

[Translation in English of “ 2005-ലെ കേരള കിസ്സാൻ പാസ് ബുക്ക് ആക്ട്” published under the authority of the Governor]

ACT 47 OF 2005

THE KERALA KISAN PASS BOOK ACT, 2005^{*}

An Act to provide for the issue of Kisan Pass Book to agriculturists containing record of rights and liabilities of their agricultural holdings in a revenue estate and to enable them to have credit facilities and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the issue of Kisan Pass Book to agriculturists containing record of rights and liabilities of their agricultural holdings in a revenue estate and to enable them to have credit facilities and for matters connected therewith or incidental thereto.

BE it enacted in the Fifty-sixth year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Kisan Pass Book Act, 2005.

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

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

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

(a) “agriculture” includes preparing land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, soil conservation and land development measures, raising and harvesting of crops, horticulture, forestry, cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, sericulture, bee-keeping, piggery, poultry farming and other activities including transportation of agricultural produce as are generally carried on by agriculturists, dairy-farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities and the words ‘agriculture purposes’ shall be construed accordingly;

(b) “agriculturist” means a person having an interest in a holding whether as a land owner, mortgagee or pattadar and includes lessee or assignee of Government lands;

(c) “co-operative society” means a co-operative society registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (20 of 1969);

(d) “financial assistance” means assistance rendered by way of loans, advances or otherwise for the purposes of agriculture by a financial institution or Government;

(e) “financial institution” means and includes,—

^{*} Received the assent of the President on the 10th day of December, 2005 and published in the Kerala Extraordinary Gazette No. 2779 dated 26th December, 2005.

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iv) a corresponding new bank as specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

(v) the Agricultural Finance Corporation Limited a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);

(vi) the Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);

(vii) the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);

(viii) the Kerala State Co-operative Bank or any other Co-operative Society;

(ix) the Kerala Agro Industries Corporation;

(x) the Kerala State Khadi and Village Industries Board; and

(xi) any other financial institution which may be notified in this behalf by the State Government;

(f) “holding” means a parcel or parcels of land held by an individual otherwise than as an encroacher;

(g) “Kisan Pass Book” means the Kisan Pass Book issued under section 6, containing certified extracts from the record of rights maintained under the Kerala Record of Rights Act, 1968 (26 of 1968) or from other revenue records, showing the nature and extent of interest of an agriculturist in his agricultural holding or holding in a revenue estate and other particulars as may be prescribed;

(h) “land” means land occupied or has been let for agricultural purposes or for purposes sub-servient to agriculture, or for pasture and includes the sites of buildings and other structure on such land;

(i) “notification” means notification in the official Gazette;

(j) “prescribed” means prescribed by rules made under the Act;

(k) “public servant” means the public servant as defined in section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(l) “Revenue Officer” means the prescribed officer of the Revenue Department;

(m) “Sub Registrar” shall have the same meaning as assigned to it in the Registration Act, 1908 (Central Act 16 of 1908);

(n) the words and expressions used to denote the holder of any right, title or interest shall be deemed to include the predecessors and successors of any right, title or interest of such person; and all the words and expressions used but not defined in this Act, but defined in the Kerala Land Reforms Act, 1963 (1 of 1964) and the Kerala Land Assignment Act, 1960, shall wherever used herein be construed to have the meanings assigned to them by the said Acts.

3. *Removal of restrictions on alienation.*—Notwithstanding anything contained in any law for the time being in force or any custom or usage having the force of law, it shall be lawful for an agriculturist to alienate the land or his interest therein whether or not a charge or mortgage is subsisting on such land or such interest, by creation of charge or mortgage of such land or interest therein in favour of a financial institution as security for the financial assistance given to him by such financial institution.

4. *Vesting of right of alienation.*—Notwithstanding anything contained in the Kerala Land Assignment Act, 1960 (30 of 1960) or the rules made thereunder or anything contained in any other law for the time being in force, the State Government may by notification, vest the assignees of land under the said Act with rights of alienation, including the right to create a charge or mortgage in such land or interest therein in favour of a financial institution for the purpose of obtaining financial assistance from any financial institution subject to such restrictions as may be specified in such notification.

5. *Act to override other laws.*—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), or in any other law for the time being in force.

6. *Issue of Kisan Pass Book.*—As soon as may be after the commencement of this Act, the Revenue Officer shall issue a Kisan Pass Book to every agriculturist in respect of his agricultural holdings and the information regarding the issue of the same shall be communicated to the concerned Sub Registrar:

Provided that in respect of co-shares an entry shall be made showing the extent and nature of their interest in the joint holding:

Provided further that where settlement or consolidation operations are being conducted in a revenue estate, a fresh Kisan Pass Book shall be issued as soon as such operations are concluded and record - of - rights is prepared.

7. *Contents of Kisan Pass Book.*—(1) The Kisan Pass Book shall be in such form containing such particulars of the agriculturist and valid for such period, as may be prescribed.

(2) The entries in the Kisan Pass Book shall be made by the Revenue Officer, in such manner, as may be prescribed.

(3) On the presentation of Kisan Pass Book at the time of attestation of mutation or otherwise with regard to any changes in the interest in the holding of the Agriculturist, the Revenue Officer, after being satisfied of the correctness of the changes on the basis of the mutation proceedings and other relevant evidence, shall make an entry with respect to such changes in the Kisan Pass Book, in such form and in such manner, as may be prescribed.

(4) It shall be the duty of the holder of the Kisan Pass Book to get it updated after the expiry date mentioned on the title page of the Kisan Pass Book and the Kisan Pass Book not so updated shall not be entertained as a valid document, wherever presented. The holder of Kisan Pass Book shall, before the expiry date, hand it over to the Revenue Officer for updating the entries therein, in such manner, as may be prescribed and the said officer shall update within fifteen days on receipt of the same:

Provided that the entries in the Kisan Pass Book submitted for updation shall be in force until its period of validity.

(5) If there is any mistake in the entries made in the Kisan Pass Book, the holder of the same shall make an application to the Revenue Divisional Officer, for rectifying the mistake, within such period as may be prescribed and Revenue Divisional Officer or the authorised officer shall, after due verification, rectify the mistake, in such manner as he deems fit and shall be returned within fifteen days on receipt of the same.

8. *Evidentiary value of Kisan Pass Book.*— (1) Every entry made in the manner prescribed under section 7, in the Kisan pass Book issued under section 6 shall be presumed to be true until the contrary is proved.

(2) The entries in the Kisan Pass Book shall carry the same evidentiary value as if these were certified copies of the record-of-rights and other public record for all intents and purposes before the public servant, courts or financial institutions.

9. *Transfer not to be registered except on production of Kisan Pass Book.*— (1) No transfer made by the holder of a Kisan Pass Book in respect of any land specified in such Kisan Pass Book or any interest therein or any crop standing thereon shall be registered by the Sub-Registrar, unless the Kisan Pass Book is produced before him, and on production thereof, he shall incorporate therein the particulars of the transfer registered by him, in such form and in such manner, as may be prescribed.

(2) Any transfer effected in contravention of this section shall be void.

10. *Alteration not to be made in the revenue record except on production of Kisan Pass Book.*—(1) In the case of the holder of a Kisan Pass Book no alteration in the revenue record shall be made by the revenue officer as a consequence of any transfer of land or any interest therein, except on production of the Kisan Pass Book.

(2) In the case of the holder of a Kisan Pass Book, it shall be lawful for the revenue officers to direct the transferor or transferee of any right or interest in the land to produce the Kisan Pass Book on demand by issuing him a notice and it shall be incumbent upon such transferor or transferee to produce within fifteen days, the Kisan Pass Book either personally or through an authorised agent for making an entry indicating the change.

(3) Any change made in contravention of this section shall be void.

11. *Grant of financial assistance by financial institutions.*—(1) For the purpose of availing of any financial assistance by an agriculturist on the security of any land, production of Kisan Pass Book issued in respect thereof shall be treated, by the financial institutions granting financial assistance, as a valid document to prove his title or interest in such property. However, production of Kisan Pass Book shall not be insisted by the co-operative societies for advancing crop loans.

(2) A financial institution granting any financial assistance to the holder of the Kisan Pass Book shall in record in the Kisan Pass Book the factum of such financial assistance and the report of sanctioning of loan and where such financial assistance has been given on the security of any holding, the financial institution shall also make an entry against the holding on the security of which the financial assistance has been granted by it, and the entry so made shall have the effect of creating a charge in favour of the financial institution on the holding against which the entry has been made and the holder of Kisan Pass Book shall be debarred from alienating the said holding until the outstanding amount of the financial assistance granted by the financial institution has been repaid together with interest due thereon:

Provided that if any charge on any land or interest therein was created by an agriculturist in favour of a financial institution before the commencement of this Act, it shall not debar him from creating, after such commencement, a subsequent charge on such land or interest therein in favour of a financial institution as security for any financial assistance given to him by such financial institution:

Provided further that the financial institution which sanctions the first loan after the issue of the Kisan Pass Book shall ascertain and verify, within fifteen days, all outstanding loans, except crop loan advanced by co-operative societies and encumbrances created by the agriculturists, as the case may be, by procuring an affidavit to that effect and shall enter and authenticate the details thereof in the Kisan Pass Book.

(3) The financial institution shall endorse a copy of the relevant entries incorporated in the Kisan Pass Book to the Revenue Officer as well as the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property which has been so charged is situate and on receipt of the same the Revenue Officer and the Sub Registrar shall cause necessary entry to be made in the record of rights, respectively, maintained in their offices.

12. *Removal of bar to attachment and sale by process of court.*—Nothing in any law shall prevent in any manner a financial institution from causing any land or any interest therein charged to it by an agriculturist to secure any financial assistance, to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist, including the costs and expenses of such sale, as may be awarded by the court.

13. *Recovery of dues of a financial institution under Revenue Recovery Act.*— On an application made by a financial institution for the recovery of arrears of any sum due to it by an agriculturist towards the financial assistance given to him under this Act, the District

Collector or an officer authorised by him may grant a certificate for the recovery of the said sum as per the provisions of the Revenue Recovery Act, for the time being in force, as if it were an arrear of public revenue due on land.

14. *Validity of Kisan Pass Book* .—A Kisan Pass Book issued under section 6 and made up-to-date shall remain in force only for three years and shall be valid thereafter only if it has been made up-to-date and so certified, in the manner, as may be prescribed.

15. *Cost of Kisan Pass Book*.—Before issuing the Kisan Pass Book under section 6, the Revenue Officer shall realize such sum, as may be prescribed, as cost thereof.

16. *Protection of action taken in good faith*.—No suit or other legal proceedings shall lie against the Government or any officer or authority for anything done in good faith or intended to be done in pursuance of this Act or any rule made thereunder.

17. *Penalty for disobedience of orders of revenue officer and for interpolation etc. in the Kisan Pass Book*.— (1) If any person fails or refuses to produce a Kisan Pass Book on demand by Revenue Officer or interpolate or erase anything in the Kisan Pass Book with an intention to defraud any authority under this Act or makes any false statement knowingly or having reason to believe the same to be false or which he does not believe to be true, with a view to gain wrongfully, shall be liable to be punished with imprisonment, which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the Revenue Officer. However, financial institutions may inform the Revenue Officer about any tampering within the Kisan Pass Book coming to their notice.

18. *Power to make rules*.—(1) The Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

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

- (a) the form, particulars and period of validity of the Kisan Pass Book under sub-section (1) of section 7;
- (b) the manner for the completion of Kisan Pass Book under sub-section (2) of section 7;
- (c) the form and manner in which any change in entry shall be made in the Kisan Pass Book under sub-section (3) of section 7;
- (d) the form and manner in which the particulars of the transfer shall be incorporated in the Kisan Pass Book under sub-section (1) of section 9;
- (e) the manner in which the Kisan Pass Book shall be made up-to-date and certified under section 14;
- (f) the amount to be realised as cost of Kisan Pass Book, under section 15;

(g) any other matter for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) 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.