

## GOVERNMENT OF KERALA

## Law (Legislation-H) Department

## NOTIFICATION

No. 26233/Leg.H1/2015/Law.

*Dated, Thiruvananthapuram,**27th January, 2016**13th Makaram 1191**7th Magha, 1937.*

In pursuance of clause (3) of article 348 of the Constitution of India, the Governor of Kerala is pleased to authorise the publication in the Gazette of the following translation in English language of the Non-Resident Indians' (Keralites) Commission Act, 2015 (3 of 2016).

By order of the Governor,

D. SAJU,

*Special Secretary (Law).*

[Translation in English of “2015-ലെ പ്രവാസി ഭാരതീയർ (കേരളീയർ) കമ്മീഷൻ ആക്റ്റ്” published under the authority of the Governor.]

### ACT No. 3 OF 2016

#### THE NON-RESIDENT INDIANS' (KERALITES) COMMISSION ACT, 2015

*An Act to constitute a Commission for Non-Resident Indians hailing from Kerala with a view to protect and safeguard their interest in the State of Kerala and to recommend remedial measures for their welfare and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to provide for constitution of a Commission for Non-Resident Indians hailing from Kerala with a view to protect and safeguard their interest in the State of Kerala and to recommend remedial measures for their welfare and for matters connected therewith or incidental thereto;

BE it enacted in the Sixty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Non- Resident Indians' (Keralites) Commission Act, 2015.

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

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Chairperson” means the Chairperson of the Commission;

(b) “Commission” means the Non-Resident Indians' (Keralites) Commission constituted under section 3 and that may be known as NRI (Kerala) Commission;

(c) "complaint" means all petitions or communications received in the Commission from a Non-resident Indian or from any other person on his behalf, in person or by post, fax, e-mail or by any other means alleging disputes or such violation or denial of justice by a public servant or a private person or from Institutions including Government/Quasi Government/Public Sector Institutions/Bank or such providing material on the basis of which the Commission takes *suo-moto* cognizance;

(d) "Member" means a member of the Commission and includes the Chairperson and Secretary;

(e) "Non-resident Indians' (Keralites)" means a person of Indian citizen domiciled in Kerala who is either permanently or temporarily settled outside India for,—

(i) taking up employment outside India; or

(ii) carrying on a business or vocation or for studying outside India; or

(iii) any other purpose, in such circumstances, as would indicate his intention to stay outside India for an uncertain period.

(f) "family" means,—

(1) Wife/husband, minor son including adopted children and unmarried divorced or widowed daughter;

(2) Father, mother, unmarried sisters and minor brothers who are solely dependent on the Non-resident Indians (Keralites) and in the absence of such dependents, the major son and married daughter;

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

(h) "regulations" means the regulations made by the Commission as per sub-section (8) of section 7 of this Act.

3. *Constitution of the Commission.*—(1) The Government shall as soon as, may be after the commencement of this Act, constitute a body to be known as the Non-resident Indians' (Keralites) Commission to exercise the powers conferred upon and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of the following members nominated by the Government, namely:—

(i) A person who is or has been a Judge of the High Court of Kerala, who shall be the Chairperson of the Commission;

(ii) Two members from Non-resident Indians (Keralites) who are abroad for not less than five years;

(iii) Two members from Non-resident Indians' (Keralites) who returned after being abroad for 5 or more years.

(iv) An officer not below the rank of a Joint Secretary to Government or a retired officer from All India Service not below the rank equivalent to that shall be the Secretary of the Commission and he shall exercise such powers and perform such functions as may be delegated to him by the Commission;

(v) A person who has completed the age of 65, shall not be continued as Chairperson or member.

4. *Term of office and conditions of service of members.*—(1) Except Secretary appointed from service, every member shall hold office for a period of three years from the date on which he assumes office and shall be eligible for re-appointment for not more than one term.

(2) A casual vacancy caused by reason of death, removal or resignation of any member shall be filled by fresh nomination:

Provided that a person so nominated shall hold office only for the remaining period of the term of the person in whose place such person is nominated.

(3) The members other than the Secretary shall be paid with such allowances or sitting fees for attending the meeting of the Commission, as may be prescribed.

5. *Staff of the Commission.*—(1) The Government shall provide the Commission with such Officers and other employees as may be required for the proper functioning of the Commission;

(2) The salaries and allowances payable to and other terms and conditions of service of the Officers and other employees shall be such as may be prescribed.

6. *Headquarters of the Commission.*—The headquarters of the Commission shall be at Thiruvananthapuram.

7. *Sittings of the Commission.*—(1) The Commission shall hold its sittings ordinarily at Thiruvananthapuram at such time as the Chairperson may think fit. It may also hold its sittings at any other place within the State, if necessary.

(2) The meeting of the Commission shall be presided over by the Chairperson. In the absence of the Chairperson, a member to be elected among the members present at the meeting, shall preside over the meeting.

(3) The quorum for a meeting of the Commission shall be three.

(4) The Commission shall meet at least once in two months.

(5) All questions at a meeting of the Commission shall be decided upon by the majority of the votes of the members present and voting and in the case of equality of votes, the Chairperson or the member presiding over the meeting, shall have a right for a casting vote.

(6) The Commission, for the purpose of transacting any business before it or for considering any special issue, may invite persons having specialized knowledge in the matter but such person shall have no right to vote.

(7) All orders and decisions of the Commission shall be authenticated by the signature of the Chairperson or any other member who presides over the meeting. Other instruments executed by the Commission shall be authenticated by the signature of the Secretary.

(8) The Commission shall with the previous approval of Government make regulations for regulating its procedure and the disposal of its business and such regulations shall, after they are made, be published in the Gazette.

8. *Removal of members from Commission.*—The Government may, by order, remove the Chairperson or any member if he,—

- (a) is adjudged as undischarged insolvent; or
- (b) has been convicted of an offence which in the opinion of the Government involves moral turpitude; or
- (c) is of unsound mind and stands so declared by a competent Court; or
- (d) without obtaining permission from the Commission, has been absent from three consecutive meetings of the Commission; or
- (e) in the opinion of the Government, has abused his official position so as to render his continuance in office detrimental to public interest:

Provided that no person shall be removed under this clause until he has been given a reasonable opportunity of being heard in the matter.

9. *Functions of the Commission.*—(1) Subject to the provisions of this Act, it shall be the duty of the Commission to assist, promote and to develop the welfare of the Non-resident Indians' (Keralites) and to perform such other functions as the Government may assign to it, from time to time.

(2) The Commission may in furtherance of its object, perform the following functions, namely:—

- (a) help the Non-Resident Indians' (Keralites) and their family in protecting their rights, particularly in the issues of life and property in the State of Kerala;
- (b) pursue the interests of the Non-Resident Indians' (Keralites) with the State and Central Government;
- (c) Help to Safeguard the investment in all forms of Non-Resident Indians' (Keralites) in Kerala;
- (d) Facilitate Social Service Organisations for the Non-Resident Indians' (Keralites) and their spouses and parents living in Kerala for community life and health care;

(e) Inquire into unfair practice, against Non-Resident Indians' (Keralites) and make recommendations to concerned Government Departments or Agencies on the action to be taken in the matter;

(f) Report to Government the inadequacies or shortcomings in the existing laws in force which affect the Indian Constitutional right to equality and fair treatment of Non-Resident Indians' (Keralites) and also on the remedial Legislative measures to be taken to meet the situation;

(g) To enquire into the unfair practices of recruitment agencies and to ensure that the interests of the Non-Resident Indians' (Keralites) are protected;

(h) Act for the protection of the interests, assets and deposits of the overseas citizen of Indian card holders who had been permanent resident in Kerala and has been registered as per the provisions of section 7A of the Citizenship Act, 1955 (Central Act 57 of 1955) and family members and to facilitate the social service organizations for the health care of their family members in Kerala;

(i) to suggest suitable measures to be adopted in the issues of Non-Resident Indians' (Keralites).

10. *Powers of the Commission.*—(1) The Commission shall, while performing its functions under section 9, have all the powers as are vested in a Civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any witness and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public records or copy thereof from any public office;

(e) appointing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

(2) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Commission shall be deemed to be a court for the purpose of section 195 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(3) The Commission shall, while conducting enquiry under section 9, shall afford opportunity to all parties to present their views by themselves or by their authorized representatives;

(4) The findings of the Commission on any enquiry conducted under this Act shall be communicated to the Government with its recommendations for appropriate action or relief to the parties to the dispute.

11. *Inquiry into unfair practices.*—(1) The Commission shall inquire into any unfair practice against Non-Resident Indians' (Keralites),—

(a) on receiving a written complaint from a recognized Non-resident organization or any Non-Resident Indians' (Keralites) alleging that he has been subjected to unfair practices; or

(b) on its own knowledge or information; or

(c) on a request from the Government.

(2) Where a complaint has been made under sub-section (1), the Commission may, before initiating any process against the respondent, cause a preliminary investigation in such a manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be inquired into.

(3) where the person against whom the complaint has been made, appears and show cause or fails to appear on the day appointed for that Purpose, the Commission may proceed further to inquire into the matter and take a decision thereon and if the Commission finds that there is unfair practice, it shall recommend to Government the action to be taken thereon or initiate prosecution.

(4) Government shall, within two months from the date of receipt of the recommendation of the Commission under sub-section (3) take a decision thereon and intimate the same to the Commission.

12. *Power of the Commission to utilize the services of certain officers and investigating officer for investigation.*—The Commission may conduct inquiry or investigation into matters falling within its authority,—

(a) either directly; or

(b) through an investigating officer appointed by the Commission; or

(c) through the Government Departments or Agencies.

13. *Chairpersons, Members, Secretary, Officers and other Employees of the Commission to be public servants.*—The Chairperson, members, Secretary, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

14. *Application of other laws not barred.*—The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

15. *Vacancies etc. not to invalidate the proceedings of the Commission.*—No act or proceedings of the Commission shall be invalid on the ground merely of the existence of any vacancy in the Commission or any defect in its constitution.

16. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Commission, Chairperson, or any member or Secretary or any officer or any other employee of the Commission acting under the direction of the Commission in respect of anything which is done or purported to be done in good faith under this Act.

17. *Grants by the State Government.*—(1) The State Government shall after due appropriation made by the Legislature by law in this behalf, pay to the Commission by way of grants from the Consolidated Fund of the State, such sums of money as it may consider appropriate for being utilized for the purposes of this Act.

(2) The Commission may utilize such sums of money as considers appropriate for performing the functions under this Act and such sums of money shall be treated as expenditure payable out of the grants referred to in sub-section (1).

18. *Accounts and Audit.*—(1) The Commission shall maintain proper accounts and other relevant record and registers and prepare annual statement of accounts in such form, as may be prescribed.

(2) The accounts of the Commission shall be audited by the Accountant General and any expenditure incurred in respect of such audit shall be payable by the Commission to the Accountant General.

(3) The Accountant General or any person appointed by him in connection with the audit of accounts of the Commission under this Act, shall have the same rights and privileges as the Accountant General generally has in connection with the audit of Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers, other documents and papers and to inspect the office of the Commission.

(4) The accounts of the Commission, as certified by the Accountant General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Government by the Commission and the Government shall cause the report be laid within a period of six months from the date of its receipt before the Legislative Assembly.

19. *Annual Report of the Commission.*—(1) The Commission shall as soon as may be after the end of each financial year, prepare in such form and at such time, for each financial year as may be prescribed, its annual report giving a full account of its activities and programs undertaken during the previous financial year, and submit to the Government.

(2) A copy of the report received under sub-section (1) shall be laid before the Legislative Assembly within six months after the same is received by the Government.

20. *Power to make rules.*—The Government may by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order, shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.