this Act have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation

¹ Added by section 2, Act XXVIII of 1113.

THE COCHIN DANGEROUS DRUGS [ACT],
(XLIX of 1112)
HISTORY OF LEGISLATION

Year	Number	Short title	Amendments
1112	XLIX	The Cochin Dangerous Drugs Act	Amended by Act XXXIV of 1113

Passed by His Highness the Maharaja of Cochin on the 9th day of Mithunam 1112, corresponding to the 23rd day of June 1937

Preamble

Whereas it is expedient to define and amend the law relating to dangerous drugs in the Cochin State and to take further measures to suppress the contraband traffic in and abuse of dangerous drugs especially those derived from opium, Indian hemp and coca leaf;

And whereas it is also expedient that the penalties for certain offences relating to dangerous drugs should be increased;

It is hereby enacted as follows.—

CHAPTER I
PRELIMINARY

Short title,
extent and
commence
ment.

1. (1) This Act may be called “The Cochin Dangerous Drugs Act, XLIX of 1112”;
- (2) It extends to the whole of Cochin State; and
- (3) It shall come into force at once.

Definitions.

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

(a) ‘Coca leaf’ means,—

(i) the leaf and young twigs of any coca plant, that is of the *erythroxylon coca* (*Lank*) and the *erythroxylon novo-granatense* (*Hiern*) and their varieties, and of any other species of this genus which the Government may, by notification in the Cochin Government Gazette, declare to be coca plants for the purposes of this Act;

²[and includes the bringing into any port or place in the Cochin State of a dangerous drug intended to be taken out of the State without being removed from the ship or conveyance in which it is being carried] and

¹ Substituted for ‘Regulation’ throughout the enactment by Proclamation V of 1112.

² Added by section 2, Act XXXIV of 1113.

(ii) Any mixture thereof with or without neutral material.

but does not include any preparation containing not more than 0·1 per cent of cocaine ;

(b) "Coca derivative" means,—

(i) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine ;

(ii) ecgonine, that is, laevo-ecgonine having the chemical formula $C_9H_{15}NO_3 \cdot H_2O$, and all the derivatives of laevo-ecgonine from which it can be recovered ;

(iii) cocaine, that is methyl-benzoyl — laevo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$, and its salts ; and

(iv) all preparations, officinal and non-officinal, containing more than 0·1 per cent of cocaine ;

(c) "hemp" means,—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa L*) including all forms known as *bhang*, *siddhi*, or *ganja* ;

(ii) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ; and

(iii) any mixture, with or without neutral materials, of any of the above forms of hemp or any drink prepared therefrom ;

(d) "medicinal hemp" means any extract or tincture of hemp ;

(e) "opium" means,—

(i) the capsules of the poppy (*Papaver Somniferum L*):

(ii) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport ; and

43. Port-charges payable in one port recoverable at any other port.
44. Penalty for evading payment of port-charges.
45. Port-due on vessels in ballast.
46. Port-due on vessels not discharging or taking in cargo.
47. Port-dues not to be chargeable in certain cases.
48. Power to impose hospital port-dues.
49. Application and account of hospital port-dues.

CHAPTER VI

Hoisting Signals

50. Master to hoist number of vessel.
51. Pilot to require master to hoist number.
52. Penalty on pilot disobeying provisions of this Chapter.

CHAPTER VII

Provisions with respect to Penalties

53. Penalty for disobedience to rules and orders of the Government.
54. Offences how triable, and penalties how recovered.
55. Costs of conviction.
56. Ascertainment and recovery of expenses and damages payable under this Act.
57. Costs of distress.
58. Magistrate to determine the amount to be levied in case of dispute.
59. Jurisdiction over offences beyond local limits of jurisdiction.
60. Conviction to be quashed on merits only.

CHAPTER VIII

Supplemental Provisions

61. Foreign deserters.
62. Application of sections 10 and 21.
63. Grant of sites for sailors' institutes.
64. Exercise of powers of conservator by his assistants.
65. Service of written notices of directions.
66. Publication of orders of Government.
- 66A. Authorities exercising jurisdiction in ports to co-operate in manoeuvres for defence of port.
- 66B. Duties of the said authorities in emergency.
67. Repeal.

The First Schedule.—Ports, Vessels chargeable, Rate of Port-dues and Frequency of Payment.

The Second Schedule.—Enactments repealed.

Vessel shall for every such offence, be punishable with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour master or assistant of the port officer or harbour master to go on board the vessel.

32. (1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

Provision of certain vessels with fire-extinguishing apparatus.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to five hundred rupees.

CHAPTER V

PORT-DUES, FEES AND OTHER CHARGES

33. 1[(1) Subject to the provisions of sub-section (1-A), in each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as Government direct, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

Levy of port-dues.

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

(2) Whenever the Government declares any other port to be subject to this Act, it may, by the same or any subsequent declaration, further declare,—

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port.

¹Substituted by section 2, Act I of 1119.

previous sanction of the Government, appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

Exercise of powers of conservator by his assistants.

64. (i) All acts, orders or directions by this Act authorised to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

(ii) Any person authorised by this Act to do any act may call to his aid such assistance as may be necessary.

Service of written notices of directions.

65. Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

Publication of orders of Government.

66. Every declaration, order and rule of the Government made in pursuance of this Act shall be published in the Cochin Government Gazette, and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

Authorities exercising jurisdiction in ports to co-operate in manoeuvres for defence of port.

[66-A. Every authority exercising any powers or jurisdiction in, or relating to any port to which this Act for the time being applies, shall, if so required by an officer authorised by general or special order of the Government in this behalf, co-operate in such manner, as such officer may direct, in carrying out any manoeuvres in connection with any scheme or preparations for the defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material:

Provided, firstly, that if any vessels are placed at the disposal of such officer in accordance with this section, the

Government shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto.

Explanation.—The expression ‘running expenses, in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels:

Provided, secondly, that any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manoeuvres:

Provided, thirdly, that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.

66-B. Whenever the Government is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 66-A on the authorities therein mentioned, or other duties of a like nature, should be imposed on such authorities continuously during the existence of the emergency, it may by general or special order, authorise any officer to require the said authorities to perform such duties until the Government is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely:—

Duties of the said authorities in an emergency.

The Government shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the Government, and the decision of such person shall be final.]

67. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column of that schedule. Repeal.

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

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

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

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

Procedure
when no
Chairman or
Vice-Chairman
is elected.

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

Commissioner
of the Muni-
cipality.

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

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

¹ Substituted by section 2, Act VI of 1120.

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

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

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

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

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

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

The Chairman and the Executive Authority

14. The Chairman of the Municipal Council shall—

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

Functions of
the Chair-
man.

² Substituted by section 2, Act VI of 1119.

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

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

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

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

Disqualifica-
tions of
voters.

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

Qualifications
of candidates
for member-
ship of
Council.

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

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

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

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

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

(1) Substituted by section 3, Act VI of 1119.

1113: Act XVIII]

Municipal

Volume VI, Page 83—(cont.)

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

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

Disqualifica-
tion of candi-
dates

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

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

Decision on questions of disqualifications of Councillors by District Judge.

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

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

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

Election Offences

Infringement of secrecy of election.

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

Disqualifications of person convicted of election offences.

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

1. Inserted by section 3, Act VII of 1118.

PART III

CHAPTER VI.—TAXATION AND FINANCE

72. (1) Every Municipal Council may levy—

(a) a property tax;

(b) a tax on companies;

(c) a tax on profession and other sources of income;

¹[(d) a tax on animals:]

Enumeration
of ordinary
taxes power
and of control
of Government.

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

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

Provided that before passing a resolution imposing a tax for the first time in the Municipality or increasing the rate of an existing tax ²[.....] the Council shall publish a notice in the Government Gazette of their intention, fix a reasonable period not being less than one month for submission of objections and consider objections, if any, received within the period specified:

Provided also that no resolution abolishing an existing tax ²[.....] or reducing the rate at which a tax ²[.....] is levied shall be carried into effect without the sanction of the Government:

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

1. Substituted by section 18, Act XIII of 1121.

2. Deleted by section 18, *ibid.*

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

Notification of
new taxes.

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

The property tax

Description
and classes of
property tax.

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

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

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

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

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

1. Deleted by section 18, Act XIII of 1118.

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

(c) If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year¹ [succeeding] the demolition or destruction as the case may be.

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

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

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

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

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

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

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

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

¹. Substituted by section 4, Act VII of 1118.

Service of
notice on
failure of pay-
ment of tax.

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

Statements,
returns, etc.,
to be confi-
dential.

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

Requisition on
owner or oc-
cupier to
furnish list of
persons liable
to tax.

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

Requisition on
employers or
their represent-
atives to fur-
nish such list.

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

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

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

Tax on animals

General pro-
visions regard-
ing tax on
animals.

1[93. 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.]

1. Substituted by section 18, Act XIII of 1121.

94. (1) Every person having possession, custody or control of any taxable ²[* *] animal shall be liable for the full half-yearly tax if the ²[* *] animal has been kept within the Municipality for an aggregate period of not less than 60 days in the half-year. Liability to tax according to period for which animal has been kept.

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

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

(4) Every person having possession, custody or control of any taxable ²[* *] animal within the Municipality shall until the contrary is shown, be presumed to have kept the same within the Municipality for 60 days in the half-year.

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

(6) No person who shall prove that he has paid in any half-year the tax levied under this Act on account of any ²[* *] animal in one Municipality, shall be liable by reason merely of change of place to more than the difference between the amount of such tax and the tax to which he is otherwise liable on account of such ²[* *] animal for the same half-year in any other

¹. Deleted by section 18, Act XIII of 1121.

². Deleted by section 18, *ibid.*

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

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

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

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

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

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

(e) carriages and animals belonging to Municipal Councils;

(f) cattle used exclusively for agricultural purposes.

Composition. 96. With the sanction of the Council or in accordance with the regulations framed by that body, the executive authority may compound, for any period not exceeding one year, with any livery stable keeper or other person ¹[*] keeping animals for sale or hire, for a certain sum to be paid in lieu of the ¹[] animal tax.

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

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

(3) On the expiry of the period of one week referred to in sub-section (2) the executive authority shall cause a notice to be served on such person requiring him to pay

¹. Deleted by section 18, Act XIII of 1121.

within fifteen days of the date of such service the sum for which, in the opinion of the executive authority, such person is liable on account of the tax on ¹[**] animals.

98. When any person pays the amount of tax due in respect of any ¹[**] animal, the executive authority shall grant him a license to keep such ¹[**] animal for the period to which the payment relates.

Grant of
license on pay-
ment of tax.

²[**]

1. Deleted by section 18, Act XIII of 1121.

2. Sections 99 to 108 both inclusive deleted by section 18, Act XIII of 1121.

General Provisions Regarding Taxation and Finance

Power to
exempt from
taxes.

109. With the sanction of the Government the Municipal Council may exempt any person or class of persons wholly or in part from payment of any tax. [**]

Council's
power to write
off irrecover-
able taxes.

110. If in the opinion of the Municipal Council, any tax or [**] fee or other amount whatsoever due to it, whether under a contract or otherwise, is irrecoverable the Council may write off the same together with any sum payable in connection therewith.

Definition of
Municipal
Fund.

111. All moneys received by the Municipal Council shall constitute a fund which shall be called the Municipal Fund and shall be applied and disposed of subject to the provisions of this Act or other laws. The funds shall be lodged in the Government treasury or such other place as the Government may direct.

Budget
estimate.

112. The Municipal Council shall furnish, for the sanction of the Government, an annual statement or estimate showing the probable receipts and the expenditure which is proposed by the Municipal Council to incur during the next year and the items in respect of which it is proposed to incur such expenditure.

Control of
Government
over Municipal
Budget.

113. The Government may pass such orders as they think fit upon the budget estimates submitted to them under section 112 and such orders shall be binding on the Municipal Council. When the Government pass orders under this section, they shall have due consideration for the liabilities in respect of loans contracted by the Council, and for the maintenance of a working balance.

Appointment
of auditors of
accounts.

114. The Government shall appoint auditors of the accounts of receipts and expenditure of the Municipal fund. Such auditors shall be deemed to be public

(1) Deleted by section 18, Act XIII of 1121.

servants within the meaning of section 15 of the Cochin Penal Code. All expenses incurred on account of the audit staff shall be charged to Municipal Councils in such proportion as the Government may fix.

115. The Government may, after previous publica- Power of Government to make rules.
tion make rules regarding—

- (a) the assessment of property taxes;
- (b) the assessment of the tax on Companies and tax on profession and other sources of income;
- (c) the levy of the ¹[**] animal tax ¹[**];
- (d) the revision of assessment;
- (e) the collection of taxes ² [and dues;]
- (f) other miscellaneous matters connected with taxation under this Act;
- (g) the auditing of the accounts and surcharge and disallowance by auditors; and
- (h) the purposes to which the Municipal fund may be applied.

Such rules shall be read as part of this Chapter and shall have the force of law.

116. (1) If the expenditure incurred, by the Gov- Contributions to expenditure incurred by other local authorities.
ernment or by any other Municipality to which this Act applies, or by any other local authority for any purpose authorised by or under the rules framed under clause (h) of section 115 is such as to benefit the inhabitation of a Municipality, the Municipal Council may, with the sanction of the Government, make a contribution towards such expenditure.

(2) The Government may direct a Municipal Council to show cause within a month after a receipt

(1) Deleted by section 18, Act XIII of 1121.

(2) Substituted by section 18, *ibid.*

(a) over any lake, tank or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and over all lands within one mile of the high water level of any such lake, tank or reservoir;

(b) over any water course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use; and

(c) over any lands used for sewage, farms, sewage disposal tanks, filters and other works connected with the drainage of the Municipality.

CHAPTER VIII

Scavenging

Municipality to arrange for the removal of rubbish and filth.

147. Every Municipal Council shall so far as the funds at its disposal admit, make adequate arrangements for:—

(a) the regular sweeping and cleansing of the streets and removal of sweepings therefrom;

(b) the daily removal of filth and the carcasses of animals from private premises; and

(c) the daily removal of rubbish from dust-bins and private premises; and with this object it shall so far as the funds at its disposal admit provide—

(i) depots for the deposit of filth, rubbish and the carcasses of animals;

(ii) covered vehicles or vessels for the removal of filth;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and

(iv) dust-bins for the temporary deposit of rubbish.

Cleansing of private latrines, etc.

¹[147 A. Where the property tax levied in a Municipality does not comprise a scavenging tax as referred to in clause (c) of sub-section (1) of section 74, the executive authority may contract with the owner or occupier of any

¹ Inserted by section 2, Act VIII of 1115.

premises to remove rubbish or filth or any particular kind of rubbish or filth, from such premises or any place belonging thereto on such terms as to times and periods of removal and other matters as may seem suitable to the executive authority, and on payment of fees at such rate calculated to cover the cost of the service as the Council may have laid down with the approval of the Government.]

148. The Council shall make any special scavenging arrangements that may be necessary on occasions of fairs, festivals or other large assemblies of people and in the case of such assemblies held in connection with any place of pilgrimage in or within one mile of the Municipality, the Council may require the persons having control over such place of pilgrimage to make such contribution as the Government may, on each such occasion fix towards the cost of such arrangements.

Scavenging on occasions of fairs and festivals and contributions from persons having control over places of pilgrimage.

149. No person shall, after due provision has been made under section 147 by the Municipal Council for the deposit and removal of the same,

Prohibition of improper disposal of carcasses, rubbish and filth.

(a) deposit the carcasses of animals, rubbish or filth in any street or on the verandah of any building or on any unoccupied ground alongside any street or on any public quay, jetty or landing place or on the bank of a water course or tank; or

(b) deposit filth or carcasses of animals in any dust-bin or in any vehicle not intended for the removal of the same; or

(3) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

Explanation.—A cart-stand shall, for the purpose of this Act, include a stand for carriages and animals.

Prohibition of private landing-places, halting-places, bus-stands and cart-stands

252. No person shall open for the purpose of hiring out a new private landing place, halting place, bus-stand or cart-stand or continue to keep open a private landing place, halting place, bus-stand or cart-stand within Municipal limits or at a distance within one mile from such limits.

Prohibition of use of public places or sides of public street as cart-stand, etc.

253. Where a Municipal Council has provided a public landing place, halting place or cart-stand the executive authority may prohibit the use for the same purpose by any person within such distance thereof, as may be determined by the Municipal Council, of any public place or the sides of any public street.

Recovery of cart-stand fees.

(¹) [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

1. Substituted by section 18, Act XIII of 1121.

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.]

Industries and Factories

255. (1) The Council may publish by notification in the Cochin Government Gazette and by beat of drum that no place within Municipal limits or at a distance within one mile of such limits shall be used for any one or more of the purposes specified in Schedule V without the license of the executive authority and except in accordance with the conditions specified therein: ² [and where the license is for keeping hotels, restaurants, eating houses, coffee houses, boarding houses, laundries or running barber saloons the license issued by the executive authority shall always contain and be deemed to contain a condition that admission or service therein shall not be denied or restricted to any person on the ground that he belongs to a particular caste or creed.]

Purposes for which places may not be used without license.

Provided that no such notification shall take effect—

(a) until sixty days from the date of publication, and

2. Added by section 2. Act XIII of 1122

Penalty for withdrawal of scavengers without notice.

(2) Should any scavenger employed by the Council, in the absence of a written contract authorising him so to do, and without reasonable cause, resign his employment or absent himself from his duties, without giving one month's notice to the Council or neglect or refuse to perform his duties, or any of them, he shall be liable on conviction to a fine not exceeding Rs. 50 or to imprisonment of either description which may extend to two months.

Application of sub-sections (1) and (2) to other Municipal servants.

(3) The Government may, by notification, direct that on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to scavengers shall apply also to any specified class of Municipal servants whose functions intimately concern the public health or safety.

Wrongful restraint of executive authority and his delegates.

327. Every person who prevents the executive authority or any person to whom the executive authority has lawfully delegated his powers of entering into or on any land or building from exercising his lawful power of entering thereinto or thereon shall be deemed to have committed an offence under section 172 of the Cochin Penal Code.

Penalty for not giving or giving false information.

328. If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information—

(a) omits to furnish it, or

(b) knowingly or negligently furnishes false information, such person shall be liable to a fine not exceeding Rs. 100.

PART VI

CHAPTER XVI.—PROCEDURE AND MISCELLANEOUS

Appeals

Appeals from Chairman or Executive Authority of the Council.

329 ¹[(1)] An appeal from any notice or order issued or other action taken or proposed to be taken by the Chairman or the Executive Authority under the provisions of this Act shall in the first instance lie to the Municipal Council, and the Council may pass such orders as it deems fit.

1. Renumbered by section 6, Act VII of 1118.

⁽²⁾[(2) Any person aggrieved by any notice or order issued or passed by, or by any other act of a Municipal Council or its Chairman or executive authority under this Act may appeal to the Diwan or such other officer as may be appointed by Government in that behalf. The Diwan or other appellate officer may pass such orders on the appeal as he thinks fit and pending decision may direct the Council, Chairman, or executive authority to keep the proceedings in abeyance.

(3) An appeal under sub-section (1) or (2) shall be presented within 30 days from the date of the act or the promulgation or service of the order or notice complained of. The time occupied in obtaining copies of material papers in connection with the order, notice or act appealed against shall be excluded from the computation of the said thirty days.]

Power to Summon

Summons to attend and give evidence or produce documents.

330. The executive authority may summon any person to attend before him and to give evidence or produce documents, as the case may be in respect of any question relating to taxation, or inspection or registration or to the grant of any license under the provisions of this Act. The Government may, by notification, extend this power to any officer acting under this Act.

Notices, etc.

Form of notices and permissions.

331. All notices and permissions given, issued or granted, as the case may be under the provisions of this Act, must be in writing.

Signature on documents.

332. Every license, written permission, notice, bill schedule, summons or other document which is required by this Act or by any rule, by-law or regulation made under it to bear the signature of the Chairman or executive authority or of any Municipal officer shall be deemed to be properly signed if it bears a

by any rule, by-law, regulation or order made under it, for the purpose of depositing on such land any soil, gravel stone or other materials; or obtaining access to such work or for any other purpose connected with the carrying on thereof.

(2) The executive authority or person authorised by him as aforesaid, shall, before entering on any land under sub-section (1) give the owner or occupier 3 days' previous notice of the intention to make such entry, and state the purpose thereof; and shall, if so required by the owner or occupier, fence off so much of the land as may be required for such purpose.

(3) The executive authority shall not be bound to make any payment, tender or deposit before entering on any land under sub-section (1), but as little damage as may be shall be done and the executive authority shall pay compensation to the owner and occupier of the land for such entry, and for any temporary or permanent damage that may result therefrom.

(4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the executive authority, he may appeal to the Council.

340. The executive authority or any person authorised by him in this behalf may examine and test the weights and measures used in markets and shops in the Municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XII of the Cochin Penal Code.

Inspection and stamping of weights and measures.

Power to enforce licensing provisions, orders, etc.

341. If, under this Act or any rule, by-law or regulation made under it, the license or permission of the Council or [executive authority] or registration in the Municipal

Consequence of failure to obtain licences etc. or of.

(1) Substituted by section 2, Act XIII of 1114.

(3) No distraint or sale under this Act shall be deemed to be unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory or other proceeding relating thereto; nor shall such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him if the provisions of this Act, of the rules and of the by-laws, have in substance, and effect been complied with:

Provided that every person aggrieved by such irregularity may recover satisfaction for any special damage sustained by him.

Police

Duties of
Police officers.

359. (1) It shall be the duty of every police officer: —

(a) to communicate without delay to the proper Municipal officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, by-law or Regulation made under it:

(b) to assist the Chairman, the executive authority or any Municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or the executive authority or in such Municipal officer or servant under this Act or any such rule, by-law or Regulation; and

(c) [.....]

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall

(1) Deleted by section 18, Act XIII of 1121.

be deemed to have committed an offence under section 7 or 19 of Act I of 1058.

360. (1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule or by-law made under it, he shall if the name and address of such person are unknown to him and if the said person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

Power of police officer to arrest persons.

(2) No person arrested under sub-section (1) shall be detained in custody—

(a) after his true name and address are ascertained, or

(b) without the order of a Magistrate, for any longer time, not exceeding twenty-four hours from the hour of arrest, than is necessary for bringing him before a Magistrate.

361. The Government may empower any Municipal servant or any class of Municipal servants to exercise the powers of a police officer for the purposes of this Act, the Motor Vehicles Act and of the Nuisance Act.

Exercise of powers of police officer by Municipal servants.

Miscellaneous

362. Every Municipal officer or servant, every contractor or agent for the collection of any Municipal tax, '[.....] fee or other sum due to the Municipal Council and every person employed by any such contractor or agent for the collection of such tax, '[.....] fee or sum shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

Application of term "Public Servant" to Municipal Officers, agents and sub-agents.

363. No person shall obstruct or molest the Council, the Chairman, any Councillor, the executive authority or any person employed by the Municipal Council or any person with whom a contract has been

Prohibition against obstruction of Municipal authorities, servants and contractors.

this Act subject to such restrictions and modifications as they may think fit;

(b) enforce either permanently or temporarily all or any of the provisions of this Act relating to scavenging (Chapter VIII), nuisances (Chapter XI), licenses and fees (Chapter XII) and vital statistics and the prevention of diseases [Sections 139, 140, 141 and 142 of Chapter VII and (Chapter XIII)], in any specified area in a taluk and appoint officers for carrying out these provisions. Such officers shall have the powers of a Municipal authority.

Special provision in the case of newly constituted and reconstituted Municipal Councils.

374. (1) Notwithstanding anything contained in this Act, when a Municipality is constituted for the first time, the Government may appoint a special officer to exercise the powers, discharge the duties and perform the functions of the Municipal Council and its Chairman and executive authority.

(2) The special officer shall cause arrangements for election to be made so that the newly elected Councillors may come into office on a day within six months from the date of publication of the notification under subsection (3) of section 4 declaring the area to be a Municipality.

(3) The special officer shall exercise the powers, discharge the duties and perform the functions of the Municipal Council until the Council has been constituted, of the Chairman until a Chairman has been elected by the Council and of the executive authority until a Chairman has been elected or a Commissioner has been appointed, as the case may be.

(4) As soon as may be after the constitution of the Council, a meeting of the Council shall be held on a day and at a time fixed by the special officer for the election of its Chairman. If at such meeting no Chairman is elected, a fresh election shall be held on such day and at such time as may be fixed by the special officer.

(5) The term of office of the Councillors or of the Councillors elected in their places at casual

(1) Substituted by section 3, Act VIII of 1115.

Class XII

If the salary, pension or income is Rs. 2,000
and above a month

Rs. 80 for the first Rs. 2,000 and Rs. 15 for every Rs. 500 or part there- of above the first Rs. 2,000	Rs. 100 for the first Rs. 2,000 and Rs. 20 for every Rs. 500 or part there- of above the first Rs. 2,000
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SCHEDULE III

[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 buffalo	0	8
For every ass	0	4
For every dog or bitch	0	8
For every pig	0	8]

(1) Substituted by section 18, Act XIII of 1121. The same section deletes Schedule IV.

SCHEDULE V

Purposes for which premises may not be used without a license under section 255

- (a) Washing soiled clothes and keeping soiled clothes for the purpose of washing them and washed clothes.
- (b) boiling paddy, or camphor;
- (c) melting tallow or sulphur or using acids for any process;
- (d) storing or otherwise dealing with manure, offal, blood, bones, rags, hides, fish, horns or skins;
- (e) washing or drying wool or hair;
- (f) making or storing fish oil;
- (g) making soap, dyeing, boiling or pressing oil, burning bricks, tiles, pottery or lime;
- (h) manufacturing or distilling sago, manufacturing artificial manure or manufacturing beedies;
- (i) manufacturing or storing gunpowder or fire works including crackers;
- (j) keeping a public halting place, choultry or other rest house for travellers (other than a choultry or a rest house maintained by the Government or a local authority), a hotel, restaurant, eating house, coffee house, boarding house or lodging house (other than a student's hostel under public or recognised control);
- (k) keeping together twenty or more sheep or goats ¹[one or more pigs or ten or more heads of cattle;]
- (l) preparing flour or articles made of flour for human consumption or sweet meats;
- (m) manufacturing ice or aerated waters;
- (n) selling or storing timber, fire-wood, thatching materials, hay, grass, straw fibre, coal or charcoal;
- (o) selling grain, rice or jaggery wholesale or storing grain, rice or jaggery for the wholesale trade;
- (p) manufacturing jaggery or sugar candy;
- (q) storing any explosive or combustible material;
- (r) manufacturing or storing anything from which offensive or unwholesome smells arise;
- (s) using for any industrial purpose any fuel or machinery;
- (t) running a barber saloon, and
in general, doing in the course of any industrial process anything which is likely to be dangerous to human life, health or property:

Provided that no license shall be required for the storage of grain, rice, timber, firewood, thatching materials, hay, grass, straw, fibre, charcoal or coal for private use.

¹ Substituted by Notification No. 579, dated 29.h Mithunam 1115) 3rd July 1940).

4. (1) The Bar Council shall consist of nine members, of whom— Composition
of Bar
Council.

(a) one shall be the Advocate-General;

(b) three shall be persons nominated by the High Court; and

(c) five shall be elected by the advocates of the High Court from amongst their number:

Provided that the members of the first Bar Council to be constituted under the Act, other than the Advocate-General, shall be wholly nominated by the High Court and shall hold office for one year.

(2) Of the elected members of the Bar Council, not less than three shall be persons who have for not less than ten years been entitled as of right to practice in the High Court or in the Chief Court¹ [or in both the Courts together.]

(3) The Advocate-General shall be the Chairman, *Ex-Officio* of the Bar Council, and there shall also be a Vice-Chairman elected by the Bar Council in such manner as may be prescribed.

5. (1) Rules consistent with this Act, may be made to provide for the following matters, namely:— Power to
make rules
regarding
constitution
and procedure
of Bar
Council and
qualifications
of advocates,
etc.

(a) the manner in which elections of members of the Bar Council shall be held; the method of determining, in accordance with the provisions of sub-section (2) of section 4, the candidates who shall be declared to have been elected; the manner in which the result of elections shall be published; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided;

(b) the terms of office of members of the Council nominated under clause (b) and elected under clause (c) of section 4;

(1) Added by section 2, Act XI of 1115.

(5) Any sum ordered under this section to be recovered as a contribution to the assets of the society or as costs of liquidation may be recovered, on a requisition being made in this behalf to the Diwan Peishkar by the Registrar in the same manner as arrears of land revenue.

(6) Save as provided in sub-section (5) orders made under this section shall, on application, be enforced by any Civil Court having local jurisdiction in the same manner as a decree of such court.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(8) Any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post or anchal.

Bar of suit in certain cases.

50. Save in so far as is expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act, and, when a liquidator has been appointed, no suit or other legal proceedings shall lie, or be proceeded with, against the society except by leave of the Registrar and subject to such terms as he may impose.

SURCHARGE AND ATTACHMENT

Surcharge.

51. (1) Where in the course of an audit under section 38 or an enquiry under section 39 or an inspection under section 40 or the winding up of a society, it appears that any person who has taken part in the organisation or management of the society or any past or present officer of the society ¹[has caused loss or waste or any misapplication of any money or other property owned or vested in the society or misappropriated] or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator

1. Substituted by section 2, Act IV of 1121.

6. Notice of a marriage under this Act shall be given by such person and to such authority and in such form and within such time as the Government may prescribe. Failure to give the prescribed notice shall be punishable with fine which may extend to Rs. 200 but such failure shall not invalidate the marriage or affect the legal rights of the parties to, or of the offspring of, such marriage.

Notice of marriage.

7. Whoever, being a male above 18 years of age, solemnises a marriage declared invalid under section 5 shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

Punishment for solemnisation of marriage declared invalid under section 5.

8. Where, after the date of this Act, a marriage declared invalid under section 5 is solemnised by a minor, any person having charge of such minor, whether as parent or guardian or in any other capacity, who does any act to promote the marriage or permits it to be solemnised shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

Punishment for permitting marriage invalid under section 5.

9. No court other than that of the District Magistrate shall take cognisance of or try any offence under sections 6, 7 and 8 [and except upon a complaint in writing made to such Court by the Tahsildar or Deputy Tahsildar of the Taluk in which the offence under any of these sections has been committed].

District Magistrate to try offences under sections 6, 7 and 8.

10. No court shall take cognisance of any offence under sections 6, 7 and 8, save upon complaint made within one year of the commission of such offence.

Complaint to be filed within one year of the offence.

11. The marriage of a male during the continuance of a prior marriage and performed after the coming into force of Act XIII of 1095 shall be void.

Subsequent marriage of a male during the continuance of prior marriage void.

12. A polyandrous marriage whether performed before or after this Act shall be void.

Polyandrous marriage whenever performed is void.

13. No one having a personal law of his own allowing polygamy shall marry a Nayar female while already married to a caste wife or marry a caste wife while having a Nayar wife already.

Prohibition of Polygamy even in case of those having a personal law allowing it.

¹ Added by section 2 Act XII of 1115.

Karanavan
entitled to a
share of the
net income

52. The Karanavan shall be entitled at the end of the year to appropriate for himself besides his maintenance an amount not exceeding 25 per cent but subject to a maximum of Rs. 900 out of the tarwad income which remains after meeting all the tarwad expenses including interest on tarwad debts.

Consent of
major mem-
bers necessary
to validate
alienations
of tarwad
property.

53. Except with the written consent of all the major members of the tarwad, wherever possible, no Karanavan shall sell, ¹[Lease, mortgage or pledge tarwad properties, movable or immovable] or grant renewals of kanom for a period of more than twelve years, or give discharges of mortgages or pledges.

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

Mortgages and
alienations
when invalid.

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

Burden of
proving tarwad
necessity.

55. The burden of proving tarwad necessity shall be on the purchaser, mortgagee, pledgee or other alienee or creditor, as the case may be. But the court may presume such necessity where all the major members of the tarwad are parties to or have given their written consent to the transaction.

What decrees
shall bind the
tarwad.

56. No decree shall bind a tarwad unless it be obtained against all the members thereof. But the mere omission to implead any member other than the Karanavan shall not be taken to invalidate it if the decree-holder proves that such omission was not due to his.

¹ Added by section 2, Act XVI of 1118.

or any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation ¹[in respect of the loss, waste, misapplication or misappropriation] fraudulent retainer or breach of trust as the Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final, unless it is set aside by the District Court having jurisdiction over the area in which the Headquarters of the society are situated, on application made by the party aggrieved, within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Diwan Peishkar by the Registrar in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding any Criminal liability that such person or officer may have incurred by his act.

52. Where the Registrar is satisfied on the application of the liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be passed against him under clause (c) of sub-section (3) of section 49 or section 51,

Attachment of property.

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary, and such attachment shall have the same effect as if it had been made by a competent Civil Court.

¹ Substituted by section 2, Act IV of 1121.

with unlimited liability and the maximum rate of dividend which may be paid by societies;

(w) prescribe the procedure to be followed by a liquidator appointed under section 49, and provide for the disposal of surplus assets, if any, of the society;

(x) subject to the provisions of this Act, determine the cases in which an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of all appeals under this Act;

(y) prescribe the period for which and the terms under which aid may be given by the Government to societies and the terms under which the Government may guarantee the payment of interest on debentures issued by societies;

(z) provide for the custody of property attached under this Act;

(aa) provide for the issue and service of processes and for the proof of service thereof;

(bb) provide for the inspection of documents in the Registrar's Office and the levy of fees for granting certified copies of the same;

(cc) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him;

(dd) provide for the recovery of costs awarded against the Government in cases under section 51;

(ee) prescribe the procedure for the attachment and sale of property under section 70; ¹[....]

²[(ff) provide for the compulsory affiliation of societies to supervising unions and the levy of supervision fees; and]

³[(gg) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

¹ Deleted by section 3, Act IV of 1121.

² Inserted by section 3, *ibid.*

³ Relettered by section 3, *ibid.*

(a) to all Nambudiris in the Cochin State.

Definitions.

(b) ¹[to all Nambudiris] outside the State in respect of immovable property situated within the State.

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

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

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

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

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

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

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

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

CHAPTER II

ILLOM AND ITS MANAGEMENT

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

Proprietary
right of
members in
illom proper-
ties.

¹ Substituted by section 2, Act XVI of 1118.

Anandaravan's right to see illom properties safe.

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

Right to seek removal of Karanavan.

5. Every member of an illom has the right to seek the removal of the Karanavan by a decree of court if it can be shown that he is physically, mentally or morally incapable of transacting its affairs, or that he habitually mismanages the concerns of the illom or that he is guilty of conduct of a kind tending to defeat the very purpose for which the illom exists.

Duty of Karanavan to keep accounts.

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

Karanavan to maintain inventory of all movables and immovables.

7. The Karanavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the illom. The original or an attested copy of the inventory shall be available for inspection by the major anandaravans once in a year throughout the month of Kanni, and any such anandaravan may take copies of or extracts from such inventory.

Karanavan entitled to a share of the net income.

8. The Karanavan shall be entitled at the end of the year to appropriate for himself besides his maintenance an amount not exceeding 25 per cent but subject to a maximum of Rs. 900 out of the illom income which remains after meeting all the illom expenses including interest on illom debts.

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

9. Except with the written consent of the majority of all the major members of the illom, no Karanavan shall sell, ¹[lease, mortgage or pledge illom property, movable or immovable,] or grant renewals of kanam for a period of more than twelve years or give discharges of mortgages or pledges:

¹ Substituted by section 2, Act XVI of 1118.

31. The Karanavan or the Manager for the time being shall maintain a true and correct inventory of all movables and immovables of a tarawad and it shall be open to inspection by the anandaravans thereof once a year on joint notice of one month given previously by a majority of the anandaravans.

Karanavan to maintain inventory of all movables and immovables.

32. The Karanavan or the Manager for the time being shall be entitled at the end of the year to appropriate besides his maintenance an amount not exceeding 25 per cent of the net realised income of the tarawad up to a maximum of Rs. 900. So far as this amount is concerned it shall be deemed to be his self-acquisition.

Emoluments of the Karanavan.

Explanation.—For the purpose of this section the term “net realised income” means the surplus income left, if any, after meeting all the tarawad expenses including interest on tarawad debts.

33. Except with the written consent of all the major members of the tarawad, whenever possible, no karanavan or the manager for the time being shall sell, ¹[lease, mortgage or pledge tarawad properties movable or immovable,] or grant renewals of kanam for a period of more than 12 years or give discharges of mortgages or pledges. For the purposes of this section, movables include ornaments, vessels and other valuables and do not include usufructs and grains realised in the shape of pattam.

Consent of major members necessary to validate alienation of tarawad properties.

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

Mortgages, alienations and debts when binding.

35. The burden of proving tarawad necessity shall be on the purchaser, mortgagee, pledgee or other alienee or creditor, as the case may be. But the court

Burden of proving tarawad necessity.

¹ Substituted by section 2, Act XVI of 1118.

[* * * * *]

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

Where the payment excluding the amount of the tax—	
² (i) is not more than two annas	.. Three pies.
(i-a) is more than two annas but is less than six annas	.. Six pies.]
(ii) is six annas or more but is less than twelve annas	.. One anna.
(iii) is twelve annas or more but is less than one rupee eight annas	.. Two annas.
(iv) is one rupee eight annas or more but is less than two rupees eight annas	.. Four annas.
(v) is two rupees eight annas or more but is less than three rupees eight annas	.. Eight annas.
(vi) is three rupees eight annas or more but is less than four rupees eight annas	.. Twelve annas.
(vii) is four rupees eight annas or more but is less than six rupees eight annas	.. One rupee.
(viii) is six rupees eight annas or more but is less than nine rupees eight annas	.. One rupee. eight annas.
(ix) is nine rupees eight annas or more but is less than ten rupees	.. Two rupees.
(x) is ten rupees or more—for the first ten rupees and for every ten rupees and part of ten rupees over ten rupees	.. Two rupees.

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

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

¹ Deleted by section 2, Act VII of 1120.

² Substituted by section 2, *ibid.*

¹[(b) providing for the scaling down of non-decreed debts, pattam and michavaram;

(c) providing for appeals against orders passed by a court under this Act]

²[(d)] prescribing the form of, and the fees to be paid in respect of, applications under this Act; and

² [(e)] for removing any difficulty in giving effect to the provisions of this Act.

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

¹ Inserted by section 2, Act IX of 1116.

² Relettered by section 2, *ibid.*

Registration,
where to be
made.

22. (1) Subject to the provisions of section 24 every owner of a motor vehicle shall cause the vehicle to be registered by the registering authority.

(2) A motor vehicle already registered under any enactment in force in Cochin State at the commencement of this Act shall be deemed to be registered under this Act [until such date as Government may by notification in the Cochin Government Gazette, specify in this behalf] and on the application of the owner before that date shall be registered under this Act without payment of any registration fee.

(3) Government may, by rules made under section 38, provide that within a prescribed period certificates of registration of any prescribed class of transport vehicles deemed to be registered under this Act by virtue of subsection (2) shall be presented to a prescribed authority for the entry therein of all or any of the particulars specified in section 35.

Registration,
how to be
made.

23. (1) An application by or on behalf of the owner of a motor vehicle for registration shall be in Form E as set forth in the First Schedule, shall contain the information required by that form, and shall be accompanied by the prescribed fee.

(2) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in Form G as set forth in the First Schedule and shall enter in a record to be kept by it particulars of such certificate.

(3) The registering authority shall assign to the vehicle, for display thereon in the prescribed manner, a distinguishing mark (in this Act referred to as the registration mark) consisting of the letters specified in the Fifth Schedule followed by a number containing not more than four figures.

¹ Substituted by section 2, Act V of 1119.

A. Chapter VII brought into force by Proclamation XVI of 1121.

of the rent-in-kind by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building ;

(2) "assessee" means a person by whom income-tax is payable ;

(3) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ;

(4) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 8 ;

(5) "company" means a company as defined in the Indian Companies Act, 1913, ¹[or the said Act] as made applicable to Cochin or formed in pursuance of the law of any other Indian State or of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession and includes any foreign association whether incorporated or not, which the Government may, by general or special order, declare to be a company for the purposes of this Act ;

(6) "dividend" includes—

(a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ;

(b) any distribution by a company of debentures or debenture-stock, to the extent to which the company possesses accumulated profits, whether capitalised or not ;

(c) any distribution made to the shareholders of a company out of

¹ Inserted by section 2, Act IX of 1118.

accumulated profits of the company on the liquidation of the company:

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included; and

(d) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of Chingam 1111, whether such accumulated profits have been capitalised or not:

Provided that "dividend" does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (c) or (d).

Explanation.—The words "accumulated profits," wherever they occur in this clause, shall not include "capital profit."

(7) "Deputy Commissioner" means a person appointed to be Deputy Commissioner of Income-tax under section 8;

1[(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,

¹ Inserted by section 2, Act XVII of 1121.

1117: Act VI]

Income-tax

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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.]

(8) "firm," "partner" and "partnership" have the same meanings respectively as in the Cochin Partnership Act, XXIV of 1112; provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership;

amount of such ground rent; and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that no allowance shall be made in respect of any interest or annual charge payable without Cochin and chargeable under this Act, except interest or a charge on which tax has been paid or from which tax has been deducted under section 21 or in respect of which there is an agent for the payee in Cochin who may be assessed under section 53;

(v) any sums paid on account of land revenue, local rates or Municipal taxes in respect of the property;

(vi) in respect of collection charges, a sum not exceeding the prescribed maximum;

(vii) in respect of vacancies, that part of ¹[the annual value] which is proportional to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of ¹[the annual value,] appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied;

(2) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year;

¹ Substituted by section 3, Act IX of 1118.

85 exceed in the case of an individual, one-sixth of the total income of the assessee, or six thousand rupees whichever is less, and in the case of a Hindu undivided family, or undivided *Marumakkathayam tarawad*, one sixth of the total income of the assessee, or twelve thousand rupees, whichever is less.

¹[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.] Exemption of portion of earned income.

19. (1) In computing the total income of an assessee— Exemptions and exclusions determining the total income.

(a) any sums exempted under the second proviso to sub-section (1) of section 10, the second proviso to section 11, sub-section (2) of section 17 and section 18 shall be included;

²[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.]

(b) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year:

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 30;

(c) all income arising to any person by virtue of a settlement or disposition whether revokable or not, and whether effected before or after the commencement of this Act, from assets remaining the

¹ Inserted by section 3, Act XVII of 1121.

² Added by section 41, *ibid.*

daughter, by such individual otherwise than for adequate consideration; and

(b) so much of the income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or a minor child or both.

Determination
of tax payable
in certain
special cases,

20. (1) Where a person is not resident in Cochin, and is a subject of Cochin or of any other Indian State or ¹[a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914], the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income; and in the case of any other non-resident person, the income-tax payable by him or on his behalf on his total income shall be at the maximum rate and the super-tax payable thereon shall be an amount bearing to the total amount of super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income.

(2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the

¹ Substituted by section 2, Act II of 1118.

in Cochin had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in Cochin, whichever is the greater.

[(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.]

CHAPTER IV

DEDUCTIONS AND ASSESSMENT

21. (1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax and super-tax on the amount payable at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head: Payment by deduction at source.

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

(2) The value in rupees of any income chargeable under the head "Salaries" which is payable to the assessee out of India by or on behalf of the Government shall be calculated at the prescribed rate of exchange.

(3) Any person responsible for paying any income chargeable under the head "Salaries" to a person not resident in Cochin shall at the time of payment deduct income-tax at the maximum rate and also super-tax at the rate or rates applicable to the estimated income of the assessee under this head.

(4) The person responsible for paying any income chargeable under the head "Interest on Securities" shall, unless otherwise prescribed in the case of any security of the Government at the time of payment, deduct income-tax but not super-tax on the

¹Inserted by section 5, Act XVII of 1121.

with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the income-tax and super-tax, if any payable by him, pay by way of penalty a sum not exceeding one and a half times the amount of income-tax and super-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order shall be made under sub-section (1) or sub-section (2) unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) The Deputy Commissioner or ¹[the Commissioner,] who has made an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer.

(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Deputy Commissioner.

Notice of demand.

39. When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act.

40. (1) Any assessee objecting to the amount of income assessed under section 28 or section 37, or the amount of loss computed under section 30 or the amount of tax determined

¹ Substituted by section 4, Act IX of 1118.

Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be:

Provided further that when the income, profits or gains concerned are income, profits or gains liable to assessment for a year ending prior to the commencement of this Act, or where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person under section 53, this sub-section shall have effect as if for the periods of eight years a period of one year were substituted.

(2) No order of assessment under section 28 or of assessment or re-assessment under sub-section (1) of this section shall be made after the expiry, in any case to which clause (c) of sub-section (1) of section 38 applies, of eight years and in any other case of four years, from the end of the year in which the income, profits or gains were first assessable:

Provided that nothing contained in this sub-section shall apply to a re-assessment made in pursuance of an order under section 41, ¹[section 42, section 43 or section 109.]

45. (1) The Commissioner or Deputy Commissioner ^{Rectification} may, at any time within four years from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 43 and the Income-tax Officer may, at any time within four years from the date of any assessment order or refund order passed by him, on his own motion rectify any mistake apparent from the record of the appeal, revision, assessment, or refund as the case may be, and shall within the like period rectify any such mistake which has been brought to his notice by an assessee:

¹ Substituted by section 5, Act IX of 1118.

profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

¹ [(3) In the case of a business of which all the operations are not carried out in Cochin, the profits and gains of the business deemed under this section to accrue or arise in Cochin shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in Cochin.]

Agent to
include
persons
treated as
such.

53. Any person employed by or on behalf of a person residing out of Cochin, or having any business connection with such person or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent :

Provided that where transactions are carried on in the ordinary course of business through a broker in Cochin in such circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first mentioned broker shall not be deemed to be an agent under this section in respect of such transactions:

Provided further that no person shall be deemed to be the agent of a non-resident person, unless he has had an

¹ Substituted by section 6, Act IX of 1118.

individually on his share in the income, profits and gains of the firm and not by the firm itself:

Provided further that, where the profits and gains of an unregistered firm or other association of persons not being a company have been assessed to super-tax, super-tax shall not be payable by a partner of the firm or a member of the association, as the case may be, in respect of the amount of such profits and gains which is proportionate to his share.

78. ¹ [Except in cases to which section 18 A applies and] subject to the provisions of this Chapter, the total income of any individual, Hindu undivided family, undivided *Marumakkathayam tarawad*, company, local authority, unregistered firm or other association of persons shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

Total income for purposes of super-tax.

79. (1) All the provisions of this Act, relating to the charge, assessment, collection and recovery of income-tax except those contained in section 4, the second proviso to sub-section (1) of section 10, the second proviso to section 11, clause (a) and (b) of sub-section (2) of section 17, and sections 18, ²[18A,] 22 and 24 and first proviso to sub-section (1) of section 51 and section 85 and sub-section (2) of section 86 shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

Application of Act to super-tax.

(2) Save as provided in sub-sections (1), (2), (3), (6), (7), (8) and (9) of section 21 and section 87 super-tax shall be payable by the assessee direct.

CHAPTER XII

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

80. In this Chapter, unless there is anything repugnant in the subject or context,—

Definitions.

(a) a "recognised provident fund" means a provident fund which has been and continues

¹ Inserted by section 6, Act XVII of 1121.

² Inserted by section 7, *ibid.*

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views:

Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 27 and as stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 27 or under section 44 for the making of a return:

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made.

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

¹ [(5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee where by any direction given or any distribution or allocation of work made by the Government under sub-section (2) or by the Commissioner under sub-section (4) of section 8 a particular Income-tax Officer has been charged with the functions of assessing that assessee.]

Indemnity.

108. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Statement of
case by Com
missioner to
High Court.

109. (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter X, a question of law arises, the Commissioner may, either on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) Within sixty days of the date on which he is served with notice of an order under section

¹ Added by section 7, Act IX of 1118.

the realisation of, securities and any expenditure other than expenditure which may under the provisions of section 13 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules ;

(vi) "life insurance business" includes annuity business, that is to say, the business of effecting contracts of insurance for the granting of annuities on human life and, if so provided in the contract of insurance, disability and double or triple indemnity accident benefits ;

(v) "securities" includes stocks and shares.

6. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, after adjusting such balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 13 of this Act be allowed for in computing the profits and gains of a business. Profits and losses on the realisation of investments, and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance.

7. The profits and gains of companies carrying on dividing society or assessment business shall be taken to be 15 per cent of the premium income of the previous year, or in the case of non-resident companies 15 per cent of the Cochin premium income of the previous year.

8. The profits and gains of the Cochin branches of an insurance company not resident in Cochin, in the absence of more reliable data, may be deemed to be the proportion of the total world income of the company corresponding to the proportion which its Cochin premium income bears to its total premium income. For the purpose of this rule the total world income of life insurance companies not resident in Cochin whose profits are periodically ascertained by actuarial valuation shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in Cochin.

9. These rules apply to the assessment of the profits of any business of insurance carried on by a mutual insurance association.

1 [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 :

1 Substituted by section 8, Act XVII of 1121.

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—

Rate

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 Maru-makkathayam 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.—

On the whole of total income *Rate*
One anna and six pies in
the rupee.]

! Substituted by section 8, Act XVII of 1121.

CHAPTER II

Establishment and Constitution of Village Courts

Establishment
of Village
Courts.

5. Government may, from time to time, by notification in the Cochin Government Gazette.

(a) group two or more villages and establish one Village Court for them all; or

(b) constitute divisions in any village and establish a Village Court for each of such divisions; or

(c) establish a Village Court for a village or any specified area.

Contribution
of Village
Courts.

6. A Village Court established under this Act shall consist of five Judges, one of whom shall be styled the President and another, the Senior Judge. Every suit instituted in and every proceeding before a Village Court shall be disposed of by a Bench of three Judges. In case of difference, the opinion of the majority shall prevail.

Appointment
of President
and other
Judge:

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].

Suspension
and removal
of Judge.

8. Government may suspend or remove the President, Senior Judge or other Judges of a Village Court for neglect of duty, misconduct, non-attendance, or for such disqualifications as may be prescribed in this behalf incurred either before or after the nomination or for other just and sufficient cause.

1 Substituted by section 2, Act III of 1121.

(2) If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished. or Relinquish-
ment of part
of claim.

17. If, in the decision of a suit cognizable by a Village Court, it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation, as far as may be necessary for the determination of such suit; but such decision shall not be evidence of such title, legal character, contract or obligation in any other action though between the same parties or their representatives. Incidental
determination
of matters not
cognizable by
Village Court.

18. The provisions of the Cochin Limitation Act, XII of 1112, shall apply to suits and applications under this Act. Limitation.

19. The Registrar may transfer any suit or proceeding to any other Village Court. Transfer of
suits.

CHAPTER IV

The Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on parties, Adjournments and Consequences of non-appearance

20. Every suit under this Act shall be instituted by presenting a plaint to the Village Court ^{or to the President of such Court or to the Clerk of the Village Court when authorised by the President} together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided, together with the copy of the summons. Suits to be
commenced
by plaint.

21. The plaint shall be written in Malayalam and signed by the plaintiff, or in his absence, by an agent duly authorised by him, and it shall contain the following particulars:— Particulars to
be contained
in plaint.

¹ Inserted by section 5, Act III of 1121.

incurred in attending for the purposes of the trial, be deposited in Court.

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

¹[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.]

Summoning of witnesses.

37. Any witness residing within the jurisdiction of the Village Court may be summoned in writing by such Court. Any witness residing beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Court or the Parvathyakaran within whose jurisdiction he resides or in such other manner as Government may by rules prescribe.

Summons to appear and give evidence or produce document.

38. A summons may direct the party summoned either to appear and give evidence, or to produce or cause the production of any document.

Exemption of certain women and other person from personal appearance.

39. (1) Women, who according to the customs and manners of the country ought not to be compelled to appear in public, persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure for the time being in force and any person who, by reason of sickness or bodily infirmity, cannot attend without inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall itself or by Commission examine such person at his or her residence:

(2) The Court may, in any case where a woman who is not a party to the suit or proceeding is cited as a witness, order her examination by the issue of a commission at the expense of the party who requires her evidence if an application is made in this behalf by the witness.

Witnesses to be examined in open Court.

40. The evidence of witnesses in attendance shall be taken in open Court orally on oath or affirmation in the presence and superintendence of the Court.

¹ Inserted by section 3, Act XII of 1121.

[1118: Act XII

Village Courts

Volume XI, Page 84 (Cont.)

41. (1) The evidence of each witness shall be taken down in writing in Malayalam by one of the judges constituting the bench, not ordinarily in the form of question and answer, but in that of a narrative and when completed shall be read over in the presence of such judges and of the witnesses and the judges constituting the bench shall sign it

How evidence shall be taken.

names of the witnesses examined, the titles of the exhibits read, the decision in the case and the reasons for such decision.

(2) The decree shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, [the amount of costs and interest thereon if any awarded by the court, not exceeding six per cent per annum] and by what parties and in what proportion such costs shall be paid.

(3) Any Judge dissenting from the decree of the Court shall state in writing the decision which he thinks should be passed and state his reasons for the same.

(4) Each party, upon application, shall be entitled to receive a copy of the decree.

In suits for money, decree may order interest.

45. (1) In suits for money, the Village Court may, in addition to any interest adjudged on the principal sum for any period prior to the institution of the suit, order in the decree interest at such rate not exceeding six per cent per annum as the Court deems reasonable on such principal sum from the date of the suit to the date of payment.

(2) Where such decree is silent with respect to the payment of interest as aforesaid the Court shall be deemed to have refused such interest and a separate suit therefor shall not lie.

(3) When a Village Court decrees the payment of a sum of money it may direct that it be paid by instalments with or without interest at the above rate.

Procedure in case of clerical or arithmetical error found in the decree.

46. If any clerical or arithmetical error be found in the decree, the Court shall of its own motion or on that of any of the parties, amend the decree so as to correct such error, provided that reasonable notice has been given to the parties of the proposed amendment.

¹ Substituted by section 4, Act XII of 1121.

94. The provisions contained in the Cochin Code of Civil Procedure, XXIX of 1111, shall to the extent they are not inconsistent with the provisions of this Act apply to suits and proceedings in the Village Courts and in the Court of the Registrar. Provisions of Cochin Code of Civil Procedure to apply.

95. (1) Government may make rules to carry out all or any of the provisions of this Act. Power to make rules.

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

(a) provide for the nomination of the President the Senior Judge and other Judges of the Village Court;

(b) provide for the suspension or the removal of the President, the Senior Judge and other Judges for non-attendance;

(c) provide for the exercise of the administrative control and the adjustment of the work of the Court by the President and the Senior Judge;

(d) regulate any matter connected with the procedure of Village Courts and the Court of the Registrar;

(e) provide for the licensing of agents entitled to appear and plead in Village Courts and to prescribe the fees payable to them;

¹[(ee) provide for the suspension and cancellation of licenses granted to agents in case of misconduct or for other sufficient cause.]

(f) provide for the mode of service of summons of witnesses;

(g) prescribe forms and registers for use in the Village Courts and in the Court of the Registrar;

¹ Added by section 3, Act III of 1121.

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

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

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

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

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

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

Jurisdiction barred.

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

CHAPTER VI

[Registration, Insurance and Value-payable Anchal]

Registration of Anchal articles.

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

Power to make rules as to registration.

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

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

¹ Substituted by section 2, Act XVI of 1121.

(a) declare in what cases registration shall be required:

(b) prescribe the manner in which the fees for registration shall be paid; and

(c) direct that twice the fee for registration shall be levied on the delivery of an Anchal article required to be registered on which the fee for registration has not been prepaid.

(3) Anchal articles made over to the Anchal Office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Superintendent of Registration and Anchal may, by order, from time to time appoint.

¹[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.

Provided that the levy of such penalty as aforesaid shall not impose any liability upon Government in respect of the anchal article.

31C. (1) Government may make rules as to the insurance of anchal articles.

Power to make
rules as to
Insurance.

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

¹ Inserted by section 3, Act XVI of 1121.

(a) declare what classes of anchal articles may be insured under section 31 A;

(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.]

Transmission by Anchal of Value-payable Anchal articles.

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

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

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

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

33. (1) Government may make rules as to the transmission by Anchal of value-payable Anchal articles.

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

(a) declare what classes of Anchal articles may be sent as value-payable Anchal articles;

(b) direct that no Anchal article shall be so sent unless the sender declares that it is sent in execution

applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, conservancy and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new cartstand.

(3) The panchayat may modify the conditions of the licence to take effect from a specified date.

(4) The Panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5) The panchayat may levy on every grant or renewal of a licence under this section such fees as may be prescribed.

Slaughter-houses

62. A panchayat may provide places for use as public slaughter-houses and charge rents and fees for their use.

63. Government shall have power to make rules for—

(a) prohibiting or regulating the slaughter, cutting up or skinning of animals specified in the rules on all occasions not excepted therein, at places other than public slaughter-houses; and

(b) licensing persons to slaughter animals specified in the rules for purposes of sale to the public.

Industries

64. The panchayat may with the previous approval of the Director notify that no place within the limits of the panchayat area shall be used for any of the purposes specified in the rules made in this behalf ¹[* *] without a licence issued by the panchayat (which shall be renewed every year) and except in accordance with the conditions specified in such licence ²[and where the license is for keeping hotels, restaurants, eating houses, coffee houses, boarding houses, laundries or running barber saloons, the license shall always contain and be deemed to contain a condition that admission or service therein shall

¹ Deleted by section 2, Act XII of 1122.

² Added by section 2, *ibid.*

not be denied or restricted to any person on the ground that he belongs to a particular caste or creed:]

Provided that no such notification shall take effect until sixty days from the date of its publication.

Stray cattle

Prohibition of
stray cattle
in streets.

65. Whoever tethers cattle or other animals or causes or suffers them to be tethered by any member of his family or household in any public street or place within a panchayat area so as to obstruct or endanger the public

SCHEDULE III

<i>Classes of Vehicles</i>	<i>Maximum half yearly tax</i>		
	<i>Rs.</i>	<i>A.</i>	<i>P.</i>
1. For every four-wheeled vehicle constructed to be drawn by one or more animals ..	4 ⁰	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
5. For every four-wheeled vehicles constructed to be drawn or pushed by human agency ..	4	0	0
6. For every two-wheeled vehicle other than a rickshaw constructed to be drawn or pushed by human agency	1	8	0]

SCHEDULE IV

ACT
(1)

The Cochin
Municipal Act,
XVIII of 1113.

AMENDMENT
(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 word “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” 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.

¹ Added by P. W. R. D. Notification No. 83, dated 6th July 1946.

Provided that—

(a) the estimates of expenditure embodied in the Annual Financial Statement which relate to Cranganur shall be shown separately ;

¹[(b) Deleted].

(c) His Highness may in case of emergency authorise such expenditure as may be in His Highness' opinion necessary for the safety or tranquillity of the State or for the carrying on of any department ;

(d) no proposal for imposing or increasing any tax or for regulating the borrowing of money or for amending the law with respect to any financial obligations of the State shall be made, except on the recommendation of the Government, communicated to the ²[Assembly].

(e) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made, except on the recommendation of the Government, communicated to the ²[Assembly].

Explanation.—A proposal shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for fines or other pecuniary penalties or for the payment of fees for licenses or fees for services rendered.

(2) Nothing in this Act shall require proposals to be submitted to the ²[Assembly] relating to the following heads of expenditure which shall be expenditure charged on the revenues of the State.—

(a) Expenditure relating to any matter removed from the cognisance of the ²[Assembly] by sub-section (2) of section 24 of this Act;

(b) Expenditure authorised under clause (c) of the preceding sub-section;

1. Deleted by section 2 of Act III of 1124.

2. Substituted by section 3 of Act XV of 1123.

to the heads of expenditure mentioned in sub-section (2) of section 28 of this Act over and above the expenditure theretofore authorised for that year, the ¹[Minister in charge of Finance] shall authenticate by his signature a schedule specifying the several sums so authorised, and the expenditure of such sums from the revenues of the State shall thereupon be deemed to be duly authorised.

31. (1) The ²[Government] may make rules from time to time for the purpose of carrying into effect the provisions of this Part, and more particularly for regulating the course of business in the Legislative ³[Assembly] and as to the person or persons presiding over the meetings thereof in the absence of the President and the Deputy President, and the preservation of order at meetings, and the rules may provide for the prohibiting or regulating the asking of questions on and the discussion of any subject specified under the rules.

Power to make rules and standing orders.

(2) The ³[Assembly] may from time to time make Standing Orders for the conduct of business and the procedure to be followed in the ³[Assembly], in so far as these matters are not provided for by rules under this section. ⁴[.....].

(3) Any Standing Order made as aforesaid which is repugnant to the provisions of any rules made under this section shall, to the extent of that repugnancy, but not otherwise, be void.

⁵[(4) The rules in force immediately prior to the commencement of the Government of Cochin (Amendment) Act, XV of 1123, with respect to the Legislative Council shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as have been or may hereafter be made therein until those rules are expressly superseded by Government.

(5) The Standing Orders in force immediately prior to the commencement of the Government of Cochin (Amendment) Act, XV of 1123, with respect to the

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1. Substituted by section 18, Act I of 1123.
 2. Substituted by section 19, *ibid* :
 3. Substituted by section 3 of Act XV of 1123.
 4. Deleted by sub-section (1) of section 3 of Act III of 1124.
 5. Added by sub-section (2) of *ibid*.

Legislative Council shall have effect in relation to the Legislative Assembly until such Standing Orders are expressly superseded.]

Provision for
the continua-
tion of Bills
which were
pending in
the Legisla-
tive Council.

6[31A. Notwithstanding the change in the designation of the Legislature effected by the Government of Cochin (Amendment) Act, XV of 1123, all Government Bills which have been introduced prior to the dissolution of the sixth Legislative Council and pending therein shall be carried over to the first Legislative Assembly and all private bills which were pending on the dissolution of the sixth Legislative Council shall lapse unless the member in charge of the Bill has been returned to the first Legislative Assembly or on a motion of any other member desiring to take charge of the same, the Legislative Assembly makes a special order for the continuance of the Bill.]

PART IV

The Judicature

The High
Court.

32. (1) The Chief Court of Cochin shall henceforth be designated the High Court of Judicature, Cochin and shall, unless His Highness otherwise directs, consist of three judges one of whom shall be the Chief Justice.

II of 1076.

(2) Notwithstanding the repeal of the Cochin Chief Court Act by this Act—

(a) The Chief Judge and judges of the Chief Court shall continue to be the Chief Justice and judges of the High Court subject to the provisions of this Act;