

## THE KERALA PLACES OF PUBLIC RESORT ACT, 1963

(Act 40 of 1963)

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## ACT 40 OF 1963\*

THE KERALA PLACES OF PUBLIC RESORT  
ACT, 1963

*An Act to unify and amend the law relating to the licensing and inspection of places of public resort or entertainment in the State of Kerala.*

*Preamble.*—WHEREAS it is expedient to unify and amend the law relating to the licensing and inspection of places of public resort or entertainment in the State of Kerala;

\* Received the assent of the Governor on the 21st November, 1963 and published in the Gazette Extraordinary dated 21st November, 1963.

Be it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, commencement, extent and application.*—(1) This Act may be called the Kerala Places of Public Resort Act, 1963.

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

(3) It extends to the whole of the State of Kerala:

Provided that the Government may in public interest exempt any area from the operation of this Act by notification in the Gazette.

(4) Nothing in this Act shall apply to any temple, church, mosque or other place of public worship or to any building belonging to or under the control of the State or Central Government.

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

(a) “building” includes any house, hut, shed or roofed enclosure;

(b) “place of public resort or entertainment” shall mean any place, enclosure, building, tent, booth or other erection whether permanent or temporary, where music, singing, dancing or any diversion or game or the means of carrying on the same is provided, and to which public are admitted either on payment of money or with the intention that money may be collected from those admitted, otherwise than for bonafide charitable or religious purpose, and shall include a race-course, circus, theatre, music hall, billiard room, bagatelle room, gymnasium and fencing school.

3. *No enclosed place or building with area of fifty square metres to be used for public resort or entertainment without a licence.*—No enclosed place or building, whether permanent or temporary, having an area of fifty square metres or upwards, shall be used for public resort or entertainment, unless a licence has been previously obtained in the manner hereinafter provided.

4. *Application for licence.*—When any person desires to obtain a licence to use any enclosed place or building as a place of public resort or entertainment or to construct any enclosure or building for such purpose, he shall send an application to the authority specified in section 5, setting forth the place or building, its situation, size and description, the material of which the enclosure or building is made or proposed to be made, whether it is or proposed to be permanent or temporary and the purposes for which it is proposed to be used.

5. *Authority to whom application should be made.*—Such application shall be made—

(1) if the enclosed place or building is situated in a city, to the commissioner of the corporation of the city;

(2) if the enclosed place or building is situated in a municipality, to the commissioner of the municipality concerned;

(3) if the enclosed place or building is situated in a township, to the Executive Officer of the township concerned; and

(4) if the enclosed place or building is situated in any panchayat area, to the executive authority of the panchayat concerned.

6. *Procedure on receipt of application.*—Upon the receipt of any such application the authority to whom it is made shall inspect the place or building in respect of which a licence is required and may call on the applicant, by notice in writing, to make any alteration or addition in the material or arrangement of the enclosure or building, or in the precautions for the safety of the public to be assembled therein and may refuse to grant a licence until the alteration or addition is made.

7. *Grant of licence.*—(1) If the authority is satisfied—

- (a) that the enclosed place or building may safely be used for the purpose of public resort or entertainment proposed;
- (b) that no objection arising from its situation, ownership, possession or the purpose proposed exists, he shall give the applicant a written licence, signed by him specifying the enclosure or building and the purpose for which it is to be used. Such licence shall be in such form and subject to the payment of such fee and conditions as the Government may from time to time by rule direct.

(2) If the authority is not satisfied as aforesaid he may refuse to grant a licence, recording his reasons for refusal in writing.

8. *Licence to state period for which it is to be in force.*—Every licence granted under this Act shall state the period for which it is to continue in force and shall cease to be in force on the expiration of that period.

9. *Renewal of licence.*—(1) A licence granted under section 7 may be renewed on an application by the licensee presented within such time before the expiry of the licence, as may be prescribed. The provisions of sections 4, 5, 6, 7 and 8 shall, as far as may be, apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(2) If an application for renewal of a licence has been presented within the time prescribed under sub-section (1) and no order refusing renewal has been communicated to the applicant before the expiry of the term of the licence the applicant shall, notwithstanding such expiry, be deemed to have a valid licence till orders are received by him on his application for renewal.

10. *Revocation or suspension of licence.*—(1) Any authority granting a licence under this Act may for reasons recorded in writing, revoke or suspend the same when he has reason to believe—

- (a) that the licence has been fraudulently obtained ; or
- (b) that the enclosed place or building has been used for any purpose other than those for which the licence was granted ; or

- (c) that the place or building can no longer be safely used for the purpose for which the licence was granted ; or
- (d) that any condition of the licence has been contravened :

Provided that no licence shall be revoked or suspended without the licensee being given a reasonable opportunity of showing cause against the proposed action.

(2) A person whose licence is revoked or suspended under subsection (1) shall not be entitled to the refund of any fee paid in respect of such licence or for any compensation in respect of any loss sustained by such revocation or suspension.

11. *Appeals.*—(1) Any person aggrieved may appeal from any order passed under section 6, section 7, section 9 or section 10.

(2) The appeal shall be preferred within thirty days of the date on which the order was communicated.

(3) The appeal shall lie,—

(i) in the cities of Trivandrum and Calicut, to the Council of the Municipal Corporation concerned ;

(ii) in any municipality, to the Municipal Council ,

(iii) in any township, to the Township Committee; and

(iv) in any panchayat area, to the Panchayat.

(4) The provisions of section 5 of the Indian Limitation Act, 1908 shall apply to the appeals under this section.

(5) The appellate authority shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the authority to whom application is made under section 5, and may either grant or withhold the licence or make such other order as he thinks fit.

12. *Power to enter place of public resort or entertainment to inspect licence or to prevent further use.*—The licensing authority or any person authorised by him in writing may enter at any time any enclosure or building for which licence is required under this Act, inspect the licence if any has been issued, and if there is no licence, or if the conditions of the licence are not observed, prevent the further use of such enclosure or building as a place of public resort or entertainment.

13. *The Government may revise any proceedings under this Act.*—The Government may call for and examine the record of any proceeding taken under this Act, may call for any report in connection therewith, make or cause to be made any further enquiry, and may, after notice to parties affected and hearing them, pass any order which the authority holding the proceeding might have passed :

Provided that the Government shall not exercise the powers under this section in respect of a proceeding from which an appeal is pending before the appellate authority under section 11.

14. *Prohibition of smoking in certain places where entertainments are held.*—(1) No person shall in any enclosed place or building used as a

place of public resort or entertainment during the prohibited period as defined in sub-section (2), smoke—

- (a) on the stage except in so far as smoking may be part of the entertainment, or
- (b) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public :

Provided that the State Government may, by notification in the Gazette, exempt any class of entertainments from the provisions of this sub-section.

(2) For the purposes of sub-section (1), 'prohibited period' means so much of the period commencing thirty minutes before the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the Gazette, specify in this behalf for entertainments generally or any class of entertainments.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any police officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation.

15. *Protection of action taken under the Act.*—No suit, prosecution or legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

16. *Penalties.*—(1) Every person who, having the immediate control of any enclosed place or building, uses or permits it to be used as a place of public resort or entertainment without having obtained a licence or, having obtained a licence under this Act uses or permits such use in contravention of any of the conditions of such licence shall be liable, on conviction before a Magistrate, to fine which may extend to five hundred rupees.

(2) Any fine imposed by a Magistrate under sub-section (1) shall be recoverable by such Magistrate under the Code of Criminal Procedure, 1898 and the same shall on recovery be paid over to the authority mentioned in section 5.

(3) Whenever any person is convicted of an offence in respect of the failure to obtain a licence in accordance with this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the authority mentioned in section 5, the amount of fee chargeable for the licence in accordance with the rules for the time being in force, and may in his discretion also recover summarily and pay over to the said authority such amount, if any, as he may fix as the costs of the prosecution.



(4) Notwithstanding anything contained in the foregoing provisions, the licensing authority or any person authorised by him shall be competent to seal any place of public resort or entertainment and prevent the further use of the place for such purpose if he is satisfied that the place of public resort or entertainment is used or proposed to be used in contravention of any of the provisions of this Act or rules made thereunder :

Provided that before taking action under this sub-section, the licensing authority or any person authorised by him shall give to the person against whom action is proposed to be taken an opportunity to show cause within twenty-four hours of the intimation thereof why such action should not be taken.

17. *Duties of police officer.*—(1) It shall be the duty of every police officer—

- (a) to communicate without delay to the licensing authority any information which he receives of the design to commit, or of the commission of any offence under this Act or any rule made under it ; and
- (b) to assist the licensing authority or any officer authorised by him reasonably demanding his aid for the lawful exercise of any power vesting in such authority or officer under this Act or any rule made under it.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this section shall be deemed to have committed an offence under section 41 of the Kerala Police Act, 1960 (Act 5 of 1961).

18. *Exercise of powers of police officers by municipal servant.*—The Government may empower any officer or servant of a local authority to exercise the powers of a police officer for the purposes of this Act.

19. *Power to make rules.*—(1) The Government may make rules to carry out all or any of the purposes 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.

20. *Repeal.*—The Madras Places of Public Resort Act, 1888 (Act II of 1888) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Places of Public Resort Act, 1951 (Act VIII of 1951) are hereby repealed.

21. *Power to remove difficulties.*—If any difficulty arises in relation to the transition from the provisions of any of the repealed enactments or in giving effect to the provisions of this Act the Government may by order, as occasion requires, do anything not inconsistent with the provisions of this Act which appears to them to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

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