

GOVERNMENT OF KERALA
Law (Legislation-E) Department

NOTIFICATION

No.392/Leg.E1/2019/Law.

Dated, Thiruvananthapuram 2nd December,2019

16th Vrischikam,1195
11th Agrahayana,1941.

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 Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019 (9 of 2019).

By order of the Governor,

ARAVINTHA BABU P. K.,
Law Secretary.



[Translation in English of “ 2019-ലെ കേരള സ്വകാര്യ സ്വത്തിനുള്ള നാശനഷ്ടം തടയലും നഷ്ടപരിഹാരം നൽകലും ആക്ട് ” published under the authority of the Governor.]

ACT 9 OF 2019

THE KERALA PREVENTION OF DAMAGE TO PRIVATE PROPERTY AND PAYMENT OF COMPENSATION ACT, 2019

*An Act to provide for the prevention of frequent and rampant damage to private property by
damaging acts and for payment of compensation and for matters connected therewith or
incidental thereto.*

Preamble.—WHEREAS, it is expedient to provide for the prevention of frequent and rampant damage to private property by damaging acts and for payment of compensation and for matters connected therewith or incidental thereto;

BE it enacted in the Seventieth year of Republic of India as follows:-

1. *Short title and commencement.*-(1) This Act may be called the Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019.

(2) Sections 4 and 7 of this Act shall be deemed to have come into force on the 6th day of July, 2019 and the remaining provisions shall be deemed to have come into force on the 8th day of January, 2019.

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

- (a) "damaging act" means an act, causing damage or loss or destruction to any private property due to communal riot, hartal, bandh, demonstration, march, procession, blockade of road traffic or similar assembly by whatever name called, committed by an individual, group of individuals or organisation whether social, religious or political;
- (b) "prescribed" means prescribed by rules made under this Act;
- (c) "private property" means any property whether movable or immovable including any machinery, other than public property as defined under the Prevention of Damage to Public Property Act, 1984 (Central Act 3 of 1984), which is owned by or in the possession of or under the control of any person or organisation or institution or entity.



3. *Prohibition of committing damaging act.*— No person participating in communal riot, hartal, bandh, demonstration, march, procession, blockade of road traffic or similar assembly by whatever name called, shall cause any damaging act.

4. *Police may make video recording.*— The Police may make video recording of the commission of an offence under this Act and such video recording shall be admissible in any proceedings subject to the provisions in sections 65A and 65B of the Indian Evidence Act, 1872 (Central Act 1 of 1872).

5. *Punishment for committing damaging act.*— Whoever commits a damaging act shall, on conviction, be punished with imprisonment which may extend to five years and with fine.

6. *Punishment for committing damaging act by fire or explosive substance.*— Whoever commits a damaging act by fire or explosive substance shall, on conviction, be punished with rigorous imprisonment which may extend to ten years but shall not be less than one year and with fine.

7. *Offences shall be cognizable and non-bailable.*— Offences under this Act shall be cognizable and non-bailable.

8. *Special provision as to Bail.*— No person accused under section 5 or section 6 shall be released on bail on execution of bond by two sureties and depositing in the court the amount not less than one half the value of the property destroyed or damaged as may be determined by the court on the basis of police report or on furnishing bank guarantee for the said amount, unless the prosecution has been given an opportunity to oppose the application for such release.

9. *Determination of compensation.*— When court on conviction for an offence under this Act impose sentence it shall order payment of compensation regarding the loss sustained to any person, organization, institution or entity for any damage or loss or destruction caused due to the commission of offence, based on a report furnished by such officer, in such manner and in such form as may be prescribed and such compensation shall be recoverable under the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or as if an arrear of public revenue due on land under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968).

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



11. *Power to make rules.*— (1) The Government may, by notification in the Gazette, make rules either prospectively or retrospectively to carry out 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.

12. *Repeal and saving.*— (1) The Kerala Prevention of Damage to Private Property and Payment of Compensation Ordinance, 2019 (33 of 2019) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.

