

## ACT 39 OF 1963

### THE KERALA IDENTIFICATION OF PRISONERS ACT, 1963\*

*An Act to unify and amend the laws authorising the taking of measurements and photographs of convicts and others in the State of Kerala.*

*Preamble.*—WHEREAS it is expedient to unify and amend the laws authorising the taking of measurements and photographs of convicts and others in the State of Kerala;

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

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Identification of Prisoners Act, 1963.

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

(3) It shall come into force at once.

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

(a) "measurements" include finger impressions and foot-print impressions;

(b) "Police Officer" means an officer in charge of a police station, a police officer making an investigation under Chapter XIV of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), or any other police officer not below the rank of a Sub Inspector;

(c) "prescribed" means prescribed by rules made under this Act.

3. *Taking of measurements, etc., of convicted persons.*— Every person who has been—

(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction; or

\*Received the assent of the Governor on the 19<sup>th</sup> day of November, 1963 and published in the Kerala Gazette Extraordinary No.127 dated 19<sup>th</sup> November, 1963.

(b) ordered to give security for his good behaviour under section 118 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898),

shall, if so required, allow his measurements and photograph to be taken by a police officer in the prescribed manner.

4. *Taking of measurement, etc., of non-convicted persons.*—Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

5. *Taking of measurements, etc., of habitual offenders against whom restriction is made.*— Any person against whom an order of restriction has been made under section 11 of the Kerala Habitual Offenders Act, 1960 (Act 28 of 1960), shall, if so required, allow his measurements and photograph to be taken by police officer in the prescribed manner.

6. *Power of Magistrate to order a person to be measured or photographed.*— If a Magistrate is satisfied that for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer:

Provided that no order shall be made directing any person to be photographed except by a Magistrate of the First Class:

Provided further that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

7. *Resistance to the taking of measurements, etc.* .— (1) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(2) Resistance or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code (Central Act 45 of 1860).

8. *Destruction of photographs and records of measurements, etc. on acquittal.*— Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any court, all measurements and all photographs (both negatives and copies) so taken shall, unless the court or (in a case where such person is released without trial) the District Magistrate for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

9. *Power to make rules.*— (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) restrictions on the taking of photographs of persons under section 6 ;

(b) the places at which measurements and photographs may be taken;

(c) the nature of the measurements that may be taken ;

(d) the method in which any class or classes of measurements shall

be taken ;

(e) the dress to be worn by a person when being photographed under sections 3 and 5 ; and

(f) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

(3) Every rule made under this section 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.

10. *Bar of suits.*— No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.

11. *Repeal.*—The Identification of Prisoners Act, 1920 (Central Act 33 of 1920) in so far as it applies to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 and the Travancore-Cochin Identification of Prisoners Act, 1950 (Act 19 of 1950) are hereby repealed.

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