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STATE RECEIPT AUDIT MANUAL

LAND REVENUE

(Second Edition)

Issued by:

**THE ACCOUNTANT GENERAL (WORKS, FOREST, RECEIPT AUDIT)
KERALA, THIRUVANANTHAPURAM**

PREFACE

This manual has been prepared for the guidance of those entrusted with the audit of receipts of Land Revenue Department.

In this manual the basic provisions of the different enactments governing the levy, assessment and collection of tax in the Land Revenue Department have been set out. The audit instructions in this manual are supplementary to the general instructions contained in the manuals/circulars issued by the Comptroller and Auditor General of India.

The provisions of this manual shall not be quoted as authority in any correspondence outside this office.

SRA (HQ) section dealing with Land Revenue Receipts audit is responsible for keeping the manual up to date.

Sd/-

Thiruvananthapuram
Dated 14.5.2010

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CHAPTER- I

INTRODUCTION AND ORGANISATIONAL SET UP

1.1 The regular audit of Land Revenue by the Accountant General, Kerala commenced from 1972-73. There are various enactments relating to Land that are applicable to the State of Kerala. The Land Revenue Department is administered by the Commissioner of Land Revenue. As per The Kerala Board of Revenue Abolition Act, 1996, the Board of Revenue was abolished w.e.f 01.07.1998 as per notification issued by Government in G.O. (MS) 331/98/RD dated: 20.06.1998.

1.2. For the purpose of Land Revenue administration, the State is divided into Revenue Districts, which are sub-divided into Taluks. The Taluks are further sub-divided into villages which constitute the smallest unit of land revenue administration. The State of Kerala consists of 14 Districts, 21 revenue divisions, 63 Taluks and 1,478 villages. Each District is headed by a District Collector, who is assisted by Deputy Collector. Each Revenue Division is headed by a Revenue Divisional Officer. Each Taluk is headed by Tahsildar. Each village is headed by a village officer. The Land Board headed by Land Revenue Commissioner deals with the land ceiling cases under Kerala Land Reforms Act. Every District has Taluk Land Boards and are headed by Revenue Divisional officers/Deputy Collectors.

1.3. The District Collectors are responsible for the land revenue administration of their Districts and are required to control and supervise the work of the Revenue Divisional Officers and the Tahsildars. The Revenue Divisional officers are responsible for the proper conduct of work for which they are given jurisdiction. The Tahsildars are in immediate charge of land revenue administration of their respective Taluks and exercise supervision and control on the village officers who are entrusted with the work of collection of land revenue and other receipts.

1.4. The duties of the land revenue officers with reference to the administration of land revenue are laid down in the respective Statutes, rules, notifications and orders.

CHAPTER- II

ASSIGNMENT OF LAND

2.1. Assignment and lease of land in Kerala are regulated by the Kerala Government Land Assignment Act 1960 and are governed by various rules made thereunder. The Kerala Government Land Assignment Act (Act 30 of 1960) came into force on 15.06.1960 repealing the Travancore-Cochin Land Assignment Act 1950 and all the rules and orders made thereunder (in force in Travancore-Cochin area). In the erstwhile Malabar District, the Government Grants Act 1895 (Central Act 15 of 1895) ceased to apply but all rules and orders not inconsistent with this Act shall be deemed to have been made under the corresponding provisions of this Act.

2.2 The Kerala Government Land Assignment Act 1960 (Act 30 of 1960)

Section 2

As for the Section all public roads, streets, tanks, lanes paths, bridges, all canals, tanks, lakes, back waters, water course, the bed of the sea, and of harbours and creek below high water mark, the beds and banks of rivers, streams, irrigation and drainage channels and all land wherever situated except the property of :-

- (a) jenmi's or holders of inams;
- (b) holders of land in any way subject to the payment of land revenue;
- (c) any other registered holder of land in proprietary right;
- (d) any person holding land under grant from the Government otherwise than by way of lease or licence; or
- (e) any person claiming through or holding under any of the person referred in clauses (a), (b), (c) or (d) are declared as Government lands.

2.3. Assignment of Government land

Section 3 (1)

Government land may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitation and conditions as may be prescribed.

Section 3 (2)

No land may be assigned without consulting the local body concerned and if they require the land for carrying out their functions, Government may set apart such land for that purpose.

2.4 Procedure for assignment of land

Section 4

When any Government land is proposed to be assigned other than by way of lease or licence the Tahsildar of the Taluk or the empowered officer shall notify this matter and invite objections from those having any claim over the land and the officer shall enquire into the claim and pass suitable orders.

Section 5

On lapse of the time fixed for preferring claim over the land or the objections is rejected and the time for appeal elapsed or appeal rejected, the land may, subject to such rules made by the Government, be assigned.

2.5. The Kerala Land Assignment Rules, 1964

The Rules came into force w.e.f 25.03.1964.

Exemptions [Rule 1A]

These rules shall not apply to

- (i) land situated within the limit of a Corporation, Municipality or Cantonment or such other areas that the Government may specify;
- (ii) assignment of Government land for specific purpose of cultivating Tea, Coffee, Rubber, Cinchona and Cardamom;
- (iii) assignment of land under any specified rules other than Kuthakapattom Rules 1947;
- (iv) Government land held under any special tenures like Kandukrichi, Viruthi, etc.
- (v) Government land held under any specified agreement with the Government;
- (vi) Government lands transferred and vested in the Panchayats;

2.6. Purposes for which land may be assigned [Section 4]

Government land may be assigned on registry for personal cultivation, houses sites and beneficial enjoyment of adjoining registered holdings.

Beneficial enjoyment means the enjoyment of land for purposes like providing approach road to assignees registered holding and protection of his water course, standing crops and buildings. **[Rule 2 (c)].**

2.7. Procedure for assignment of Government land on registry

List of assignable lands to be prepared [Rule 11]

Before granting registry lists of lands which should be reserved for Government or public purposes and land available for assignment in each village shall be prepared. After setting apart lands for future Government or public purposes, 25% of the land available for assignment in each village shall be reserved for assignment to members of SC and ST and 10% for Ex-Servicemen.

The lands held on lease with or without limit of time including leases under Kuthakapattom Rules, shall also be taken into consideration for the purpose of registry. The list of land to be reserved for Government or public purposes and available for assignment on registry shall be approved by the Government or by any subordinate authority authorized by Government for the purpose. The list of land made available for lease or licence shall be approved by the District Collector and the approval of the Government is not required.

Application for assignment of land shall be made in the prescribed form.

The list of assignable land and land to be reserved for Government or public purposes are to be placed before the Taluk Land Assignment Committee consisting of officials and non officials, for its recommendations and to be forwarded to the District Collector for approval. The applications for assignment after due enquiry by the Tahsildar shall be placed before the Committee for considering its merits and the District Collector if he is satisfied that it is in public interest so to do, shall assign such excess lands as admissible under these rules **[Rule 12].**

Notwithstanding what is stated in Rule 12, for assignment of land on registry for personal cultivation or for house sites the advise of the Taluk Land Assignment Committee consisting of officials and non officials, the advice of the Committee supported by not less than $\frac{3}{4}$ of the members present shall be accepted and given effect to by the Tahsildar who shall be the convenor of the Committee. If the Committee fails to reach a decision as aforesaid with the required majority the Tahsildar shall assign the land according to Rules.

2.8. Priority to be observed in assignment

(Rule 7 (1))

If any person is in occupation of Government land under lease whether current or time expired, or by way of encroachment not considered objectionable such land if such occupation is before 1st August 1971 shall be assigned to him on registry. Provided that the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limit prescribed in Rule 5 the annual family income from sources other than the Government land held by him is below Rs 30,000. Provided also that in the case of landless SC and ST families income limit mentioned above shall not be applicable.

Encroachment not considered objectionable means encroachment on Government land which is available for assignment, by a person or family eligible to get land on registry under these rule **[Rule 2 (cc).]**

2.9. Rule 7 (2)

In the case of unoccupied land the following order of preference shall be observed in granting registry.

- (i) First preference- Persons who do not own or hold any land either in proprietary right or with Security of tenure and whose annual family income does not exceed Rs 30,000.
- (ii) Second preference - Persons who do not own or hold any land either in proprietary right or with Security of tenure who are disabled while in active military service or who are dependents of those who are bitted or disabled while in active military Service.
- (iii) Third preference - For small holders who have not been able to resume their land due to expiry of time for applying for resumption and whose annual family income does not exceed Rs 30,000.
- (iv) Fourth preference - Serving military personnel with an approved service of not less than three years and who are decorated for gallantry or their dependents who do not own or hold any land either in proprietary right or with security of tenure. Provided that in the absence of application from such military personnel as aforesaid, the applications of other serving military personnel with an approved service of not less than 10 years, and who do not own or hold any land

either in preparatory right or with Security of tenure shall be considered.

(v) Fifth preference - Persons whose annual family income does not exceed Rs 30,000 and the total extent of land owned or held by them either in proprietary right or with Security of tenure is less than the extent prescribed in these rules.

2.10. Rule 7 (3)

No registry shall be granted to any family in occupation of Government land either under a lease, current or time expired or by way of encroachment, unless it surrenders to Government, without claiming any compensation, the land is excess of the extent proposed to be registered in its favour. If there is excess land in its possession and is not willing to surrender the excess land eviction will be resorted to.

2.11. Conditions of assignment on registry

Land granted on registry shall be heritable and alienable [*Rule 8(1)*]. But unoccupied land assigned on registry shall not be alienable for a period of three years from the date of registry except on mortgage to Government or Corporation or other financial institutions for obtaining loans for agricultural or land improvement purpose or for construction of house [*Rule 8(1A)*].

The assignee or a member of his family or his successor-in- interest shall reside in, or cultivate on, as the case may be, the land granted on registry within a period of one year from the date of receipt of patta or provisional patta [*Rule 8(2)*].

The registry shall be liable to be cancelled for contravention of the provisions in Rule 8(1 A) or 8(2) and also if it is found that it was made under a mistake or misrepresentation of facts or there was an irregularity in the procedure, by the authority which granted the registry or one Superior to it, after giving the affected party a reasonable opportunity of being heard and such assignee shall not be eligible for further assignment of land anywhere in the State. Provided that no assignment of land shall be cancelled if the annual family income of the transferee occupant does not exceed Rs 10,000 and who does not own or possess any landed property anywhere in the State [*Rule 8(3)*].

2.12. Maximum extent of land that can be assigned for cultivation

The extent of land that shall be registered in favour of a single family for personal cultivation by members of the family shall not ordinarily exceed fifty cents in plain and one acre in hilly tracts in the case of unoccupied lands and also in the case of land held on lease current or time expired or by way of encroachment not considered objectionable. In later cases, the land, if any, held in excess of this limit shall be surrendered to Government and no compensation shall be payable for the land so surrendered [**Rule 5 (1)**].

When a family owns or holds any land over which it has proprietary right or has security of tenure, only the balance to make up the extent admissible under such rule (1) shall be granted on registry [**Rule 5 (2)**].

2.13. Assignment for house site and for beneficial enjoyment.

(1) The extent of Government land that shall be registered in favour of a family as house site shall not exceed fifteen cents (6.072 ares). The assignee shall be liable to pay land value for house sites at the rate of Rs 200 per cent.

(2) The extent of Government land that may be granted on registry when the same is indispensably required for the beneficial enjoyment of adjoining registered holdings shall not exceed, in the case of one registered holding fifteen cents (6.072 ares).

Note:- The authority competent to assign land for beneficial enjoyment shall be the Revenue Divisional Officer. He may pass order of assignment in such cases only after personally satisfying himself that the land is absolutely necessary for that purpose.

(3) An assignment under sub-rule (2) shall be subject to the payment of market value of the land at the time of assignment and survey and demarcation charges at the rates specified in sub-rule (4) of Rule 10 excluding the value of improvements, if any, made by the occupants on the land (**Rule 6**).

2.14. Value of land and trees/plants to be recovered

Rule 10 (1)

For assignment of land the assignee shall be liable to pay the value of land where the land is held on lease current or time expired and one and a half times the value of the land where the land is held by way of encroachment.

Explanation:- For the purpose of this sub rule value of land means the value without improvements effected by the leasee or encroacher. For determining the value of the land the District Collector shall have due regard to the value of similar other lands without improvements situated in a similar locality.

Rule 10 (2)

In cases other than those falling under clause (1) above, the assignee, on registry shall be liable to pay the land value at the following rates.

Dry land	Rs.1,000 per acre [40.47 ares]
Wet land (including lands reclaimed from rivers canals, backwaters or the Sea)	Rs.1,000 per acre [40.47 ares]
Grass lands (including waste lands)	Rs.200 per acre [40.47 ares]

Rule 10 (3)

The assignee shall be liable to pay the value of the trees, plants and vines, if any, specified in Appendix III to these rules (reproduced below), standing on the land at the time of assignment at such rates specified by the Government subject to the following conditions.

- (a) No value shall be charged for trees having girth up to 90 c.m at breast height.
- (b) If the assignee was already in occupation of the land, no tree value shall be charged for those trees planted by him or his predecessor or in occupation as are specified in list B
- (c) If the assignee is not agreeable to pay the tree value for trees specified in part A of the List the Tahsildar shall dispose of the trees in public auction.

Appendix III

PART A

[See Rule 10]

List of reserved trees

Sl. No.	Vernacular name	Botanical name
1.	[XXX] (Omitted by SRO 41/70)	
2.	Thumbegom or kongu	Hopea Parviflora
3.	White Cedar or Agil	Dysexylum Malabaricum
4.	Vengai	Pterocarpus Marsupium
5.	Thembavu or Karimaruthi	Terminalia Tomentosa
6.	Irul or Kadamaram	Xylsia Dolabriformia
7.	Myla	Vetax Altissima
8.	Venteak	Lagerstroemia-lanceolata
9.	Punnappa	Calophyllum Tementosu
10.	Cherupunna	C.Wightianum
11.	Madagirivembu or Devadara	Cedrela Toona
12.	Malaveppu	Chickrassia Tabulari
13.	Shenkuranthi	Gulta Travancorica
14.	Vaha	Albizzia Lebbek A.Procera A. Oderatissima
15.	Manjakadampu	AdinaCardifolia
16.	Manimaruthi	Legerstroemia flos Regisnoe
17.	Maruthi	Derminlia Paniculata
18.	Nangu	Meswa ferrea
19.	Chokkala	Aglaia Rexburghiana
20.	Kodappala	Hardwickia Pinnata
21.	Karanjili	Dipterocerus Bourdillon
22.	Ilapongu	Hopea Winghitana
23.	[XXXX](omitted by SRO 41/70)	
24.	Edankorana (Pathiri)	Streospernum Xylocarppum
25.	Karinthakara	Albizzia Lebbek
26.	Karivaga	Albizzia Oderatissima
27.	Poovan	Schlochora Tijuga
28.	Mulluvengai	Bridolia Retusa
29.	Unnam	Grewia Tiliastpha
30.	Venkkali	Anegeissus Latifolia
31.	Venkotta	Lephopetaium Wightianum
32.	[XXXX]	Omitted by SRO No. 489/76)
33.	[XXXX]	
34.	Mavu	Mangifera Indica
35.	Puli	Tamarindus Indica
36.	Iluppei	Bassia Longifolia
37.	Pasakottai	Sandindus tarifollatus
38.	Thelli	Cnarium Strictum

39.	Morala	Buchania Latifolia
40.	Mattipal	Ailanthus Malabaricus
41.	Kanjiram	Strychanes Nuxomica
42.	Puthenkolli	Poeciloneuron Indicus
43.	Vellaini	Dipterocarpus Indicus
44.	Ponpathiri	Streepunnam cheloneides
45.	Karuva	Cinnamomum Zoylanicum
46.	Konnel	Cassia fistula
47.	Nedungar	Polyathia fragrans
48.	Gnaval	Eugunia Jampeiana
49.	Karinjarai	Eugunia Gardneri
50.	Chavaran	Eugunia chavairan
51.	Karivelam	Acacia Arabica
52.	Parampo	Prosopis spicigera
53.	Kadapla	Kurumia biparattita
54.	Ninga (Niroli)	Filicium decipies
55.	Karangan	Aerocarpus fraxinifolia
56.	Vedapla (karayani)	Gullenia excelsa
57.	Nennal (Thiruppu)	Bischola javanica
58.	Aiha	Hardwickia binata
59.	Vemaram	Chloroxylon swistenia
60.		Shorea talura
61.	Elavu	Bombax malabaricum
62.	Cheeni	Tatrameles nudiflora
63.	Malayuram	Pterospermum rubiginosum
64.	Bamboos	Bambusa Sq.Per 100
65.	Anjili or Ayani	Artocarpus hirsuta

Appendix III

PART B

1	Coconut
2	Arecanut
3	Palmyrah
4	Rubber
5	Coffee
6	Tea
7	Pepper-Vine
8	Plavu (Jack tree)
9	Mavu (Mangifera indica)
10	Puli (Talmarindus indica)
11	Parankimavu

Rule 10(5)

No land value, survey and demarcation charge and arrears of assignment shall be recovered from the assignee belonging to the SC and ST.

2.15. Collection of arrears of Government dues and issue of provisional patta

Order granting registry and that of patta shall be in the prescribed forms. Where patta is issued pending survey and demarcation a note to that effect may be made in the patta and when it is completed the exact area assigned shall be noted in the patta [**Rule 9 (1) & (2)**]. A patta issued under this sub rule shall be liable to stamp duty at the appropriate value.

The cost of survey and demarcation in the above case shall be recovered from the assignee at the following rate:-

- (i) In Taluk where re-survey work has been completed or is in progress, the maximum rate of survey charges per hectare arrived at during the resurvey for the area so far completed under resurvey; and
- (ii) In Taluk where resurvey has not been taken up, the maximum rate of survey charges as per resurvey in the nearest Taluk in the District where resurvey has been completed. [**Rule 10 (4)**]

Rule 9 (3)

Where the land granted on registry is already held by the assignee either under a lease, current or time expired or by way of encroachment not considered objectionable, the arrears of assessment recoverable by the Government whether by way of land revenue or any tax or fee levied in lien thereof, arrears of lease amount or licence fee shall be limited to the amount of basic tax due on the land for the period of actual occupation.

Rule 9 (4), 9 (5) and 9 (6)

The liability for land revenue or any tax or fee levied in lieu thereof shall arise with effect from the year of issue of patta and such land revenue or tax or fee shall be liable to revision; the land shall also be subject to all general taxes and local rates payable by law or custom.

Rule 9 (6) (A)

The title to the land shall not pass to the assignee until he remits the land value and tree value payable for that land, and the arrears of tax, if any, due from him.

Rule 9 (7)

If the assignee does not remit land value, tree value and arrears of tax and other charges within three months from the date of sanctioning registry, the registry shall be cancelled, the occupants evicted, the land reassumed and reassigned to other eligible families. The patta for the land is issued only if the entire amounts are paid within three months.

Provided that the Tahasildar may in the case of assignees who is landless and whose annual family income does not exceed Rs 10,000, in his discretion, allow half yearly instalments not exceeding four, for payment of dues and patta shall be issued only after the entire amount has been paid.

Provided further that if the occupants had not been evicted the Revenue Divisional Officer, may at his discretion, in deserving cases condone the delay in payment of dues upto one year from the date of order of sanctioning registry. The District Collector and the Commissioner of Land Revenue shall be competent to condone delay upto three years and five years respectively. In all

cases where delay exceeds five years sanction of the Government shall be obtained for condoning the delay.

Arrears of assignment dues shall bear interest @ 6% *per annum*.

LEASES AND LICENCES

2.16. Lease and Licensing of Government lands

Lands which are likely to be required in future for Government or public purposes, but not immediately may be leased or licenced for the following purposes without auction.

- (a) Lease of land for agricultural purposes to families of Scheduled Castes and Tribes and landless and indigent families belonging to other Communities.
- (b) Lease of land indispensably required for beneficial enjoyment of adjoining holding.

Note:- In such cases the lease shall automatically terminate on the date on which the lessee ceases to be in enjoyment of the adjoining holding.

- (c) Lease of land under any scheme approved by the Government.
- (d) Lease of land for agricultural purposes to Co-operative Societies.
- (e) Lease or licence of land for temporary occupation for purposes like putting up pandals or sheds for conferences, fairs, festivals and marriages and for entertainments like cinema, circus, drama and exhibition.
- (f) Lease or licence of land for purposes like the following:-
 - (i) Retting of coconut husks;
 - (ii) Stocking of materials;
 - (iii) Use as play grounds;
 - (iv) Laying of pipe lines;
 - (v) Putting up drainage coverings and construction of steps on road margins;
 - (vi) Putting up shops;
 - (vii) Construction of petrol bunks; and
 - (viii) Such other purposes as may be decided upon by Government from time to time. (**Rule 13**).

2.17 Lease and Licencing of land within Port limits

Land within port limit shall be leased out or licenced for marine purposes by the Port Department in consultation with the Revenue Department. **[Rule 13 A (1)]** and for non marine purposes by the Revenue Department in consultation with Port Department **[Rule 13 A (2)]**

The following shall be considered as Marine purposes:-

- (a) For hauling up or docking a sea-going vessel.
- (b) For building a sea-going vessel
- (c) For storing timber, firewood, clay and tiles before shipment and after landing.
- (d) For storing cargo other than (c) before shipment and after landing
- (e) For hauling up a cargo or other boat for repairs.
- (f) For building a cargo or other boat.
- (g) For a crane site.
- (h) For saw pits of sheds.
- (i) For scrapping native craft at a boat bunder for repairs etc.
- (j) For laying up logs of timber or boats plying for hire at a boat bunder.
- (k) For oil instillations. (Note below Rule 13 A)

2.18. Procedure for granting lease and licence

The application shall be made to the Tahsildar in the prescribed form. The Tahsildar after preliminary enquiry, publish notice inviting objections from interested parties and after enquiry of the objections received within the specified time, shall submit the applications to the competent authority together with his recommendations **[Rule 16].**

The order granting lease or licence for agricultural and for non agricultural purposes shall be issued in the prescribed forms specifying the terms and conditions. The lease or licence shall be heritable but not alienable. The authority granted lease or licence is competent to terminate the same after giving sixty day's notice, in writing, to the assignee, if the land or a portion thereof is required for Government or public purposes. The grant shall also be liable for termination after giving reasonable notice, not exceeding fifteen days if the assignee violates any of the conditions of the grant order **[Rule 15].**

2.19. Rental to be charged

Rent shall be charged for the lease or licence of land and trees, if any, standing thereon and included in the lease or licence at such rates as Government specify. The assignee shall pay the rent and also deposit an amount equal to one year's rent in advance, as security.

2.20. Period of lease etc.

(1) Leases, under clause (a) of Rule 13, shall subject to the provisions of Rule 16, be granted by the Tahsildar for periods not exceeding two years at a time and upto a maximum extent of three acres (1.2141 hectares) for a family;

(2) Leases, under clause (b) of Rule 13, shall, subject to the provisions of Rule 16, be granted by the Tahsildar for periods not exceeding two years at a time and upto a maximum 50 cents (20.23 ares) in each case.

(3) Leases, under clause (c) of Rule 13, shall be granted for periods not exceeding five years and upto a maximum extent of five acres (2.0234 hectares) by the Tahsildar, for periods not exceeding ten years and upto a maximum extent of 10 acres (4.0468 hectares) by the Revenue Divisional Officer, for periods not exceeding twenty years and upto maximum extent of twenty acres (8.0973 hectares) by the District Collector, and in other cases by the Government.

Provided that in cases where the scheme, as approved by Government itself specifies the period of the lease and the extent of the land to be leased, the grant shall be limited to such period and extent.

(4) Leases under clause (d) of Rule 13, shall be granted for periods not exceeding ten years, by the Tahsildar upto a maximum extent of three acres (1.2141 hectares) by the Revenue Divisional Officer upto a maximum extent of ten acres (4.0468 hectares) and by the District Collector upto a maximum extent of twenty acres (8.0937 hectares). In other cases sanction of the Government shall be obtained.

(5) Leases or licences, under causes (e) and (f) of Rule 13, shall be granted for periods not exceeding three years by the authorities competent to do so under the existing rules or orders or by such other authorities as may, from time to time, be specified by the Government.

Provided that Government shall be the authority competent to give leases or licences for the purpose of conducting cinema.

(6) Lease or licence under sub-rule (20 of Rule 13 A, shall, subject to the provisions of Rule 16, be granted by the Tahsildar for periods not exceeding two years at a time and upto a maximum extent of three acres (1.2141 hectares) by the Revenue Divisional Officer for periods not exceeding 5 years, at a time and upto a maximum extent to five acres (2.0234 hectares) and by the District collector for the periods not exceeding 10 years at a time and upto a maximum extent of 10 acres (4.0468 hectares). In all other cases the leases shall be granted by the Commissioner (**Rule 14**).

2.21. Leasing or licensing of Government Office compounds etc.

Lease or licence of land within the premises of Government offices or institutions shall ordinarily be granted by the competent authority only in consultation with the department concerned and the PWD and in case of differences of opinion competent authority shall obtain orders of next higher authority (**Rule 19**).

2.22. Overwhelming powers of Government

The powers and functions of Tahsildar may be exercised and performed by any other officer authorized by the Government in this behalf [**Rule 23 A**].

Government may, in public interest, assign land dispensing with any of the provisions contained in these rules and subject to such conditions, if any, as they may impose [**Rule 24**].

CHAPTER III

ASSIGNMENT OF LAND WITHIN MUNICIPAL AND CORPORATION AREAS

3.1. Assignment of land within Municipal and Corporation areas are governed by Assignment of Land within Municipal and Corporation Areas Rules, 1995 which came into force on 14.11.1995.

3.2. Purposes for which land is assigned

Land may be assigned for house sites, shop sites or other commercial or charitable purposes and for beneficial enjoyment of adjoining registered holdings *[Rule 3]*.

Charitable purpose has not been defined in the Rule or in the Act.

3.3. Maximum extent of land that can be assigned

Maximum extent of land that may be assigned to a family for house site shall not ordinarily exceed ten cents in Municipal areas and five cents in Corporation areas *[Rule 4 (1)]*. The maximum extent of land assignable for beneficial enjoyment of adjoining registered holding shall not exceed five cents in the Municipal areas and three cents in Corporation areas.

Land held under lease, current or time expired, granted under any rules, not exceeding five cents in Municipal areas and three cents in Corporation areas shall be considered for assignment on registry to the holder on payment of land value at the market rate subject to clearance of outstanding lease rent, if any. In the case of time expired lease, prohibitory assessment under Kerala Land Conservancy Act 1957 shall be remitted before filing the application for assignment *[Rule 5 (1) to (3)]*.

3.4. Procedure for assignment of land

Before granting registry lists of land which should be reserved for Government or public purposes and land available for assignment in each village shall be prepared. After setting apart lands for future Government or public purposes, 25% of the land available for assignment shall be reserved for assignment to members of SC and ST.

The lands held on lease with or without limit of time including leases under Kuthakapattom Rules shall also be taken into consideration for the purpose of registry. District Collector shall be the competent authority to approve the list of lands to be reserved for Government or public purposes and to be set apart for assignment. The list prepared by the Tahsildar shall be forwarded to the District Collector along with the recommendation of the Municipal/ Corporation Land Assignment Committee which consists of officials and non officials.

The application for assignment of land shall be made in the prescribed form and in the case of married couple the application shall be made jointly and patta shall be issued jointly in their name **[Rule 6]**.

In respect of the application the Assigning Authority shall publish a notice inviting objections against registry of such land and on consideration of the objections, the application, if eligible, shall be placed before the Municipal/Corporation Land Assignment Committee. The Committee having Revenue Divisional Officer or District Collector as its Convener shall consider the applications and give their advice strictly in accordance with the preference stipulated in Rule 7 of Kerala Land Assignment Rules, 1964. The advice of the Committee supported by not less than $\frac{3}{4}$ of the members present shall be accepted and given effect to by the District Collector. In cases where the Committee fails to reach a decision with the aforesaid majority, the District Collector shall assign the land according to rules. The quorum for the meeting shall be not less than 1/3 of the total members of the Committee. **[Rule 6A and 7]**.

Assigning Authority means:-

- (i) the District Collector having jurisdiction over the area when the land is assigned for house sites, shop site or beneficial enjoyment to individuals or families in Municipal and Corporation areas;
- (ii) Government in respect of assignment of lands to institutions **[Rule 2 (b)]**.

3.5. Conditions for assignment

The land value as indicated in the assignment order shall be remitted within 30 days from the date of receipt of the order of assignment **[Rule 9]**. Immediately after remittance of land value, patta shall be issued to the assignee in the prescribed form **[Rule 10]**.

The land assigned on registry under these rules shall be heritable but not alienable for a period of 12 years. Provided that there is no bar on mortgaging the land to Government, Corporative institutions or other Institutional Credit Agencies for obtaining loan for effecting improvements to the land or for constructing/repairing buildings or for improvement of the business of the assignee.

3.6. The land value to be recovered

The land value payable in respect of land not exceeding the prescribed limit shall be at concessional rates prescribed in the Kerala Land Assignment Rules, 1964 in respect of assignees whose annual family income from all sources does not exceed Rs 24,000. The land value payable by those having annual income exceeding Rs 24,000 but below Rs 50,000 shall be one fifth of the market value of the land at the time of assignment of land. Those having annual family income exceeding Rs 50,000 shall pay market value of the land at the time of assignment. Those who are in possession of land in excess of the prescribed limit shall pay full market value of the land at the time of the assignment irrespective of their family income or caste. In the case of assignment of land for purposes other than house sites, land value at market rate at the time of assignment shall be realized irrespective of income or caste of the assignee [**Rule 4**].

Note: (1) In calculating land value payable by the assignee the value of the improvements, if any, effected by him in the case of occupied land shall be excluded.

(2) For the purpose of these rules land value at market rate shall be calculated by adopting the method for calculating land value at market rate in land acquisition proceedings.

3.7. Survey and demarcation charges to be recovered.

The land to be assigned shall be surveyed and boundaries demarcated. The assignee shall pay the cost at the rate prescribed by Government from time to time provided that the assignee belonging to SC/ST and whose family income from all sources does not exceed Rs 24,000 shall be exempted from payment of survey and demarcation charges [**Rule 13**].

3.8. Preservation of trees

The trees standing on the land assigned on house sites, the assignee shall be permitted to cut and remove the trees on payment of value as estimated by the Assigning Authority. No tree value shall be realized where the assignee proves that the trees were planted by himself or his predecessor-in-interest. If the assignee is not willing to remit the value, the Assigning Authority shall sell the trees in public auction and remit the amount into Government account [**Rules 15 (1) and 15 (2)**].

3.9. Lease of Land

Lands which are likely to be required for future Government or public purposes, but not immediately required, may be leased out for any temporary purposes. Land held under lease either current or time expired granted under any rules or orders in force at the time of such grant and do not fall under these rules shall be granted fresh lease subject to the following conditions:-

- (a) The lease holder shall, within three months from the date of issue of these rules file an application in the prescribed form to the Assigning Authority for grant of lease under these rules.
- (b) In the case of time expired lease, the arrears of lease rent or prohibitory assessment under the Kerala Land Conservancy Act 1957, as the case may be, outstanding against the land shall be cleared before entertaining application for grant of lease of such land. The time limit may be extended to a maximum period of three months by the Assigning Authority for sufficient reasons and the land would be resumed where applications are not filed within the stipulated time.
- (c) The Assigning Authority shall conduct personal inspection of the land.
- (d) If the land is situated within the port limits the prior concurrence of the department of ports shall be obtained.
- (e) The lease granted shall be for a period of three years and shall be renewed on application [**Rule 12 (1)**].

The application for fresh or renewal of lease shall be in form 5 and the Assigning Authority shall follow the procedures laid down in clause (e) and (d) of Rule 12 (1) [**Rule 12 (2)**]. The period of renewed lease shall not exceed three years (**Rule 12 (4)**).

3.10. Lease Rent

(i) The annual lease rent shall be fixed based on the market value of lands at the rates as specified below; namely:-

(a) Land leased out to individuals or institutions purely of commercial nature	10%
(b) Land involved in exciting long term lease for 99 years to individuals and social and charitable institutions at nominal lease rent	5%
(c) Land leased out to co-operative societies and institutions under the co-operative societies	5%
(d) Land lease out to educational institutions and hospitals, etc. (i) for minimum extent required for the essential functioning of the institution (ii) beyond for essential functioning and used for commercial purposes	2% 10%
(e) Land leased out to public sector institutions, institution of Central or State Governments: (i) when used for non commercial purposes (ii) when used for commercial purposes	2% 5%
(f) Land leased out to institutions for promotion of cultural activities or tourism and club of all types (ii) the lease rent shall be revised at intervals of every three years. (iii) All the lessees who have defaulted in payment of lease rent shall pay such lease rent at rates such as are applicable to them before 1995 and the arrears thereof shall be remitted in full. (iv) The arrears of lease rent for the period from 1995 to the date of coming into force of the revised lease rent shall be settled twenty-five <i>per cent</i> of such amount.	2.5%

[Rule 12 (5)]

The land to be assigned shall be surveyed and the boundaries demarcated. The assignee, except those belonging to SC/ST and those whose annual family income does not exceed Rs 24,000 shall remit survey and, demarcation charges at the prescribed rate **[Rule 13]**.

The land held on lease shall not be alienable under any circumstances. **[Rule 14].**

3.11. Preservation of trees

Trees standing on the land assigned on lease shall be the property of Government. The lessee may cut and remove such trees that are essentially required to be removed for the smooth functioning of the shop on payment of the value thereof. However, the provisions of the Kerala Preservation of Trees Act 1986 shall be applicable in the case of valuable trees **[Rule 15 (3)].**

3.12. Extension of lease or assignment

Unless the land is required to be used as house site or is indispensably required for the beneficial enjoyment of adjacent pattah land, extension of lease or assignment or registry shall be made only if the assigning authority is satisfied that the land is not required for any public purpose and that extension of lease or assignment or registry of such land is inevitably required in the interest of justice **[Rule 16]**.

3.13. Contravention of terms and conditions and resumption of land

Any assignment on registry or lease shall be liable to cancellation for contravention of any of the conditions enumerated in the Pattah and such case the land shall be resumed. The pattah or lease shall also be cancelled if it is found that it was grossly inequitable or was made under a mistake of facts or owing to misrepresentation of facts or in excess of the power delegated to the Assigning Authority or that there was an irregularity in the procedure.

Provided that the person affected by such cancellation of pattah or lease and resumption of land shall be given an opportunity of being heard in person before passing such orders **[Rule 17]**.

3.14. Recovery of amounts due

All amounts due to Government under these rules shall, in cases of default, be recoverable, as if they are arrears of revenue due on land under the Revenue Recovery Act for the time being in force **[Rule 20]**.

3.15. Special provisions regarding assignment

Notwithstanding anything contained in these rules, the Government may:-

- (i) authorise any officer to exercise the powers and functions which may be exercised by the Assessing Authority; and
- (ii) if they consider it necessary so to in public interest, assign land subject to such terms and conditions, if any, as may be imposed **[Rule 21]**.

CHAPTER IV

ASSIGNMENT OF GOVERNMENT LAND FOR INDUSTRIAL PURPOSES

4.1 Assignment of Government land for industrial purposes is governed by Rules for the Assignment of Government Land in Development Areas for Industrial purposes. The Rules came into force on 14.04.1964.

Land in a Development Area may be assigned to an industrialist under these rules for industrial purpose only subject to such conditions as may be imposed **[Rule 4 and 6]**. Development Areas consists of lands acquired by Government for the purpose of industrial development of an area **[Rule 2 (d)]**

4.2. Procedure for assignment

Application for assignment of land shall be made to the Director of Industries and Commerce who shall forward it to the Government with his recommendation **[Rule 5]**. The Government shall dispose of the application taking into consideration the necessity desirability and suitability of the industry in the area, the capacity of the applicant to run the industry and such other matters relevant. The extent of land to be assigned shall be decided by the Government taking into consideration the actual requirement of the industrialist and availability of land in the Development Area.

4.3. Land value to be paid

The cost of acquisition of the land including survey and demarcation charges and the cost of development with interest thereon @ 6% *per annum* upto the date of assignment shall be the basis of fixing land value. The cost shall be paid by the industrialist before the land is assigned to him.

Provided that where the industrialist is in possession of the land under the Kerala Allotment of Government Land in Development Areas on Hire Purchase for Industrial Purposes Rules, 1969, a proportionate reduction in interest on land value remitted under the said rules shall be made **[Rule 8]**.

The Industrialist shall pay whenever called upon to do so by the District Collector such further sums as may be required to make up the total compensation for the land and improvements as finally settled and awarded by him under the Land Acquisition Act or if reference is made to the Court, as finally settled by court and all other costs of acquisition including all payments all allowances payable for works connected with the acquisition and all Court costs. Advocate's fees and all other expenses incurred by the Government for or in connection with the acquisition of the land **[Rule 9]**

4.4. General conditions

The land shall be used only for the purpose for which it is assigned and shall start the industry within the period specified in the order of assignments. **[Rule 10 and 13].**

The land shall be heritable but it shall not be alienated or encumbered in any manner without the prior permission of the Government **[Rule 11].** The assignee shall pay all tax, cess, land revenue and other dues, payable from time to time Rule12].

Government shall have power to resume the land for any violation of these rules/orders of assignment/agreement, if any, or in the event the company is wound up or the industrialist is/are dead **[Rule14].**

In the event of the Industrialist not requiring the land for the purpose for which it is assigned, he shall intimate the Government in writing immediately and thereupon Government may either resume the land or inform the industrialist that he may dispose of the land in any manner he likes. In case of resumption of the land under this rule, the Industrialist shall be paid the compensation in the manner fixed under Rule 16 **[Rule 15]**

In case the land is resumed by the Government under Rule 14 or Rule 15 the Government may take possession of the land with the buildings and improvements, if any, thereon and pay the Industrialist the amount paid by him as value of the land under the rules, or the estimated market value of the land at the time of resumption as may be fixed by the District Collector whichever is less after deducting therefrom interest at 6 per cent *per annum* on Government investment in the land for the period from the date of award to the date of resumption of the land by the Government and also the value of any building constructed or of any improvements effected therein by the assignee **[Rule 16]**

All costs and expenses of and incidental of and to the preparation, execution or registration of any document to be executed under or in respect of or by virtue of the assumption or resumption under these rules shall be born by the industrialist **[Rule 17].**

4.5. Issue of patta

A copy of the order of assignment shall be sent to District Collector and also to the Director of Industries and Commerce and the former shall direct the Tahsildar concerned to issue a patta in the prescribed form [Rule 19]. The

Tahsildar and the District Industries Officer shall conduct periodical check to ensure that the conditions of assignment are not violated and any violations are brought to the notice of the District Collector immediately **[Rule 22]**.

Any outstanding dues under these rules shall be recoverable as if they were arrears of land revenue under the provisions of Revenue Recovery Act **[Rule 20]**.

4.6. Overwhelming powers of Government.

The Government shall be competent to assign land in the Development Arrears, if they so choose, dispensing with any of the provisions contained in these rules or imposing any terms and conditions whether contemplated by these rules or not **[Rule 23]**.

CHAPTER V

LEASE OF LAND FOR CARDAMOM CULTIVATION

5.1. Rules for Lease of Government Lands for Cardamom Cultivation, 1961 which came into force on 06.06.1961, govern lease of land in possession of encroachers for cultivation of cardamom, removal of time expired lease and lease of land taken possession of by Government. These Rules shall apply to lease of land for cultivation of cardamom in the Taluks of Devicolam, Peerumedu and Udumbanchola.

5.2. Lease of land in possession of encroachers

Land in possession of encroachers and cultivated with Cardamom may be leased to them without auction for a period of twenty years subject to the following conditions and the other provisions in these rules.

- (1) The maximum extent that may be leased to a person shall be 25 acres. Provided that the extent so leased together with the extent of cardamom lands registry or lease current or time expired already held, shall not exceed 60 acres. Provided further that the maximum shall be reduced to the extent of land that the person has obtained under rule 4 or 5 of these rules.
- (2) The premium to be collected shall be Rs 5,000 per hectare and annual pattom shall be Rs 250 per hectare .
- (3) The arrears of pattom shall be payable for the entire period of occupation.
- (4) The encroacher shall unconditionally surrender land in his possession in excess of the limit prescribed above.
- (5) The person who is eligible for lease shall deposit the entire lease amount on account of premium and pattom including arrears of pattom, if any, within the specified date extendable by the RDO, for sufficient reasons, not exceeding 30 days. The RDO, in deserving cases, may grant further period of time not exceeding sixty days in all and may also allow payment in instalments, in either case charging interest @ 12 *per cent per annum* **[Rule 3].**

5.3. Renewal of leases

All the time expired leases the lessees are holding on, all existing leases and all leases granted under these rules may be renewed in favour of the lessees or their legal heirs, subject to the following and other provisions of these rules.

(1) The maximum extent to be leased to a person shall not exceed 25 acres.

Provided that the extent so leased together with the extent of other cardamom lands, if any, held by him by way of registry or lease (current or time expired) shall not exceed 60 acres.

Provided further that the maximum extent of 25 acres shall be reduced to the extent of land that the person has obtained under rule 3 or 5 or both.

(2) The period of renewal shall be 20 years and the rate of premium shall be one and two third times ($1\frac{2}{3}$ times) the rate originally charged provided that the Government may reduce the rate in deserving cases. Where no premium was charged originally the minimum rate to be charged at the time of renewal shall be Rs 150 per acre provided that the RDO may fix a higher rate of premium taking into consideration the conditions of cardamom plants, fertility of soil and accessibility of the land by cartable roads.

(3) The annual pattom shall be Rs 250 per hectare.

(4) The arrears of assessment @ Rs 250 per hectare *per annum* shall be realized for the entire period after the expiry of previous lease.

(5) The lessee shall surrender unconditionally the area in his possession in excess of that to which he is entitled under clause(1).

(6) The lessee shall deposit the entire lease amount on account of premium and pattom including arrears of pattom, if any, within the specified date extendable by the RDO, for sufficient reasons, not exceeding 30 days. The RDO may in deserving cases, grant further period of time not exceeding sixty days in all and may also allow payment in instalments, in either case charging interest @ 12 *per cent per annum* **[Rule 4]**.

5.4. Lease in public auction

The land may be leased in public auction subject to the following and the other provisions of these rules.

(1) The land shall be leased in public auction to the highest holder with an upset price of Rs 1,250 per hectare towards premium.

(2) The maximum extent leased in auction to a single person shall not exceed 10 hectares provided that the extent so leased together with the extent of

cardamom lands by way of registry or lease (current or time expired) already held by him shall not exceed 25 hectare.

Provided further that the maximum extent of 10 hectares shall be reduced to the extent of land that a person has obtained under Rule 3 or 4 or both.

- (3) The lease shall be for a period of 20 years.
- (4) The annual pattom shall be Rs 250 per hectare **[Rule 5]**.

Lease of land jointly to more than one person can be granted but the area limits shall be the same as are specified for individuals in these rules. The lessees shall, however, be jointly and severally responsible for the rights and obligations affecting the individual lessees in these rules.

Firms or Companies may hold lands on lease and the maximum extent that may be granted shall be as many multiples of the extent permissible for individuals as there are partners in the Firm or Companies subject to a total extent of 40 hectares provided that extent so leased together with the extent of cardamom lands by way of registry of leases already held by the Firm or Company shall not exceed 20 hectares **[Rule 6 A]**.

5.5. Concessional leases

Lease are granted to certain categories on a concessional terms without charging premium **[Rule 6]**.

5.6. General provisions

The lessee shall be free to remove the undergrowth and fell trees other than teak, black wood, ebony or sandal wood or any other tree having girth exceeding four feet at a height of three feet from the ground, to the extent necessary to admit sufficient sunlight for cultivation of cardamom **[Rule 7]**. All applications for felling trees shall be made to the Tahsildar, who after local inspection shall forward the same with his report to the RDO for disposal **[Rule 8]**. If any tree is felled or undergrowth is removed in contravention of these rules, the lessee shall be liable to pay damages at double the value of such trees or undergrowth as assessed by the RDO **[Rule 9]**. The lessee may collect dead trees other than Teak, Ebony, Black Wood and Sandal Wood but no live tree or undergrowth shall be felled or uprooted **[Rule 10]**.

The lease shall not convey any right to mines or minerals on the land or any right to water power, and the ownership of the land shall be vested with the

Government and the rights of the lessee shall be strictly limited to those specifically conferred on him by the lease **[Rule 12]**.

The lease shall be heritable **[Rule 13]**. No leasehold or part thereof shall be alienated without prior sanction of the District Collector and a fee @ Rs 5 per hectare shall be charged **[Rule 14]**.

The lessee shall pay the prescribed annual pannum in advance annually **[Rule 15]**. If a lessee fails to get the lease renewed or encroacher fails to get the land leased or any person bound to surrender any under these rules fails to do so, such persons shall be proceeded against under the provisions of Land Conservancy Act, for the time being in force **[Rule 16]**. No compensation shall be given for land surrendered **[Rule 17]**.

The lease shall be determined and the land resumed at the discretion of the authority for violation of any of the condition in these rules. The land shall be liable for resumption if and when the land is needed for Government or public purpose **[Rule 18]**. The lessee shall start effective cultivation of the land with cardamom to the satisfaction of RDO within 6 months of taking possession thereof **[Rule 19]**.

The authority competent to lease under these rules shall be the RDO. **[Rule 20]**. A public notice of the proposed lease shall be published under authority of the RDO before sanctioning the lease inviting claim or objections from interested persons **[Rule 22]**.

The Government shall, for sufficient reasons, be competent to dispense with any provision of these rules and grant leases, in any manner they choose, imposing any terms or conditions whether contemplated by these rules or not **[Rule 34]**.

All amounts due to Government under these rules shall in case of default be recoverable as if they are arrears of revenue under the Revenue Recovery Act for the time being in force **[Rule 35]**.

CHAPTER VI
ASSIGNMENT OF GOVERNMENT LAND FOR RUBBER
CULTIVATION

6.1. Assignment of Government land for rubber plantation is governed by Special Rules for the Assignment of Government land of Rubber Cultivation 1960 which came into force on 25.07.1961.

6.2. The licence granted under these rules shall be only for the right of occupation and cultivation of rubber on the allotted land. The applicants for licence shall be between 20 years and 45 years and shall be either agricultural labourers or educated unemployed [**Rule 4**]. Fifty *per cent* of the land to be allotted will be reserved for the educated unemployed persons [**Rule 5**]. The licence will be granted only to persons who, as individual or as member of joint family, possess no land or possess land not in excess of 0.81 hectares, either as owners or tenants [**Rule 6**]. The land will be allotted in 1.41 H.a. Plots, of which 1.21 H.a. shall be put under rubber cultivation in the immediately succeeding planting season and the remaining area shall be used for construction of dwelling house, domestic garden and for communal purposes [**Rule 9**]. Licence under these rules shall be for a period of ten years in the first instance and thereafter may be renewed for a similar period [**Rule 7**]. There shall be no licence fee or tax payable on the land licenced for the first ten years [**Rule 10**].

On the expiry of the period of licence, the Government may assign such lands to the licensee by public auction or on registry subject to such conditions and restrictions as they may deem fit to impose. The procedure laid down in Rules 4 and of 5 of the Kerala Land Assignment Act shall be followed in making such assignments [**Rule 8**]. The licensee shall be liable to pay such amount specified by the Government at the time of registry [**Rule 11**].

6.3. The registry shall be subject to the payment of

- (i) The value of land as fixed by the District Collector, within one year from the date of issue of licence;
- (ii) Twenty five *per cent* of the value of the land on premium;
- (iii) The survey and demarcation charges of the allotted land; and

(iv)Principal and interest of the loan, if any, given for rubber cultivation.

[Rule 12]. The payment under Rule 11 and 12 will be made in 10 equal annual instalments, the first instalment being payable on completion of one year from the date of assignment of the land **[Rule 15].**

6.4. The licence shall be heritable but not alienable. Every licensee shall within one month from the date of issue of licence nominate a successor and nomination once made can be altered only with the sanction of the Government **[Rule 17].**

6.5. Non compliance or violation of any of the rules or conditions of licence shall entail cancellation of the licence. The Government may resume the land in such cases and no compensation shall be payable to such licensees. In the event of such resumption the Government may recover from the original allottee the entire amount of the loans distributed to him with interest till date and the survey and demarcation charges and all other sums due from him in respect of the land renewed. Provided that when improvements are made by the allottee then the amount that falls short of the value of improvements as assessed by the Director of Agriculture may be recovered from the allottee. Provided further that if the value of the improvements is in excess of the amount due to the Government, the allottee shall have no claim for such excess **[Rule 20 (1) 20 (2) and proviso there under].**

6.6. All amounts due to the Government under these rules, in case of default, be recoverable as if they are arrears of land revenue under the R.R. Act for the time being in force **[Rule 24].**

The Government shall be competent to assign land if they so choose dispensing with any provisions contained in these rules or imposing any terms or conditions not provided for in these rules **[Rule 25].**

CHAPTER VII

REGULARISATION OF OCCUPATION PRIOR TO 01.01.1977 OF FOREST LANDS

7.1. Occupation of forest land prior to 01.01.1977 are regularized by the Kerala Land Assignment (Regularization of Occupation of Forest Land prior to 01.01.1977] Special Rules, 1993 which came into force on 19.03.1993.

7.2. The lands may be assigned on registry under these rules for the purposes of personal cultivation or for house sites or for shop sites, as the case may be **[Rule 3]**. Land means the forest land subjected to joint verification by Revenue and Forest Department and Cardamom Hill Reserve Land which are converted for non cardamom cultivation prior to 01.01.1977 in Idukki District which have been transferred from Forest Department to Revenue Department and covered in the Resurvey records and list of lands recommended to Government of India for concurrence under Section. 2 of the Forest (conservation) Act 1980 (Central Act 69 of 1980) but does not include lands in wild life sanctuaries **[Rule 2 (6)]**. Regularization of occupation means regularization of occupation prior to 01.01.1977 of forest land and lands in Cardamom Hill Reserve of Idukki District.

7.3. The land sought for assignment under these rules should have been under occupation prior to 01.01.1977 by the assignee or his predecessor/successor-in-interest. Provided that the lands which are under possession and enjoyment of scheduled Tribes prior to 01.01.1977 and subsequently passed on to a person other than a ST shall not be assigned to such person even if the occupation by such person is prior 01.01.1977 **[Rule 5]**.

7.4. Maximum extent assignable

The extent of land that may be assigned to a family under these rules shall not exceed four acres. The land in possession of a family in excess of four acres shall be resumed by Government and the said family shall not be eligible for any compensation for improvements effected on such land **[Rule 4]**

7.5. Procedure for assignment

The joint verification reports or the survey records containing details of land found eligible for assignment shall be published in the concerned Village Offices and Taluk Offices inviting applications for assignment **[Rule 6]**. On

receipt of applications the Tahsildar shall publish in the Village Office and Taluk Office a notice inviting claims or objections from the interested persons to the regularization of the occupation by assignment on registry. The Tahsildar shall, after due enquiry; pass orders on such claims or objections, if any, within 15 days of the receipt of the objections or claims recording reason for rejection or admission of the claims or objection .If no claims or objections are preferred the Tahsildar shall straightaway assign the land to the applicant. **[Rule 7].** After the disposal of the claims and objections in the manner specified in Rule 7, the Tahsildar shall prepare a list of eligible applicants and an order of assignment shall be issued in Form No.4 **[Rule 8].**

7.6. Conditions of assignment

Land value to be paid in lump

The assignee shall remit in lump the land value at the prescribed rates within a period of one month from the date of assignment. Provided the Tahsildar, in deserving cases, may allow payment of land value not exceeding twice annual instalments. **[Rule 9 (1)].**

No land value shall be recovered from an assignee if the assignee or the spouse belongs to SC or ST or if the assignment is made in favour of both husband and wife jointly, either of them is a member of SC or ST. **[Rule 9 (2)].**

Land Value: - Land value shall be realised from the assignees at the following rates:-

(a)	Not exceeding 50 cents	Nil
(b)	above 50 cents but not exceeding two acres	At the rate of Rs.1,000 (Rupees One thousand) per acre
(c)	Exceeding two acres	At the rate of Rs.2,000 (Rupees Two thousand) per acre

Patta will be issued only if the land value is remitted within one month. If the land value is not remitted within one month of the date of order of assignment, the assignment order shall be cancelled and the land resumed. Interest @ 6 per cent per annum shall be levied on arrears. In deserving cases where the person in possession of the land is not already evacuated, the RDO may condone the delay in payment of the dues upto one year.

7.7. The District Collector and the Commissioner of Land Revenue may condone the delay in payment of land value and other charges upto three years and five years respectively. All cases where the delay is beyond five year the delay can be condoned only with the concurrence of the Government **[Rule 9 A].**

No survey and demarcation charges shall be realized from the assignee **[Rule 10].**

Arrears of lease rents, pattam or premium, if any, under the rules for lease of Government lands for Cardamom cultivation, 1961 shall be waived. **[Rule 11].**

Trees described in the Patta issued to the assignee shall be accounted for and preserved by the Forest Department **[Rule 13].**

The land assigned under these rules shall be heritable but not alienable. The assignee may mortgage the land for obtaining loans for agricultural and land improvement purposes or constructions or repairs of houses under any housing scheme sponsored by Government or for improvement of the business of the assignee **[Rule 15 (1) & (2)].**

Cancellation of assignment

The assignment shall be liable to be cancelled for contravention of the provisions of these Rules or if there was any irregularity in assignment or in the procedure. The assignment can be cancelled by the authority which ordered assignment or one superior to it, after giving reasonable opportunity to the affected person and on such cancellation, the assignee shall not be entitled to compensation for the improvement, if any, made on the land.

7.8. Miscellaneous provisions

All amount due to Government under these rules shall, in case of default, be recoverable as if they are arrears of revenue on land under the Revenue Recovery Act. Arrears of assignment due shall bear interest @ 6 *per cent per annum*. **[Rule 19]**

7.9. Powers of Government

Government may, if necessary, in public interest assign land dispensing with any of the provisions contained in these rules and subject to such conditions, if any, as they may impose **[Rule 20].**

CHAPTER VIII

THE KERALA RESTRICTION ON TRANSFER BY AND RESTORATION OF LANDS TO SCHEDULED TRIBES ACT, 1999

8.1. To restrict transfer of land by members of Scheduled Tribes in the State of Kerala and for restoration of land alienated by such members the enactment was made. It received the assent of the Governor on 09.03.1999 and came into force w.e.f 24.01.1986 repealing the Kerala Scheduled Tribes (Restriction on Transfer of Land) Act 1975 (31 of 1975).

8.2. Restrictions on transfer of land

Notwithstanding any thing to the contrary contained in any other law, or in any contract, custom or usage or in any judgment, decree, or order of any Court, any transfer effected by a member of ST, of land possessed, enjoyed or owned by him on or after the commencement of this Act, to a person other than a member of a ST, without the previous consent in writing of the Authority, shall be invalid *[Sn. 4]*.

Transfer means the transfer made by way of sale, mortgage, lease gift and includes vilapanayam (hypothecation of crops) and unduruthy (right to collect usufructs during a specified term for a specified price) *[Rule 2 (g)]*. Mortgage, pledge or hypothecation in favour of the Government for any loan or financial assistance or in favour of any financial institution not being a private agency shall not be considered as transfer *[Sn.3]*.

8.3. Invalid Transfers

Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, custom or usage or in any judgment, decree or order of any Court, any transfer of land possessed, enjoyed or owned by a member of ST to a person other than a member of ST, effected on or after the 1st day of January 1960, and before the commencement of this Act, shall be deemed to be invalid.

Provided that, nothing in this Section shall render invalid any transfer of land possessed, enjoyed or owned by a member of ST to a person other than a

member of ST effected during the aforesaid period and the extent of which does not exceed two hectares *[Sn. 5 (1)].*

Notwithstanding anything contained in subsection (1) or in any judgment, decree or order of any Court or any authority, in cases where the land involved in such transfer is used for agricultural purposes, the transferee thereof shall be entitled to retain in his possession the said land upto an extent of two hectares *[Sn. 5 (2)].*

8.4. Allotment of lands

Notwithstanding any thing contained in Sn.5 or in any judgment, decree or order of any Court or other authority any such transfer between 01.01.1960 and 24.01.1986 and where application for restoration of rights under Section 6 of the Kerala Scheduled Tribe (Restriction of Transfer of Land and Restoration of Alienated Land) Act 1975. (Act 31 of 1975) has been filed before publication of the Act in the Gazette, but the restoration did not take place and such transfer has been validated by Sn.5(1), or 5 (2) of this Act, shall be entitled to restoration of equal extent of land by way of allotment from the Government.

Provided that where the extent of land eligible for restoration is less than 40 acres, the Government shall allot the rest of the land required to make the total extent equal to 40 ares (1 acre) *[Sn. 6].*

8.5. Reconveyance of land

Any person entitled for restoration may make an application, either orally or in writing to the RDO within a period of 1 year from the publication of this Act or such further period as specified by the Government by notification

- (a) for restoration of such land if such transfer had been made before the date of commencement of this Act; or
- (b) for the restoration of such land and for prosecution of the person who has procured such transfers, if such transfer was made on or after the date of publication of this Act in the Gazette *[Sn. 7 (2)].* On receipt of application, the RDO if, after necessary enquiries, satisfied that the applicant is entitled to restoration, shall by order direct, after giving reasonable opportunity of being heard to the possessor, deliver possession thereof to the applicant *[Sn. 7(3)].* Any person aggrieved by the order of the RDO may, within a period of thirty days from the date of service of

the order, prefer an appeal before the competent authority and the decision of the competent authority shall not be called in question in any Court of Law *[Sn. 7(5)].*

8.6. In the cases where the land is restored, an amount equal to the aggregate of the actual amount of consideration received by such member at the time of the transfer and an amount determined by the competent authority for improvement, if any, made after the transfer and before such restoration shall be paid by him to the person from whom possession or enjoyment, as the case may be was restored.

Provided that no amount shall be payable if the transfer was effected on or after the commencement of this Act *[Sn. 8 (1)].*

The amount as determined by the competent authority under sub Section (1) shall be final and shall not be called in question in any Court *[Sn. 8 (2)].*

The Government shall, subject to such condition as may be prescribed provide grants to the eligible members of ST who are liable to pay amounts under Section 8 *[Sn. 9].*

8.7. Assignment of land

(1) Notwithstanding anything contained in Section 6 or in the Kerala Government Land Assignment Act, 1960 (30 of 1960) and the rules issued thereunder, the Government shall assign land to the landless families of the Schedule Tribes in the State, an extent not exceeding forty acres of land in the district they reside within a period of two years from the date of publication of this Act in the Gazette, or such further period as may be specified by Government by notification in the Gazette, and in the manner as may be prescribed.

(2) Where the extent of land in the possession and enjoyment of any family of the Scheduled Tribe in the State, is less than 40 Acres such family shall be entitled to get assigned more land which is necessary to make the total extent of the land equal to 40 Acres.

8.8. Offences and penalties

Any person, who on or after the date of publication of this Act procures transfer of any land in contravention of the provisions of Sn.4, shall be punishable with rigorous imprisonment or with fine *[Sn.12].* Where the transfer

was obtained on or after publication of this Act in Gazette, the RDO shall file a complaint before the, Magistrate of First Class or to the Special Court, as the case may be *[Sn. 13]*.

CHAPTER IX

THE KERALA ASSIGNMENT OF GOVERNMENT LAND TO THE SCHEDULED TRIBES RULES 2001

9.1. These rules came into force on 13.12.2001.

9.2. Government land may be assigned under these rules to Scheduled Tribes in the State for the purpose of house sites, personal cultivation and beneficial enjoyment. [Rule 3]. Beneficial enjoyment means the enjoyment of land for purposes like, providing road to the assignee's registered holdings and protection of the water course standing crops or buildings. *[Rule 2 (e)].*

9.3. Tahsildar of the area or any other officer authorized for the purpose by the Government shall be the assigning authority. *[Rule 4].*

9.4. The extent of land to be assigned under these rules shall be determined by Government, from time to time. On such determination the Tahsildar shall publish a notification as referred to in Sn.4 of the Kerala Land Assignment Act, 1960, in the notice board of his office. *[Rule 5].*

9.5. Conditions of assignment on registry

Government land granted on registry shall be heritable but not alienable *[Rule 6 (1)].*

The assignee or a member of his family or his successor-in-interest shall occupy and commence residence in the land assigned within a period of two months from the date of assignment on registry or issue of patta whichever is earlier *[Rule 6 (2)].*

The assignee shall not cut any tree but the restriction is not applicable for cutting small timbers which does not include sandal wood, rose wood, ebony and teak, for the construction or maintenance of small residential buildings or for making agricultural implements, with prior permission of the Village officer of the area *[Rule 6 (3)].*

If the Government considers that any trees standing in the land assigned is to be cut and removed for the proper utilization of the land for cultivation, such trees may be cut and removed by the Government *[Rule 6 (4)].*

9.6. The trees as described in patta issued to the assignee shall be accounted for and preserved by Revenue Department [**Rule 9**].

9.7. No land value or survey and demarcation charges shall be payable by the assignee in respect of the land assigned to him [**Rule 10**].

9.8. In cases where registry is made, patta shall be issued in Form B. [Rule 8 (1)]. The liability for land revenue or any tax shall arise with effect from the year of issue of the patta [**Rule 8 (2)**]. The land shall also be subject to all general taxes and rates payable under any law or custom [**Rule 8 (4)**].

9.9. The registry shall be liable to be cancelled for contravention of the provisions of these rules or it is found that the assignment was made under a mistake or misrepresentation of facts by the assignee [**Rule 11 (1)**]. The authority competent to order such cancellation is the authority which granted the assignment or any other authority superior to it [**Rule 11 (2)**].

9.10. An appeal against the orders for cancellation of registry under rule 111 shall be made to the immediate superior authority who cancelled the registry. Appeal shall be made within 3 months from the date of receipt of the order. The appellate authority may admit an appeal not submitted in time if sufficient grounds exist for condoning the delay. The appellate authority may confirm, vary or cancel the decision or order appealed against. No decision or order interfering with the original order shall be made in appeal, without giving the parties interested a reasonable opportunity of being heard. Government may *suo motu* or on application of any party, revise, cancel or alter any order passed by the subordinate authorities provided that no such decision or order shall be revised, cancelled or altered without giving the party affected thereby, a reasonable opportunity of being heard.

CHAPTER X

THE KANNAN DEVAN HILLS (RESUMPTION OF LANDS) ACT, 1971

10.1. This Act came into force on the 21st day of January, 1971 to provide for the resumption of lands other than plantations in the Kannan Devan hills village in the Devicolam Taluk of the Kottayam District and for the distribution of such lands for cultivation and purposes ancillary thereto. The lands comprising the entire revenue village of Kannan Devan Hills in the Devicolam Taluk of Kottayam District had been given on lease by the then Poonjar Chief to late Mr. John Daniel Munroe of London and Peerumade on the 11th day of July, 1877 for coffee cultivation. The right, title and interest of the lessor had been assumed by the former Government of Travancore and the Government of Kerala have become the successor to the former Government of Travancore. As large extent of agricultural lands in that village has not been converted into plantations, Government consider that such agricultural lands should be resumed for distribution for cultivation and purposes ancillary thereto.

10.2. Vesting of possession of certain lands

The possession of all lands situated in the Kannan Devan Hills village in the Devicolam Taluk of the Kottayam District shall stand transferred to and vest in the Government free from all encumbrances and the right, title and interest of the lessees and all other persons including rights of mortgagees and holders of encumbrances, in respect of such land, shall stand extinguished. But this shall not apply in respect of

- (a) plantations, others than plantation belonging to trespassers.
- (b) buildings, other than buildings belonging to trespassers, and lands appurtenant to , and necessary for the convenient enjoyment or use of, such buildings;
- (c) play-grounds and burial and burning grounds; and
- (d) lands in the possession of the Central Government or any State Government or the Kerala State Electricity Board.

It shall not apply also in respect of so much extent of land held by a lessee under his personal cultivation as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto. *[Sn. 3]*

10.3. Restoration of possession of lands in certain cases

Where the person is in possession of a plantation considers that any land, the possession of which is vested in Government.

- (a) is necessary for any purpose ancillary to the cultivation of plantation crops in such plantation or for the preparation of the same for the market; or
- (b) being agricultural land interspersed within the boundaries of the area cultivated with plantation crops, is necessary for the protection and efficient management of such cultivation; or
- (c) is necessary for the preservation of an existing plantation, he may within sixty days from the date of publication of the Act in the gazette, apply to the Land Board for the restoration of possession of such land. The application shall be in the prescribed form (Form A). The application shall be accompanied by a rough sketch indicating therein the extent and identity of the plantation and also of the lands the possession of which is to be restored for the purpose specified in sub Sn. (1) of Sn. 4 [**Rule3**]. On receipt of an application the Land Board shall, after giving the applicant an opportunity of being heard and after necessary inquiry, by order determine the extent of land necessary for the purpose or purposes specified in the application and such order shall be final. Then the Land Board shall cause such land to be demarcated and put the applicant in possession of such land. The person in possession of such land shall be entitled to possess that land on the same terms and subject to the same conditions on or subject to which he was holding such land immediately before the appointed day.

10.4. Temporary arrangements pending restoration

If, during the period after the appointed day and before the restoration of possession of any land under Section 4, the Collector is satisfied on representation or otherwise that the person in possession of a plantation in any area to which the Act applies is likely to be put to hardship in the management of the plantation on account of the vesting of possession of any land under sub-Section (1) of Section 3, the Collector shall take such measures and make such arrangements as he deems fit for removing the hardship during such period.

Provided that if the person in possession of the plantation does not apply to the Land Board under Section 4, or the Land board determines under that Section that such person is not entitled to restoration of possession of any land any arrangement if already made by the Collector shall be discontinued with effect from the date on which the period for making the application expires or the date of determination by the Land Board, as the case may be. *[Sn. 5].*

10.5. Demarcation of boundaries

After the appointed day, the Collector shall cause the boundaries of each parcel of land, the possession of which has vested in Government to be demarcated. After that the Collector shall publish a notification in form B in the Gazette, the office of the Tahsildar of the Devicolam Taluk and the office of the Munnar township specifying the extent, identity and such other particulars as may be prescribed of such land *[Rule 4, 5].*

Where the possession of a portion of a parcel of land is restored under Section 4, or the alteration of the boundaries of a parcel of land is necessary consequent on the order of the Land Board under Section 7, the Collector shall cause the boundaries of the remaining portion of such parcel of land or such parcel of land, as the case may be, to be re-demarcated and shall also publish a notification of such re-demarcation under Sub-Section (2) *[Sn. 6].*

10.6. Decision of disputes regarding vesting

If any question arises as to whether the possession of a parcel of land or a portion of a parcel of land has vested in the Government, such question shall be referred by the Collector to the Land Board for decision. On receipt of such a reference the Land Board shall, after giving the persons interested an opportunity of being heard and after necessary inquiry, decide the question, and such decision shall be final. In spite of the reference to the Land Board, the Collector may, if he is satisfied that the possession of such parcel of land or portion has vested in the Government, cause the boundaries of such parcel of land to be demarcated as if the possession thereof has vested in the Government.

Provided that if the Land Board decides that such parcel of land or portion has not vested in the Government under Sub-Section (1) of Section 3, the Collector shall, as soon as may be, restore possession of such parcel or portion, as the case may be *[Sn. 7].*

10.7. No compensation to be payable for vesting

No compensation shall be payable for the extinguishment under Sub-Section (1) of Section 3 of the right, title and interest of the lessees or other persons or of the rights of mortgagees or holders of encumbrances *[Sn.8]*.

10.8. Assignment of lands

The Government shall after reserving such extent of the lands, the possession of which has vested in the Government, may be necessary for purposes directed towards the promotion of agriculture or the welfare of the agricultural population to be settled on such land assign on registry the remaining lands to agriculturists and agricultural labourers in such manner, on such terms and subject to such conditions and restrictions, as may be prescribed. The Government may by notification in the Gazette, delegate the power of assignment to the Collector, subject to such restrictions and control as may be specified in the notification *[Sn. 9]*.

10.9. Eviction of persons in occupation on the appointed day

The Collector or any officer authorized by him in that behalf may summarily evict any person in occupation of any land, the possession of which has vested in the Government under Sub-Section 1 of Section 3. For this purpose the Collector or the authorized officer may use necessary force. *[Sn.10]*.

10.10. Trespass after appointed day

It shall not be lawful for any person to enter upon any land, the possession of which has vested in the Government with intent to occupy such land or to cut or remove any trees standing thereon, without the permission of the Collector or any officer authorized by the Collector in that behalf. If any person contravenes this he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both. Without prejudice to any penalty, the Collector or any officer authorized by him in that behalf may summarily evict such persons and may confiscate or demolish any building, shed or other structures put upon such land using necessary force *[Sn. 11]*.

10.11. Powers of Land Board and Collector

The Land Board and the Collector shall, for the purpose of exercising any power conferred by or under the Act, have all the powers of a Civil Court while trying a suit under the code of civil procedure, 1908 in respect of the following matters.

- (a). summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or for local investigation;
- (e) inspecting any property or thing concerning which any decision has to be taken;
- (f) any other matter which may be prescribed.

Any member of the Land Board, the Collector or any person authorized in that behalf by the Land Board or Collector may enter upon any land, the possession of which has not vested in the Government, to do any act necessary for carrying out the purposes of the Act, and it shall not be lawful for any person to obstruct such member or the Collector or the person so authorized from entering upon such land or doing any act necessary for carrying out the purposes of the Act. Any person who contravenes this shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both *[Sn. 12]*.

10.12. Right to use private way

Any officer of the Government exercising any power or performing any function under the Act or any rule or order made thereunder shall be entitled to use any private way in any land, the possession of which is not vested in Government and it shall not be lawful for any person to obstruct such officer from so using such way.

Any member of the public shall be entitled to use any private way in any land, the possession of which has not vested in the Government, for the purpose of entry into or exit from any land, the possession of which has vested in the Government and it shall not be lawful for any person to obstruct any member of the public from using such way for such purpose.

If any person contravenes these he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both *[Sn. 13]*.

10.13. Bar of jurisdiction of Civil Courts

No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is, by or under the Act, required to be settled, decided or dealt with or to be determined by the Government, the Land Board, the Collector or any other officer. *[Sn. 14]*.

10.14. Indemnity

No suit, prosecution or other legal proceedings shall lie against the Government or Land Board or the Collector or any other officer or person for anything in good faith done or intended to be done under the Act or any rule or order made thereunder *[Sn. 15]*.

10.15. Cognizance of offences

Notwithstanding anything contained in the code of criminal procedure, 1898, all offences punishable under the Act shall be cognizable *[Sn. 16]*.

10.16. Saving of certain rights

Nothing in the Act shall affect the right of the Kannan Devan Hills Produce Company Limited or any person authorized by it to enter upon any land, the possession of which has vested in the Government, for purposes connected with transmission, supply or use of electrical energy including maintenance and repair of any electric supply line or any works connected therewith or the maintenance and repair of any telephonic communication lines or posts.

Nothing in the Act shall affect the right of any lessee or any person authorized by him to enter upon any land, the possession of which has vested in Government, for the purpose of entry into or exit from any land, the possession of which has not vested in Government *[Sn. 17]*.

10.17. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of the Act, the Government may, as occasion may require, by order do anything not inconsistent

with such provisions, which appears to them necessary for the purpose of removing the difficulty [*Sn. 18*].

10.18. Power to make rules

The Government may, by notification in the Gazette, make rules to carry out the purpose of the Act [*Sn 19*].

CHAPTER XI

THE KERALA LAND CONSERVANCY ACT

11.1. Date of effect

The Kerala Land Conservancy Act, 1957, was enacted to check the unauthorized occupation of Government lands. The Act was published in the Gazette extraordinary on 15.1.1958 and came into force from that date. It was amended by the Kerala Land Conservancy (Amendment) Act, 1971 and Act 16 of 2000. The Act extends to the whole of the State of Kerala.

11.2. Property of Government

The property of Government includes all public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same, the bed of the sea and of harbours and creeks below high water mark, the beds and banks of rivers, streams, irrigation and drainage channels, canals, tanks, lakes, backwaters and water courses and all standing and flowing water, and all lands wheresoever situated. Lands belonging to the Government of any other State in India or the Kerala State Electricity Board or to a university established by law or to any Panchayat or any Municipality owned or controlled by the Government of Kerala or to a Municipal Corporation and all unassessed lands within the limits of private estates used or reserved for public purposes or for the communal use of villagers, and all public roads and streets vested in any local authority shall be deemed to be the property of Government. *[Sn.3]*.

11.3. ‘Poramboke’

‘Poramboke’ means and includes un-assessed lands which are the property of Government used or reserved for public purposes or for the communal use of villagers such as

- (a) All public roads, lanes, pathways, bridges, ditches, dykes and fences on or beside the same;
- (b) The beds and banks of rivers, irrigation and drainage channels, traffic canals, tanks, lakes, back-waters and water courses;
- (c) Markets, burial grounds, landing ghauts; and
- (d) All other property which Government may declare as poramboke.

[Sn. 4 (1)]

11.4. Occupant

Occupant means a person actually in possession or occupation of a land which is the property of Government. *[Sn 4 (2)].*

11.5. Land which is the property of Government not to be occupied without permission

It is not lawful for any person to occupy a land, which is the property of Government, whether a poramboke or not, without permission from Government.

Erection of any wall, fence or building or the putting up of any overhanging structure or projection on or over any land which is the property of Government is deemed to be occupation of such land. *[Sn. 5 (1)].*

It is not lawful for any person to erect or cause to erect any wall, fence or building etc. on a land which is the property of Government except under and in accordance with the terms and conditions of a licence issued by the Government.

Any person desirous of obtaining a licence is to apply to Government in such form and accompanied by the required fee as may be prescribed by rules made under the Act. *[Sn. 5].*

It is not lawful for any person to destroy, remove or appropriate for himself, earth, sand, metal, laterite, lime-shell or such other articles of value as may be notified by Government, from any land which is property of Government, whether a poramboke or not, except under and in accordance with the terms and conditions of a permit issued by the Government or such officer of the Government and on payment of compensation at the prescribed rate which will be notified by Government from time to time.

11.6. Any one who unauthorisedly destroys, removes or appropriates for himself metal, laterite, lime-shell or other notified articles of value from any land which is the property of Government, whether a poramboke or not, is liable to pay fine not exceeding fifty rupees in addition to the compensation payable as per sub-Section (2) of Section 6 by way of damages.

11.7. Any person who unauthorisedly destroys, removes or appropriate for himself earth or sand from any land which is the property of Government, whether a poromboke or not, is liable to pay fine.

- a) not exceeding one hundred rupees in the case of a first offence; or

b) not exceeding two hundred rupees in the case of a second or subsequent offence and also to pay by way of damage compensation as per Sub-Section(2) of Section 6.

Any person who abets the commission of an offence punishable under Sub-Section (3 A) of Sn.6 is liable to pay fine at the same rate.

11.8. Government may remit in whole or in part the compensation, fine or damage payable in favour of any agriculturalist, agricultural labourer if the articles removed are for bonafide agricultural purposes or in favour of a co-operative society [*Sn. 6*].

11.9. If any officer of the Land Revenue Department of and above the rank of village officer detects timber, earth, metal, laterite, sand, lime-shell, or such other article of value, involved in unauthorized removal from Government Land, such article shall be seized by him and taken under Government custody to be disposed of under the orders of the Collector. [*Rule 4 {iii}*].

11.10. Compensation prescribed under Sub-Section (2) of Section.6 of the Act repair and renewal charges of survey marks, penalty and all incidental charges levied under these rules shall be recovered in the same manner as arrears of Land Revenue [*Rule 24*].

11.11. Punishment for unauthorisedly occupying land which is the property of Government

Anyone who unauthorisedly occupies a land which is the property of Government, whether a poramboke or not, is liable to pay a fine not exceeding two hundred rupees and in the case of continuing contravention such additional fine not exceeding two hundred rupees for everyday during which such contravention continues after fine has been imposed for the first such contravention.

However a person unauthorisedly occupying a land which is available for assignment under the Kerala Government Land Assignment Act, 1960 is not liable to pay any fine if.

(i) he is eligible under the rules made under the Act for assignment of such land without auction; and

(ii) he applies under those rules for the assignment of such land in his favour, either on registry or on lease .

A tenant unauthorisedly holding over after the expiry of his term of lease is liable to a fine under Sn. 7 of the Act. *[Sn.7]*.

11.12. Levy of assessment on lands which are the property of Government unauthorisedly occupied

Any person unauthorisedly occupying a land which is the property of Government other than a poramboke and liable to pay a fine under Sn.7 is, in addition, liable to pay by way of assessment for the whole period of his occupation such amount as may be fixed by the Collector in accordance with the rate prescribed by Government from time to time in this behalf.

11.13. Levy of prohibitory assessment on poramboke unauthorisedly occupied

Any person unauthorisedly occupying a poramboke and liable to pay fine under Section 7 is in addition, liable to pay such prohibitory assessment for the whole period of occupation as may be imposed by the Collector.

Payment of assessment or prohibitory assessment does not confer any right of occupancy.

Occupation for any period during a financial year is deemed to be occupation for the whole of the financial year. *[Sn. 8]*.

11.14. Liability for unauthorized occupation

Any person unauthorisedly occupying any land which is the property of Government, whether a poramboke or not, and liable to a fine under Section 7 is, in addition to the assessment or prohibitory assessment to which he may be liable under Sn 8, liable for the value, as adjudged by the Collector, of any useful tree destroyed or appropriated by him. *[Sn. 9]*.

Any person unauthorisedly occupying a Government land or a poramboke is liable to pay by way of assessment or prohibitory assessment at the rates specified in Rule 8 of The Kerala Land Conservancy Rules, 1958.

11.15. Penalty for destruction or appropriation of trees

Any person who destroys or appropriates any useful tree belonging to the Government is liable for damages not exceeding three times the value of the tree as adjudged by the Collector, and also is liable on conviction by a magistrate to be punished with imprisonment for a term extending to six months or with fine not exceeding five hundred rupees, or with both. *[Sn. 10]*.

Any person unauthorisedly occupying any land for which he is liable to pay a fine under Section 7 and an assessment or prohibitory assessment under Section 8, may be summarily evicted by the Collector and any crop or other product or building, raised on the land is liable to forfeiture. *[Sn. 11 (1)]*.

Section 13 of the Act empowers the State Government to make rules or orders for implementation of the provisions of the Act.

11.16. Recovery of fines, assessment etc. as arrears of land revenue

All fines, assessments and prohibitory assessments, value of trees destroyed or appropriated compensation or damages payable under Section 6 and all costs of eviction and removal of encroachments shall be recovered as arrears of land revenue under the provisions of the Revenue Recovery Act *[Sn. 14]*.

11.17. Appeals and Revisions

Any person aggrieved by any decision or order under the Act may appeal for revision of the decision or such order. *[Sn. 16]*.

Appeal should be preferred within 30 days from the date of receipt of the decision or order appealed against. *[Sn. 17]*.

CHATER XII

THE KERALA LAND DEVELOPMENT ACT, 1964

12.1. The Kerala Land Development Act, 1964 was enacted to unify and amend the law relating to the preparation and execution of Land Development Schemes including schemes for the conservation and development of soil resources, the control and prevention of soil erosion and the reclamation of waste lands in the State of Kerala. It was amended by Acts 3 of 1969, 16 of 1973, 47 of 1976, 7 of 1980 and 16 of 2000. The Act extends to the whole of the State of Kerala. The Act came into force w.e.f 29.6.1964.

12.2. Constitution of the Board

For the purpose of carrying out the provisions of the Act, the Government shall constitute Land Development Board. The Agriculture Production Commissioner will be the Member-Secretary to the Board. *[Sn.3]*.

12.3. Functions of the Board

The functions of the board are

- a) to direct the District Committees for the preparation of the draft schemes within their respective jurisdiction;
- b) to consider and approve the draft schemes prepared by the District Committees;
- c) to devise ways and means for the speedy execution of schemes sanctioned by the Board or Government;
- d) to fix the physical and financial targets for each district;
- e) to perform such other functions as may be specified in the Act or in the rules;
- f) to advise Government on the strategies to be followed for land and water conservation as well as eco-restoration; and
- g) to advise Government on the priority arrears, technology options, research needs and provide feed-back on works taken up.

If any grant is made or loan advanced to the District Committee or Padasekharam Committee under Section 18 to carry out any scheme, the Board should take necessary steps to carry out the scheme. *[Sn.4]*

The District planning committee constituted under the Kerala Municipality Act, 1994 shall function as a District Land Development Committee in which the following persons shall also be included

- a) the District Agriculture Officer.
- b) The District Soil Conservation officer;
- c) The Executive Engineer in charge of Irrigation in the District;
- d) The Divisional Forest officer having jurisdiction in the District *[Sn. 5]*.

The Government shall constitute for each district a District Land Development Committee *[Sn. 6]*.

12.4. Functions of the District Committee

The functions of the District Committee are

- 1) to prepare schemes for areas in the District.
- 2) To perform such other functions pertaining to land development as may be specified in the Act or in the rules;
- 3) To execute the sanctioned schemes;
- 4) To issue approval for the schemes prepared.

12.5. Padasekharam Committee

The District Committee, wherever necessary or if directed by the Government, may constitute a Padasekharam, Committee for the Padasekharam, consisting of such number of members not exceeding twenty-one as may be fixed by the Government. The Padasekharam committee is appointed to work as agents of District Committee for the execution of any Scheme. *[Sn. 7 A & 7B]*

Election to the padasekharam committee and their duties and functions are detailed in rules 3 to 16 of the Kerala Land Development Schemes Rules, 1977.

12.6. Watershed committee

The District Planning Committee constituted under the Kerala Municipality Act, 1994 may constitute Watershed Committee to assist the District Land Development Committee. *[Sn. 7C]*.

The Watershed Committee is constituted in the prescribed manner and exercise such powers and discharge such duties that are prescribed. *[Sn. 7 D]*.

A scheme made under the Act is provided for all or any of the matters detailed in Section 8.

12.7. Preparation of Schemes

The District Committee prepares draft scheme for any specific area in the District containing the required particulars. On preparation of the draft Scheme, the District Committee appoints an officer called the Inquiring Officer for the purposes specified below. *[Sn. 9]*.

12.8. Publication of Scheme and inviting objections

Copies of the draft Scheme together with the connected Maps and plans, if any may be made available by the Collector for inspection by the public, free of charge in every village and at the headquarters of the Taluk, in which the lands included in the Scheme are situated, at such places as he may direct. A general notice may be published in two news papers having circulation in the locality, specifying the aforesaid details and also requiring all persons affected by the draft Scheme who wish to make any objection to it to be made within 30 days. Separate notices to the same effect have to be served in the prescribed manner on all owners of the lands affected by the Scheme. *[Sn. 10]*.

12.9. Report of the Inquiring Officer

The Inquiring Officer will enquire into the objections received or recorded by him and submit them to the District Committee together with his report and recommendations, if any, for the modification of the draft Scheme. *[Sn. 11]*.

12.10. Power of the District Committee to Sanction Schemes

After considering the objections and the report and recommendations of the Inquiry officer the District Committee may sanction a scheme after registering every scheme sanctioned by the Committee in the sub registry office concerned in the manner prescribed. *[Sn. 12]*.

12.11. Appointment of Executing Officer

When a scheme comes into force the District Committee may appoint an officer not below the rank of a District Soil Conservation Officer or the Padasekharam Committee as their agent to execute the scheme. *[Sn. 13]*.

12.12. Power to enforce scheme

Every owner of the land included in the scheme has to pay the cost; or part of the cost as the case may be of the work which under the scheme is carried out by the District committee in his land at the cost or part of the cost of owner.

If the owner of any land included in the scheme is the Government, the Department of the Government which has the control or the management of such land or the Executing officer directed by the District Committee or the Government may carry out the works which the Government as the owner of the land is liable to carry out under the scheme. *[Sn. 14].*

12.13. Power of Government to direct local authority to take up schemes

The Government may direct any local authority as defined in the Kerala Panchayat Raj Act, 1994 or in the Kerala Municipality Act, 1994 to take up schemes for Watershed Management in the priority areas based on the advice of the Board. *[Sn. 15 A].*

12.14. Liability of persons whose lands are not included in the scheme to contribute

If in consequence of any work carried out under Section 14 at the expense of the owner of any land under the scheme, any person including the District Committee other than the owner of the land in which the work is done, is to be benefited by such work, such person shall pay, by way of contribution such amount, within such time and in such manner, as the District committee may determine to the owner of the land if the work is carried out by him, or to the District committee if the work is carried out by the Executing officer, after giving that person a reasonable opportunity of making his representation. The District Committee may in such cases as they deem fit, waive in whole or in part their claim for contribution by any person in respect of any work carried out by the District Committee on lands owned by them. If default is made in the payment of such contribution, the Collector or any authorized person shall recover the amount from him and pay the same to the owner *[Sn.16].*

12.15. Reference to Court

Any owner or other person liable to pay the expenses, who objects to the amount of such liability may, by written application to the District Committee

require that the matter may be referred for the determination of the Court. The District Committee may cause a reference to be made by the Collector to the District Court having jurisdiction over the area. *[Sn. 17]*

The Government may make a grant or advance a loan to a District Committee or a padasekharam Committee or any person or stand guarantee for the payment of any loan paid by any bank or financial institution to them for carrying out any work under any scheme sanctioned under the Act, on such terms and conditions as may be prescribed. *[Sn. 18]*.

The Executing officer, the Inquiring officer, the Collector, the President or Secretary of the District Committee or any other authorized person may enter upon, survey and mark out such land for preparing, sanctioning, inquiring into, or executing any scheme after giving notice to the owner. *[Sn.19]*.

12.16. Records of rights and liabilities

The Executing officer or the Padasekharam Committee, executing the work, on completion of the work in any land, included in a scheme, may prepare a statement showing

- a) the name of the owner of such land;
- b) the nature and extent of the work carried out in such land;
- c) the total amount to be recovered from the owner;
- d) the period within which such amount is to be recovered;
- e) the person or persons liable to maintain and repair the work;
- f) the rights, if any, of the owner as regards the use of the work, and
- g) such other matters as may be prescribed.

The amount to be recovered from the owner, is liable to be enhanced or reduced if on the apportionment of the total cost of the scheme among the beneficiaries it is found that such amount is less or more than the amount due from such owner. *[Sn. 20 (1 A)]*.

The statement prepared has to be communicated to the owner of the land in which the work has been carried out. *[Sn. 20 (1 B)]*

After preparing the statement, a notice has to be published intimating that a statement has been prepared and that it may be inspected at such place specified in the notice. An appeal may be given to the Collector within two months of the

publication of the notice in respect of any error occurred in the preparation of the statement. If the Collector is satisfied that the error is real, he may revise the statement and a notice may be given of the fact of such revision in the prescribed manner. *[Sn. 20]*.

12.17. Obligation of owners of Lands to maintain and repair the works

Every person shown in the statement prepared under Section 20 is liable to maintain and repair any work may maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the statement. If any such person fails to maintain or repair the work, the Collector may issue notice to him to maintain or repair it within a specified period failing which the Collector may cause the work done and the expenses recovered from the owner and such other persons liable to contribute.

Any dispute regarding the amount to be recovered may be decided by the Collector and his decision will be final. *[Sn. 21]*.

12.18. The District Committee may by order published in the Gazette, declare as notified area those areas which provide for the conservation of Sub-Soil water or the prevention or mitigation of erosion of lands. *[Sn. 22]*.

In respect of the areas notified in Sn 22 the District Committee may by order published in the Gazette, regulate, restrict or prohibit the activities specified in Section 23.

12.19. On publication of an order under Section 23, the Collector may cause to publish in every village or town in which any part of the area specified in the order is situated a proclamation in the language of the locality. The proclamation may require every person claiming any compensation for restricting or prohibiting any right, to prefer his claim to the Collector with such particulars within the prescribed period. *[Sn.24]*.

12.20. The Collector may after enquiry make an award in writing in respect of the claims preferred. *[Sn.25]*.

12.21. In determining the amount of compensation the Collector may resort to the provisions of the Kerala Land Acquisition Act, 1961 and as regards matters which cannot be dealt with under these provision, by what is just and reasonable in the circumstances of each case. *[Sn. 26]*.

12.22. All amounts payable to or recoverable by the District Committee shall be recoverable in the same manner as arrears of land revenue. *[Sn. 27].*

12.23. No suit or prosecution shall be instituted against any public servant or person duly authorized under the Act, in respect of anything done or intended to be done under the Act. *[Sn. 30].*

12.24. The details regarding payment of amounts due from individual owners are given in rules 19, 20, 21, 22 and 23 of the Kerala Land Development Scheme Rules, 1977.

CHAPTER XIII

THE KERALA LAND TAX ACT, 1961

13.1. The Kerala Land Tax Act, 1961 provides for the levy of a basic tax on lands in the State of Kerala. The Act was first published in Kerala Gazette Extraordinary dated: 05.04.1961. It was given retrospective effect from 1st April 1956 in the Travancore-Cochin area and from 1st September 1957 in the Malabar area. *[Sn.1]*.

13.2. The provisions of this Act do not apply to the lands belonging to the Kerala Government, Any land belonging to any public body or institution can be exempted by Government from the provisions of this Act. Government can also cancel exemptions granted by them. *[Sn.2]*.

13.3. The arrangements made under the provisions of the Act for the levy of the basic tax is to be considered as a general revenue settlement of the State subject to the provisions detailed in Section 4 of the Act. *[Sn.4]*.

13.4. Charge of Land Tax

The Act provides for the levy of a tax called “basic tax” on all lands, of whatever description and held under whatever tenure in the State of Kerala. In the area comprising the former State of Travancore-Cochin the basic tax was leviable for every financial year commencing on and from the 1st day of April, 1956 and in respect of lands situated in the Malabar area tax was leviable for the period commencing on and from the first day of September, 1957, and ending on the 31st day of March, 1958 and thereafter for every financial year commencing on and from the 1st day of April, 1958. *[Sn.5]*.

The basic tax charged on any land shall be paid by the land holder of that land subject to the provisions specified in section 5(2)

The basic tax levied under this Act shall be deemed to be public revenue due on land within the meaning of the Kerala Revenue Recovery Act and shall be recoverable under the provisions of that Act. *[Sn. 5 (3)]*.

13.5. Rate of Basic Tax

Subject to the provisions of Sub-Section (2) of Section 7, the basic tax charged and levied under Section 5 shall be at the rate of one rupee in Panchayat

areas, two rupees in Town Panchayats and Municipal Council areas and four rupees in Municipal Corporation areas, per are *per annum* subject to the provisions and explanations detailed under Section 6.

13.6. An application for fixation of the rate of basic tax under Sub-Section (2) of Section 6 shall be in the form specified by the Government by notification in the Gazette and shall be made to the prescribed authority within four months from the date of publication of such notification in the Gazette. *[Sn. 6(3)].*

13.7. The prescribed authority shall, before passing orders on an application under Sub-Section (3), give notice to the land holder concerned and any other person liable to pay the basic tax to show cause against the rate or amount of basic tax proposed to be fixed in respect of the land shall pass orders on the application within six months from the date of first appearance of the applicant. *[Sn.6 (4)].*

13.8. The order of the prescribed authority fixing the basic tax shall be communicated to the land holder concerned and any other person liable to pay the basic tax. *[Sn 6 (5)].*

The method of calculation of basic tax is given in rule 3 of the Kerala Land Tax Rules, 1972.

13.9. Assessment of Basic Tax

The basic tax payable in respect of any land shall be assessed in the manner provided in Sub-Sections 2 to 4 of Section 6 A. The procedure to be followed by the assessing authority is detailed in rules 5 to 10 of the Kerala Tax Rules, 1972.

13.10. Provisional assessment of basic tax in the case of unsurveyed lands.

In the case of lands which have not been surveyed, the Tahsildar may make a provisional assessment of the basic tax payable on such land. The procedure of provisional assessment is given in Section 7 of the Act. Provisional assessment may be made at the rates specified in Section 6 after getting the particulars relating to the land from the land-holder. This is done only if the Tahsildar is satisfied that the particulars furnished are correct and complete. If the particulars are not furnished by the land holder within the specified time, or if the particulars furnished appear to be incomplete or incorrect, the Tahsildar may

make a provisional assessment of the tax payable on the land at the rates specified in Section 6 to the best of his judgement. *[Sn. 7 (1, 2, 3)].*

13.11. Before making such provisional assessment the Tahsildar shall give notice to the land-holder concerned and any other person liable to pay tax under the provisional assessment to show cause against the proposed assessment. The order of the Tahsildar assessing the basic tax provisionally shall be communicated to the land-holder and any other person liable to pay the provisional assessment. The amount of the tax fixed under the provisional assessment shall be recoverable in the same manner as the basic tax. *[Sn. 7 (3A, 4 and 5)].*

13.12. Appeals

Any person aggrieved by the orders of the prescribed authority under Sub-Section (2) of Section 6 or Sub-Section 3 of Section 6A or under subsection 3 of section 7 may appeal to the Collector of the District in which the land is situated, and if the land is situated in more than one district the Collector of the District in which the major portion of the land is situated.

13.13. Appeal can be given only if the tax has been paid. The appeal shall be in form D and accompanied by a fee of five rupees and the original or certified copy of the order appealed against. The appeal shall be presented within thirty days of the receipt of the order appealed against. If the appellate authority is satisfied that there is sufficient cause he may admit an appeal after the said period but not after the expiry of 90 days of the service of order. The appellate authority may, after giving the prescribed authority and the appellant an opportunity of being heard, pass such orders thereon as it thinks fit. The order shall be communicated to the appellant and to the prescribed authority. The order of the appellate authority shall, subject to the provisions of Section 10 and Section 11, be final and shall not be called in question in any Court of law. If the basic tax paid under the provisional assessment is excess the excess shall be refunded. *[Sn 9].* The procedure for refund is detailed in Rule 14 of the Kerala Land Tax Rules, 1972.

13.14. Reference to the District Court

Section 10 of the Act enables the assessee to require the appellate authority to refer the case to the District Court. The requisition is to be made

within 30 days from the date on which the assessee is served with the order passed by the appellate authority. The appellate authority may within sixty days of the receipt of such requisition prepare a statement of the case and refer it to the District Court. The judgment of the District Court shall be sent to the District Collector who shall pass necessary orders. The decision of the District Court shall be final. If the amount of assessment is reduced as a result of such reference the amount overpaid shall be refunded. *[Sn. 10]*.

13.15. Power of Revision by Board of Revenue

The Commissionerate of Revenue may on its own motion or on the application of the assessee which should be presented within thirty days from the date of order of the District Collector, call for and examine the records of any appeal case and pass such orders as it deems fit subject to the following conditions.

- 1) No order enhancing the rate of basic tax of the amount of provisional assessment shall be passed without notice to the party who may be affected by the order.
- 2) Orders passed by the District Court under Section 10 shall not be subjected to revision by the Commissionerate of Revenue. *[Sn. 11 (1)]*.

If the basic tax paid or the basic tax provisionally assessed and paid is in excess of the amount due under the order of revision; such excess shall be refunded. *[Sn. 11 (2)]*.

The procedure for refund is detailed in Rule 14 of the Land Tax Rules, 1972.

13.16. Janmikarom

Janmikarom charged on and payable in respect of any land shall continue to be paid by the jenmies in addition to the basic tax payable *[Sn 13]*.

13.17. Melvaram

Melvaram Charged on and payable in respect of any land shall continue to be paid to those entitled to it in addition to the basic tax *[Sn.14]*.

13.18. Officers under the Act

The Government may appoint such officers as they deem necessary for the purpose of this Act and their appointment shall be notified in the Gazette. *[Sn. 16].*

13.19. Bar of suits against Government

No suits against Government shall be entertained in any Civil Court in respect of anything done or any order passed under the Act. No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith done or intended to be done under the Act or the rule made thereunder. *[Sn. 17].*

13.20. Rectification of mistakes

At any time within four years from the date of any order passed by it the prescribed authority or the appellate authority or the revisional authority may, on its own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to the notice of the prescribed authority or the appellate authority or the revisional authority by a land-holder or other person liable to pay tax. Any rectification which has the effect of enhancing the tax shall be made only after giving a reasonable opportunity to the assessee of being heard in the matter *[Sn. 18].*

13.21. Rule making power

The Government may make rules for carrying into effect the provisions of the Act *[Sn. 20].* Rule 16 of the Kerala Land Tax Rules, lays down that the basic tax is payable in two equal installments before the 15th October and the 15th of January of every financial year except in North Wayanad and South Wayanad Taluks where it shall be paid before the 1st February and 1st March of every financial year. Any installment or portion remaining unpaid shall bear interest at 9% *per annum* from the date of default; and arrears with interest shall be recoverable under the Revenue Recovery Act.

CHAPTER XIV

THE KERALA BUILDING TAX ACT, 1975

14.1. The Act was passed to provide for the levy of a tax on buildings. It has effect from 01.04.1973 and extends to the whole of the State of Kerala. The Act was amended on 15.01.1981 with retrospective effect from 01.04.1973 vide the Kerala Building Tax (Amendment) Act, 1980. Under section 26 of the Act, the Government may by notification in the Gazette, make rules for carrying out the purposes of the Act and in particular provide for the points listed out ibid. Government have issued Kerala Building Tax Rules, 1974 under the Kerala Building Tax Ordinance, 1974 and the Kerala Building Tax (plinth area) Rules 1992 (published in Kerala Gazette extraordinary No.132 dated: 07.02.1992 as SRO 132/92).

For the purpose of determination of the plinth area of the buildings assessable under the provisions of the Act, the Village Officer of every village shall prepare in form 1 a monthly list of buildings liable to assessment under section 5 of the Act in duplicate and transmit it to the assessing authority not later than 5 days of the expiry of the month with extract from Building application register of the local authority within whose area the buildings included in the list are situate. (***Rule 3 of the Kerala Building Tax (Plinth Area) Rules 1992.***)

14.2. Definitions

- (i) '**Assessee**' means a person by whom building tax or any other sums of money is payable under the Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the building tax payable by him.
- (ii) '**Building**' means a house, out-house garage or any other structure, or part thereof, whether of masonry bricks, wood, metal or other material, but does not include any portable shelter or shed constructed principally of mud, bamboos, leaves, grass or thatch or a latrine which is not attached to the main structure.

Each part of a building constructed for plantation workers in pursuance of Section 15 of the Plantation Labour Act, 1951 or for industrial workers under Government of India Subsidised Housing Scheme, allotted to them shall be deemed to be a separate building.

Where a building consists of different apartments or flats owned by different persons and the cost of construction of the building was met by all such persons jointly, each such apartment or flat shall be deemed to be a separate building.

(iii) '**Plinth area**' means the area included in the floor of a building and where a building has more than one floor the aggregate area included in all the floors together.

(iv) '**Local Authority**' means a Municipal Corporation or a Municipal Council or a Township committee or a Panchayat or a cantonment board.

(v) '**major repair or improvement**' in respect of a building means a repair or improvement as a result of which the capital value of the building is increased by more than seventy five thousand rupees.

(vi) '**Owner**' includes a person who for the time being is receiving or is entitled to receive, the rent of any building whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it if the building or part thereof were let to a tenant.

[Sn.2].

(vii) '**Residential Building**' means a building or any other structure or part thereof built exclusively for residential purposes including out-houses or garages appurtenant to the building for the more beneficial enjoyment of the main building but does not include hotels, boarding places, lodges and the like.

14.3. Exemptions

Buildings owned by the Government of Kerala or the Government of India or any local authority and buildings used principally for religious, charitable or educational purposes or as factories or workshops are not liable to assessment to tax under the Act.

'Charitable purpose' includes relief of the poor and free medical relief.

Government will decide cases of dispute, on reference whether a building falls under any of the categories mentioned above after giving the parties interested an opportunity to present their case. Government's decision shall not be called in question in any court of law. *[Sn. 3].*

14.4. Authorities

The Government, by notification in the Gazette, have appointed Taluk Tahsildars as assessing authorities for the purpose of the Act within the local limits of their respective jurisdiction and the Revenue Divisional Officers, as appellate authorities within their respective jurisdiction. All officers and persons employed in the execution of the Act shall observe and follow the orders, instructions and directions of the Board of Revenue. No such orders, instructions or directions shall be given so as to interfere with the discretion of the appellate authority in the exercise of its appellate functions. (*Section 4, S.R.O.600/74 and SRO No. 601/74*)

14.5. Charge of Building Tax

- (1) Subject to the other provisions contained in the Act, a tax called 'building tax' shall be charged based on the plinth area at the rate specified in the schedule on every building the construction of which is completed on or after the appointed day.
- (2) In the case of any building, the construction of which is completed prior to the appointed day but the assessment of which has not been initiated or completed or against which appeal or revision has been filed, building tax shall be assessed on the basis of the plinth area at the rate specified in the schedule.
- (3) Where any major repair or improvement is made on or after the appointed day to a building constructed before the said date, building tax shall be payable at the rate referred in sub-section (1) on the additional plinth area of the building resulting from such repair or improvement.
- (4) Where the plinth area of the building, the construction of which is completed after the appointed day is subsequently increased by new extensions or major repair or improvement, building tax shall be computed on the total plinth area of the building including that of the new extension or repair or improvement and credit shall be given to the tax already levied and collected, if any, in respect of the building before such extension, or repair or improvement.

(5) Where there are out-houses, garages or other structures appurtenant to the building for the more convenient enjoyment of the building, the plinth area of such structure shall be added on to the plinth area of the main building and the building tax assessed accordingly.

Provided that the plinth area of a garage or any other erection or structure appurtenant to a residential building used for the purpose of storage of firewood or for any non-residential purpose shall not be added on the plinth area of that building.

(6) The building tax shall be payable by the owner of the building [*Sn.5*].

Explanation

For the purpose of the Act, the construction of a building shall be deemed to have been completed when it is ready for occupation or has been actually occupied, which ever is earlier.

14.6. Charge of Luxury Tax

- (1) A luxury tax of rupees two thousand shall be charged annually on all residential buildings having a plinth area of 278.7 m² or more and completed on or after the 16th day of April 1999.
- (2) The luxury tax assessed under the Act shall be paid in advance or or before 31st day of March every year. [*Sn. 5A*].

14.7. Determination of plinth area

The plinth area of a building shall be the plinth area of the building as specified in the plan approved by the local authority or such other authorities as may be specified by Government in this behalf and verified by the assessing authority in such manner as may be prescribed. [*Sn. 6*].

Provided that the plinth area of a garage or any other erection or structure appurtenant to a residential building used for storage of firewood or for any non-residential purpose shall not be taken into account for determining the plinth area of that building.

14.8. Return of completion etc. of building

The owner of every building the construction of which is completed, or to which major repair or improvement is made in on or after the appointed day shall furnish to the assessing authority a return in the prescribed form within the

prescribed period along with a copy of the plan approved by the local authority or such other authority as may be specified by the Government in this behalf and verified in the prescribed manner and containing such particulars as may be prescribed.

If the assessing authority is of the opinion that any person is liable to furnish a return as stated above then, it may serve a notice upon that person requiring him to furnish within such period, not being less than thirty days from the date of service of notice, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and containing such particulars as may be specified in the notice.

The assessing authority may, if it is satisfied that it is necessary so to do, extend the date for the furnishing of the return. *[Sn. 7]*.

14.9. Return after due date and amendment of return

If any person has not furnished a return within the time allowed by or under section 7, or having furnished a return under that section discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made. *[Sn.8]*.

14.10. Assessment

- (i) If the assessing authority is satisfied that a return made by an owner is correct and complete, it shall assess the amount payable by him as building tax or luxury tax on the basis of the return.
- (ii) If the assessing authority is not so satisfied, he shall serve a notice in form No. IV on the assessee either to attend in person at its office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.
- (iii) The assessing authority, after hearing such evidence as may be required and after conducting necessary enquiries or inspection, shall, by order in writing, assess the amount payable by him as building tax.
- (iv) The assessing authority may serve on any person who has made a return or upon whom a notice has been served under Section 7 (3), a notice in Form IV requiring him to produce or cause to be produced on a date

specified in the notice such records or other documents as the assessing authority may require.

- (v) If any person fails to make a return or fails to comply with the terms of any notice issued, the assessing authority shall assess the amount payable by the person a building tax to the best of its judgment.

The assessment order shall be in Form V. It shall be served on the assessee soon as the order is passed and a copy of the order shall be communicated to the Village Officer concerned also. **[Sn 9 and Rules 7 and 8].**

14.11. Notice of demand

When any building tax is due in consequence of any order passed under or in pursuance of the Act, the assessing authority shall serve on the assessee a notice of demand in the prescribed form.

14.12. Appeals

Any assessee objecting to the amount of building tax or denying his liability to be assessed under the Act or objecting to any order of the assessing authority under the Act may appeal to appellate authority against the assessment or against such order within a period of thirty days from the date of service of the notice of demand or the date of service of the order in Form No.VII provided that he has paid the building tax. The appellate authority may admit an appeal presented after the period prescribed above, if he is satisfied that the appellant had sufficient cause, provided that no such appeal shall be admitted after a period of six months from the date of service of the notice of demand or the date of service of the order. The orders passed by the appellate authority shall, subject to the provisions of Sections 13 and 14, be final and shall not be liable to be questioned in a court of law. The appellate authority may, if it is satisfied either *suo motu* or on application in Form VIII by any party to an appeal that the decision on the appeal involves a question of law, draw up a statement of the case and refer it to the District Court having jurisdiction over the area in which the building in respect of which building tax has been levied is situated. The District Court shall decide the question of law and send a copy of judgments under the seal of the Court to the appellate authority which shall pass orders on the appeal in conformity with such judgment. **[Sn.11, 12 and Rules 10 and 11].**

14.13. Revision

(i) The District Collector may, either suo motu or on application by any person aggrieved, call for and examine the records of any order passed by the appellate authority or the assessing authority and may pass such order as he thinks fit. The files may be called for only on the expiration of 30 days specified for presentation of appeal. Records in respect of any order under appeal before the appellate authority shall also not be called for. The orders of District Judge are not subject to revision by the District Collector. He shall not suo motu revise an order if it has been passed more than three months previously. An application by an aggrieved party shall be made before the expiry of thirty days from the date on which the order in question was communicated to him. *[Section 13]*.

(ii) The Government may on application by any person aggrieved call for and examine the record of any order passed by District Collector suo motu for the purpose of satisfying themselves as to the propriety or regularity of such order and pass such order as they think fit after giving the persons pre-judiced a reasonable opportunity to show cause against such order. Government shall not revise the order of the District Collector after the expiry of sixty days from the date on which that order was communicated to the applicant. *[Sn. 13 and 14]*.

14.14. Rectification of mistakes

The appellate authority or the revisional authority may, at any time within three years from the date of an order passed by it on appeal or revision and the assessing authority may at any time within four years from the date of any assessment or order passed by it of its own motion, rectify any mistake apparent from the record of the appeal, revision, assessment or order and shall, within the like period, rectify any such mistake which has been brought to its notice by an assessee; provided that no such rectification shall be made which has the effect of enhancing an assessment or reducing a refund unless the assessee has been given a reasonable opportunity of being heard in the matter. *[Sn.15]*. Demand notice under this section shall be in Form IX *[Rule 12]*.

14.15. Payment of building tax

Any amount specified as payable in a notice of demand under section 10, or an order under section 11 or section 13 or section 14 shall be paid in such

number of installments, within such time, at such place and to such person, as may be prescribed and any assessee failing so to pay shall be deemed to be in default.

Provided that where the Government consider it necessary so to do for the promotion of tourism, they may, by notification in the Gazette, provide for such additional number of instalments as may be specified in the notification for the payment of the building tax in respect of the building the construction of which is completed on or after the 1st day of march, 1993 and in such areas as may be specified and having such specifications as may be prescribed in this behalf.

[Sn.18].

When building tax or luxury tax is not paid on the due date the arrears of the tax shall bear interest at the rate of six *per cent* annum from the date of default.

The arrears of building tax or L.T. and the interest, if any, thereon shall be a first charge on the building in respect of which it is payable and the claim for such arrears and interest shall have precedence over the claim for any tax levied by a local authority and such amount shall be recoverable under Revenue Recovery Act. **[Sn.18 and 19 and Rule 13].**

14.16. Refunds

If any person satisfies the assessing authority that the amount of building tax paid by him exceeds the amount with which such person is properly assessable under the Act, he shall be entitled to a refund of such excess. The appellate authority or the revisional authority, if satisfied to the like effect shall cause a refund to be made by the assessing authority of any amount found to have been wrongly paid or paid in excess. Claims for refund of building tax shall be preferred to the assessing authority in Form X. **[Section 20 and Rule 14].**

14.17. Failure to furnish return

If any person fails without reasonable cause or excuse to furnish in due time any return specified in Section 7 (1) or (3), the assessing authority, the appellate authority or the revisional authority may impose a penalty which may extend to five rupees for every day during which the default continues. The penalty imposed may be recovered in the same manner as arrears of building tax.

[Sn. 22].

14.18. Power of inspection

The assessing authority or any officer authorized by him, the appellate authority or the revisional authority may, after due notice, at any time between sunrise and sunset enter any building for the purpose of collecting particulars relating thereto or for taking measurement of the building or repairs, improvement etc. and may require the owner of the building or any other person in charge or occupation of the building to produce for inspection any book, register or record kept therein and ask for any information relating to the building or repairs or improvements etc. and the owner of the building or other person in charge or occupation shall be bound to afford facilities for taking measurements and for such inspection and to furnish such information as is available with him.

Any person, who obstructs the assessing authority or other officer authorized in the exercise of the powers conferred on it or on him, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both. *[Sn. 23].*

14.19. Bar of suits etc. in courts

No suit shall be brought in any civil court to set aside or modify any assessment made under the Act and no prosecution, suit or other proceeding shall lie against the Government or any authority or officer for anything in good faith done or intended to be done under the Act. *[Sn. 27].*

14.20. Computation of period of limitation

In computing the period of limitation prescribed for any appeal under the Act, the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded. *[Sn. 28].*

14.21. Registers

A register of assessment shall be maintained by each assessing authority in Form A and a register of persons assessed shall be maintained in the village office in Form B. Besides, a register showing the details of houses reported to the assessing authority for assessment will also be maintained in the village by the Village Officer in Form C. *[Rule 15].*

The Schedule
(as per section 5)

Rate of building Tax

Plinth Area	Grama Panchayat other than special Grade Grama Panchayat (Rupees)	Special Grade Grama Panchayat/Town Panchayat/ Municipal Council (Rupees)	Municipal Corporation (Rupees)
(1)	(2)	(3)	(4)
Residential Buildings:			
not exceeding 100 square metres	Nil	Nil	Nil
Above 100 square meters but not exceeding 150 square metres	750	1,350	2,025
Above 150 square metres but not exceeding 200 square metres	1,500	2,700	4,050
Above 200 square metres but not exceeding 250 square metres	3,000	5,400	8,100
Exceeding 250 Square metres	3,000 plus Rs.600 for every additional 10 square metres	5,400 plus Rs.1,200 for every additional 10 square metres	8,100 plus Rs.1,500 for every additional 10 square metres
Other Buildings			
Not exceeding 50 square metres	Nil	Nil	Nil
Above 50 square metres but not exceeding 75 square metres	750	1,500	3,000
Above 75 square metres but not exceeding 100 square metres	1,125	2,250	4,500
Above 100 square metres but not exceeding 150 square metres	2,250	4,500	9,000
Above 150 square metres but not exceeding 200 square metres	4,500	9,000	18,000
Above 200 square metres but not exceeding 250 square metres	9,000	18,000	27,000
Exceeding 250 square metres	9,000 plus Rs.900 for every additional 10 square metres	18,000 plus Rs.1,800 for every additional 10 square metres.	27,000 plus Rs.2,250 for every additional 10 square meters.

Note:

- (1) In the case of buildings referred to in the explanation 2 to clause (c) of Sn. 2, the rate of building tax shall be increase by 15%.
- (2) In the case of building certified by a competent authority such as Nirmithi Kendras and the like as may be specified by Government in this behalf to be low cost residential building, the rate of building tax shall be reduced by 12.5%.

CHAPTER XV

THE KERALA REVENUE RECOVERY ACT, 1968

15.1. The Kerala Revenue Recovery Act, 1968 was enacted to consolidate and amend the laws relating to the recovery of arrears of public revenue in the State of Kerala. This Act came into force on 15.12.1968.

15.2. The definitions of some of the important terms in the Act are indicated below:

1. The “arrears of public revenue due on land” means the whole or any portion of any Kist or installment of such revenue not paid on the day on which it falls due according to the Kist bandy or any engagement or usage. *[Sn. 2 (a)]*

2. “public revenue due on land” means the land revenue charge on the land and includes all other taxes fees and cesses on land, whether charged on land or not and all cesses or other dues payable to the Government on account of water used for purposes of irrigation. *[Sn.2 (j)]*

3. “defaulter” means a person from whom an arrear of public revenue due on land is due, and includes a person who is responsible as surety for the payment of any such arrear. *[Sn.2 (e)]*.

15.3. Mode of recovery of arrears of public revenue

Whenever public revenue due on land is in arrear, such arrear, together with interest, if any and cost of process may be recovered by one or more of the following modes

- a) by attachment and sale of the defaulter’s movable property;
- b) by attachment and sale of the defaulter’s immovable property;
- c) by appointing an agent for the management of defaulter’s immovable property;
- d) by arrest of the defaulter and his detention in the prison; (*Sn 5*)

15.4. Interest on Arrears of Public Revenue Due on Land

Arrears of public revenue due on land shall bear interest at the rate of 12% *per annum* or at such other rate as may be notified by Government from time to time in the Gazette. (*Sn 6*)

15.5. Procedure for Attachment and Sale of Movable Property

The procedure for attachment and sale of movable property is detailed in sections 7 to 16.

When any movable property is to be attached for arrears of public revenue due on land, the Collector or the authorized officer should furnish the person employed to make the attachment a demand in writing signed by him. The demand contain the name of the defaulter, the amount of arrears due, the date on which the arrear fell due etc. The person employed to make the attachment should serve the demand in writing on the defaulter and if he fails to remit the amount in arrear together with the interest thereon and the cost of process immediately, the demand in writing will be the authority for making the attachment. *[Sn. 7]*

15.6. Where the property to be attached is movable property (other than growing crops and ungathered products) in possession of the defaulter, the attachment should be made by actual seizer. *[Sn. 8].*

15.7. The property attached should to the amount of the arrear; and it should not include ordinary wearing apparel, tali, wedding ring, minimum articles required for poojas or religious worship, tools of artisans and other articles which may be notified by Government from time in the Gazette. *[Sn.9].*

15.8. Attachment by seizure should be made after sunrise and before sunset. *[Sn. 10].*

If the defaulter does not pay the arrears, arrangements may be made for the public sale of the property attached for the discharge of the arrear of the public revenue due on land, with interest and cost of process. *[Sn. 11].*

After fifteen days of the service of the notice on the defaulter the property attached may be sold in public auction. If the defaulter tenders payment of the arrear demanded after his property has been attached and before sale, together with the interest thereon and the cost of process the property should be released forthwith. *[Sn. 16].*

15.9. The procedure for sale or disposal of crops or ungathered products, cattle, debt, share, decree, share in movable property, negotiable instrument, property in

the custody of Court, partnership property, rents etc. are laid down in sections 17 to 25.

15.10. Sale of negotiable instruments and shares in Corporation

If the property to be sold is a negotiable instrument or a share in a Corporation, the Collector or the authorized officer may, instead of directing the sale to be sale by public auction authorise the sale of such instrument or share through a broker. *[Sn. 26]*.

15.11. Order for payment of coin or currency notes.

Where the property attached is current coins or currency notes, the Collector or the authorized officer may, at any time during the continuance of the attachment, direct that such coins or notes, or a part thereof sufficient to satisfy the written demand together with interest and cost of process, be paid over to him. *[Sn. 27]*.

15.12. Restoration of property in cases of fraudulent conveyances.

Where a defaulter makes a fraudulent conveyance of property to prevent attachment for arrears of public revenue due on land, any Civil Court of competent jurisdiction, upon proof, thereof, should summarily cause the property to be delivered upto the Collector or the authorized officer. *[Sn. 28]*.

15.13. Claims to property attached and sold

If any person, not being a defaulter claims a right to the property attached and the officer who made the attachment causes the same to be sold, such claimant, on proof of his right in any Civil Court of competent jurisdiction and in the event of the said officer being unable to prove the responsibility for the arrears on account of which the property has been sold, shall recover from such officer the full value of such property, with interest, cost of process and damages according to the circumstances of the case *[Sn.29]*.

15.14. Restoration of property forcibly or clandestinely taken away

Where it is proved to the satisfaction of any Civil court of competent jurisdiction that any person has forcibly or clandestinely taken away property once attached, the Court may summarily cause such property to be resorted to the officer who made the attachment. *[Sn.30]*.

15.15. Procedure for attachment and sale of immovable property

Procedure for attachment and sale of immovable property is laid down in Sections 34 to 43.

Demand notice in writing specifying the name of the defaulter, amount of the arrear of public revenue due, interest on arrear, amount of batta due to the person who serve the notice etc has to be served on the defaulter and the time allowed should not be less than seven days from the date of service of notice.

[Sn.34 (1)]

If within the prescribed time the defaulter objects to the claim of arrear wholly or in part, the Collector or the authorized officer shall inquire into the objection and record a decision before proceeding to attach the immovable property. **[Sn 34 (2)]**

When the defaulter neglects to pay dues the collector should proceed to recover the dues by attachment of the immovable property. **[Sn 35]**

The attachment should be effected by affixing a notice to some conspicuous part of immovable property and by serving a copy of the notice on the defaulter. The notice should also be published. The attachment becomes effective from the date on which the notice is affixed on the property. **[Sn 36]**

The Collector may at any time during attachment assume the management of the property attached. **[Sn 37].**

The Collector may appoint an agent for the management of the property. **[Sn 38].**

Notice of assumption of management should be served on the defaulter and also be published. **[Sn. 39].**

The agent should collect the rents and profits due on the property and should keep account of the receipts and disbursements and submit the same to the Collector and pay the balance amount to the Collector whenever required. **[Sn 40]**

The defaulter may proceed by prosecution or suit against the agent for any criminal or illegal act done by him to the injury of the defaulter or his property.

[Sn 41]

All sums received from the property attached, after paying the cost of attachment and expense of management, should be adjusted against the dues of the defaulter. As soon as all dues have been liquidated the attachment should be withdrawn and the fact published and also affixed on the property. *[Sn 42]*

If the property of a defaulter consists of a business, the district collector may attach the business and assume its management and appoint an agent to manage the business. *[Sn 43]*

15.16. Effect of engagement and transfer by the defaulter

Any engagement entered into by the defaulter with any one in respect of any immovable property after the service of the written demand on him shall not be binding upon the Government. *[Sn 44(1)]*

Any transfer of immovable property made by a defaulter after public revenue due on any land from him has fallen in arrear, with intent to defeat or delay the recovery of such arrear, should not be binding upon Government. *[Sn 44 (2)]*

Where a defaulter transfers immovable property to a near relative or for grossly inadequate consideration after public revenue due on any land from him has fallen in arrear, it should be presumed until the contrary is proved that such transfer is made with intent to defeat or delay the recovery of such arrear, and the Collector or the authorized officer may, subject to the orders of a competent court, after giving the defaulter an opportunity of being heard and recording his reasons thereafter in writing, proceed to recover such arrear of public revenue by attachment and sale of the property so transferred, as if such transfer had not taken place. *[Sn 44(3)].*

15.17.Claim for Release of Attachment by Third Parties

If within fourteen days from the date of attachment of any immovable property any objection is made in writing by any person other than the defaulter to the attachment of the whole or any portion of such property on the ground that such property was not liable for the arrears of public revenue for which attachment was made, the Collector or the authorized officer should after making such enquiries decide whether such property is liable to be attached, and should promptly communicate the decision to the objector in writing. In cases where the

officer conducting the enquiry finds the attachment untenable, he shall forthwith direct the release of the property. **[Sn 46]**

Persons interested in land may obtain release from attachment by paying arrears of revenue. **[Sn 47]**

15.18. Procedure for Sale of Immovable Property

Immovable property attached may be sold in accordance with the following provisions

1. Sale should be by public auction to the highest bidder
2. Sale note should be duly served and published at least thirty days before the date of sale.
3. A sum of money not less than fifteen *per cent* of the bid amount should be deposited by the person declared to be the purchaser with officer conducting the sale immediately after such declaration and where the remainder of the purchase money is not paid within thirty days of the sale, the money so deposited is liable to forfeiture.
4. If the officer conducting the sale adjourns the sale on his discretion to a date within sixty days of the date of original sale, notice of the adjourned sale should be published in the Taluk and village officer concerned. If it is beyond sixty days, fresh notice should be served and published as if it were the original sale.
5. Where the purchaser refuses or omits to deposit the money, the property should be re-sold at his expense and the amount of all loss and expense should be recoverable from such purchaser in the same manner as arrears of public revenue due on land. Where the immovable property is sold at the second sale for a higher price than at the first sale, the difference will be the property of the defaulter.
6. All persons bidding at a sale should be required to State whether they are bidding on their own behalf or as agents, and in the latter, case to deposit a written authority signed by their principals. If such requisition be not complied with, their bids should be rejected. **[Sn 49]**

15.19. Bidding on Behalf of Government

When an immovable property is put up for sale, if there is no bid, the officer conducting the sale may purchase the property on behalf of Government for an amount of ten paise. And if there was bid and the highest bid amount is insufficient cover the arrears due, the officer conducting the sale may bid on behalf of Government for an amount higher than such bid by ten paise [*Sn. 50(2)*]. After the confirmation of sale, all the right, title and interest of the defaulter, purchased on behalf of Government, should be deemed to have vested in Government from the date of purchase and if the defaulter is in actual possession, the Collector or the authorised officer, should immediately after the confirmation of the sale, take possession of the property. [*Sn 50*]

If the defaulter tenders all dues before sale the sale should be stayed. [*Sn 51*]

15.20. Application to Set Aside Sale of Immovable Property on Deposit

The sale may be set aside by the Collector on application at any time within thirty days from the date of sale in favour of a person owning or claiming an interest in immovable property if he deposits –

- a. A sum equal to five *per cent* of the purchase money and
- b. A sum equal to the arrears of public revenue due on land for which the immovable property was sold together with interest thereon and process.

[Sn 52]

At any time within thirty days from the date of the sale of immovable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity or mistake or fraud in publishing or conducting it. No sale should be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof. [*Sn 53*]

The Collector should make an order confirming the sale on the expiration of thirty days from the date of the sale if no application to have the sale set aside is made under sections 52 or 53 or if any such application has been made and rejected. [*Sn 54*]

Whenever the sale of any immovable property is not confirmed or set aside, the deposit or the purchase money should be returned to the purchaser. *[Sn 55]*

After the confirmation of the sale, the Collector should register the immovable property and execute and grant a certificate of sale. *[Sn 56]*

15.21. All immovable property brought to sale on account of arrears of public revenue due on land should be sold free of all encumbrances, and if any balance remains after liquidating the arrears with interest thereon and cost of process, it should be paid over to the defaulter. *[Sn. 60].*

15.22. The Collector or the authorized officer may sell the whole or any portion of the land of a defaulter in discharge of the arrears of public revenue due on such land, but as far as practicable no larger section of the land should be sold than what is sufficient to discharge the arrears with interest thereon and cost of process. *[Sn. 62].*

15.23. When defaulter tenders security at any time before the commencement of sale the sale may be postponed upon such conditions and until such time and in the event of default in such conditions, the Collector or the authorized officer may sell the property and proceed against the defaulter or against his security or both. *[Sn. 63].*

15.24. Arrest in case of willful and fraudulent non-payment of arrears

When arrears of public revenue due on land, with interest thereon and cost of process are not paid after the service of the written demand under Section 34 and the District Collector is satisfied that the defaulter or his surety is willfully with-holding payment of the arrears or has dishonestly transferred any part of his property or has been guilty of fraudulent conduct in order to evade payment or that the defaulter has the means to pay the arrears or some sustainable part thereof and refuses or neglects to pay the same, or the proceeds of the sale of the property of the defaulter and his surety are not sufficient to liquidate the arrears with interest thereon and cost of processes he may issue a warrant for the arrest of the defaulter after the defaulter is given an opportunity of being heard by the District Collector subject to the provision given under Sn.65.

15.25. Application of the Act for the recovery of certain other dues to Government is detailed in Section 68.

Procedure for recovery of public revenue due on land when defaulter or surety resides outside the District and for the recovery of dues other than public revenue due on land is given in Section 69.

15.26. Payment under protest

The defaulter or his agent may pay the amount due at any time before the commencement of the sale of the property attached, and deliver a protest signed by himself or by his authorized agent and the officer conducting the sale should drop further proceedings for the recovery of the money.

If the protest is accepted the officer disposing of the protest should immediately order the refund of whole or part of the money paid under protest and initiate fresh proceedings for the realization of the amount if any due. *[Sn. 70].*

15.27. Government have power to declare the Act applicable to the recovery of amounts due from any person or class of persons, to any specified institutions or any class or classes of institution. *[Sn. 71].*

15.28. Every question arising between the Collector or the authorized officer and the defaulter or his representative relating to the execution, discharge of a written demand should be determined not by suit, but by order of

- i) The Commissioner of Land Revenue, where the Collector is a party
- ii) the Collector, in other cases.

A suit may, however, be brought to Court in respect of any such question on the ground of fraud. *[Sn.72].*

15.29. The Collector may authorize any officer to exercise any of the power or functions conferred or imposed on him by this Act. *[Sn. 73].*

15.30. Person employed in serving notice are entitled to batta at the rates fixed by Government. The batta as well as interest and cost of process incurred are recoverable from the defaulter. *[Sn. 76 &77].* The rate of batta is given in Rule 4 of the Kerala Revenue Recovery Rules, 1968.

15.31. Attachment of salary

The salaries or allowances and debts due to a defaulter may be attached and realized for the recovery from him of any arrear of public revenue due on land, in the manual provided for attachment and realisation of debt and salaries in the code of civil procedure, 1908. *[Sn. 80]*.

15.32. Under Sn.83 the Commissionerate of Revenue and Government have powers to revise any proceedings, which have been taken by the Collector subject to certain conditions mentioned therein.

Government may make rules to carry out all or any of the purpose of the Act *[Sn.86].BI*

15.33. Under the Kerala Recovery Rules, 1968 (Rule 5), collection charges at the rate of five *per cent* of the arrears not exceeding Rs 5 lakh and at the rate of 7.5 *per cent* of the arrears exceeding Rs 5 lakh collected on behalf of any Government department/notified institutions are to be recovered from the defaulters.

CHAPTER XVI.
THE KERALA LAND REFORMS ACT, 1963

16.1. This is an Act to enact a comprehensive legislation relating to land reforms in the State of Kerala. The Act underwent a series of amendments after its enactment in 1963. The latest amendment was in 2009.

16.2. Definitions

- (i) “Cultivating tenant” means a tenant under Section 27 or Section 33. [*Section 2 (8)*].
- (ii) “fair rent” means the rent payable by a cultivating tenant under Section 2 or Section 33 [*Section 2 (13)*].
- (iii) “Family” means husband, wife and their unmarried minor children or such of them as exists. [*Sn.2 (14)*].
- (iv) “Garden” means land used principally for growing coconut trees, areca nut trees or pepper vines, or two or more of the same. [*Sn.2(15)*].
- (v) “Gross produce” in the case of a nilam, means the normal produce of that nilam less the cost of harvesting and, in the case of a garden or dry land, means the normal produce of that garden or dry lands. [*Sn.2 (16)*].
- (vi) “Net income” means income derived from any property after deducting therefrom the cultivation expenses or charges for maintaining fruit trees, timber trees or other useful trees and plants, and taxes and cesses due to the Government, or any local authority. [*Sn.2 (37)*].
- (vii) “Holding” means a parcel or parcels of land held under a single transaction by a tenant from a landlord and shall include any portion of a holding as above defined which the landlord and the tenants have agreed or are bound to treat as a separate holding [*Sn.2 (17)*].
- (viii) “Intermediary” means any person who, not being a landowner, has an interest in the land and is entitled, by reason of such interest, to

possession thereof, but has transferred such possession to any other person. *[Sn. 2 (189)].*

Explanation

Where such a person has transferred possession only of a portion of the land which he is so entitled to possess he shall be deemed to be an intermediary in respect of that portion.

(ix) “Kudikidappukaran” means a person who has neither a homestead nor any land exceeding in extent three cents in any city or major Municipality, ten cents in any Panchayat area or township, in possession either as owner or as tenant, on which he could erect a homestead and

(a) who has been permitted with no obligation to pay rent by a person in lawful possession of any land to have the use and occupation of a portion of such land for the purpose of erecting a homestead; or

(b) who has been permitted by a person in lawful possession of any land to occupy, with or without an obligation to pay rent, a hut belonging to such person and situate in the said land; and “Kudikidappu” means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto.

(x) (a) “hut” means any dwelling house constructed by a person other than the person permitted to occupy it-

(i) at a cost, at the time of construction, not exceeding seven hundred and fifty rupees: or

(ii) which could have at the time of construction, yielded a monthly rent not exceeding five rupees, and includes any such dwelling house reconstructed by the Kudikidappukaran in accordance with the provisions of Section 79; and

(b) “homestead” means, unless the context otherwise requires, any dwelling house erected by the person permitted to have the use and occupation of any land for the purpose of such erection, and includes any such dwelling house reconstructed by the Kudikidappukaran in accordance with the provisions of Section 79.

A person, who, on the 16th day of August, 1968, was in occupation of any land and the dwelling house thereon and continued to be in such occupation till the 1st day of January, 1970, shall be deemed to be a Kudikidappukaran

Provided that no such person shall be deemed to be a Kudikidappukaran

- (a) in cases where the dwelling house has not been constructed by such person or by any of his predecessors in interest if
 - (i) such dwelling house was constructed at a cost, at the time of construction, exceeding seven hundred and fifty rupees; or
 - (ii) Such dwelling house could have, at the time of construction, yield a month rent exceeding face rupees; or
- (b) if he has a building or is in possession of any land exceeding in extract three cents in any city or major Municipality or five cents in any other Municipality or ten cents in any Panchayat area or township, either as owner or as tenant, on which he could erect a building.

Where a mortgagee with possession erects for his residence a homestead, or resides in a hut already in existence, on the land to which the mortgage relates, he shall be deemed to be a Kudikidappukaran. in respect of such homestead or hut, provided that at the time of redemption

- (a) he has no other kudikidappu or residential building belonging to him, or any land exceeding three cents in any other Municipality or ten cents in any Panchayat area or township, in possession either as were or as tenant, on which he could erect a homestead; and
- (b) his annual income does not exceed two thousand rupees.

Where a Kudikidappukaran transfers his right in the Kudikidappu to another person, such person shall be deemed to be Kudikidappukaran, if

- (a) he has no other homestead or any land in possession, either as owner or as tenant, on which he could erect a homestead and
- (b) his annual income does to exceed two thousand rupees.

A person occupying any hut belonging to the owner of a plantation and situated in the plantation shall not be deemed to be Kudikidappukaran if such person was permitted to occupy that hut in connection with his employment in

the plantation. A person occupying a homestead or hut situated in a land held or owned by the Government of Kerala or the Government of any other State in India or the Government of India shall not be deemed to be a Kudikidappukaran. *[Sn. 2 (25)].*

- (xi) “Landlord” means a person under whom a tenant holds and includes a landowner *[Sn. 2 (29)].*
- (xii) “Land owner” means the owner of the land comprised in a holding and includes
 - (i) a landholder holding Sree Pandaravaka lands on pattom, otti, Jenamam, Kudijenmam, danam or any other treasure; and
 - (ii) a landholder holding Sreepadam lands on Sreepadam-pattam or other favourable tenure; *[Sn. 2 (30)]*
- (xiii) “plantation” means any land used by a person principally for the cultivation of tea, coffee, coca, rubber, cardamom or cinnamon (plantation crops) and includes-
 - (i) land used by the said person for any purpose ancillary to the cultivation of plantation crops or for the preparation of same for the market;
 - (ii) agricultural lands interspersed within the boundaries of the area cultivated by the said person with plantation crops, not exceeding such extent as may be determined by the Land Board as necessary for the protection and efficient management of such cultivation. *[Sn. 2 (44)].*

Explanation

Lands used for the construction of office buildings, godownes, factories, and playgrounds shall be deemed to be lands used for the purposes of the sub-clause (i)

- (xiv) “Small holder” means a landlord who does not have interest in land exceeding eight standard acres or ten acres in extent, whichever is less, as owner, intermediary, or cultivating tenant, or in two or more of the above capacities, so however that the extent of non-resumable

land in his possession as owner, or as cultivating tenant, or partly as owner and partly as cultivating tenant, does not exceed.

- (i) two and a half standard acres or
- (ii) four acres in extent, whichever is greater. *[Sn. 2 (52)].*

(xv) “Tenant” means any person who has paid or has agreed to pay rent or other consideration for his being allowed to possess and to enjoy any land by a person entitled to lease that land and includes those specified in clauses (a) to (hhh) under Section 57.

16.3. Provision Regarding Tenancies

Every tenant shall have fixity of tenure in respect of his holding and no land from the holding shall be resumed except as provided in Sections 14 to 22 subject to the conditions laid down in Section 13 (2) and 13 (3).

Exemptions

The provisions of Chapter II of the Act shall not apply to the leases mentioned in Section 3 subject to the conditions laid down therein.

16.4. Deemed tenants are those specified in Sections 4, 4A, 5, 6, 6A, 6B, 6C, 7, 7A, 7B 7C, 7D, 7E, 8, 9, 10, 11.

16.5. Where any person has been dispossessed of the land in his occupation on or after the 1st day of April, 1964, such person shall if he would have been a tenant under the Act, at the time of dispossession, be entitled to restoration of possession of the land subject to the provisions given under Section 13 A. The procedure for restoration of possession is detailed in sub Sections 2, 3 &4 of section 13 A.

Where any holding has been sold in execution of any decree of for arrears of rent, and the tenant has been dispossessed of the holding after the 1st day of April, 1964 and before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, such sale shall stand set aside and such tenant shall be entitled to restoration of possession of the holding, subject to the provisions of Section 13 B.

16.6. Cancellation of certain sales for arrears of rent

Where any holding has been sold in execution of any decree for arrears of rent accrued due before the 1st day of May, 1968, or any portion of such arrears,

but the tenant has not been dispossessed such tenant may, within six months from the commencement of the Kerala Land Reforms (Amendment) Act, 1969 deposit in Court an amount equal to the amount which he is liable to pay under Section 73 and apply to the court for setting aside the sale. *[Sn. 13 C]*.

Where an holding has been sold after the 1st day of April, 1964 and before the commencement of the Kerala Land Reforms (Amendment) Act, 1969, for recovery of damages for committing waste on the holding, but the tenant has not been dispossessed, such tenant may, within six months from such commencement, deposit in court an amount equal to the purchase money together with interest at the rate of six *per cent per annum* and apply to the court for setting aside the sale.

16.7. Resumption

Resumption of land as per section 14, 15, 16, and 17 is made subject to the conditions specified in Section 18.

Resumption of Agricultural Lands Interspersed within Plantations

A landlord may resume from a tenant holding or part of a holding comprising agricultural lands of the description specified in sub-clause (C) of clause (44) of section 2, if such holding or part is in the opinion of the Land Board or the Taluk Land Board as the case may be, absolutely necessary for the purpose of plantation provided that the order of the Land Tribunal allowing resumption shall be given effect after the expiry of the period fixed under the contract of tenancy and only at the end of an agricultural year. *[Sn19]*

16.8. Compensation to Tenants

A tenant from whom land is resumed is entitled to –

- (i) Compensation for the improvements belonging to him; or
- (ii) A solatium of an amount equal to the value of the gross produce from the land resumed for a period of two years whichever is greater.

Provided that where the land resumed is comprised in a plantation, the tenant shall be entitled to the aggregate of the compensation referred to in clause (i) and the solatium referred to in clause (ii). The compensation payable is determined in accordance with the provisions of the Kerala Compensation for Tenants Improvement Act, 1958. *[Sn 20]*.

16.9. Procedure for Resumption

A landlord desiring to resume any land shall apply to the Land Tribunal within whose jurisdiction the land is situated for an order of resumption. [**Sn 22**]

16.10. Recovery of Arrears of Rent

A landlord or any person claiming under him may apply to the Land Tribunal in the prescribed form for recovery of arrears of rent due to him from his tenant. [**Sn 26(1)**]

The procedure for recovery of arrears is detailed in sub-sections 1 to 4 of section 26.

16.11. Fair Rent

- (1) The fair rent in respect of a holding shall be the rent payable by the cultivating tenant to his landlord.
- (2) The fair rent shall be
 - (a) in the case of nilams, *50 per cent* of the contract rent, or *75 per cent* of the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III of the Act, applicable to the class of lands comprised in the holding, whichever is less;
 - (b) in the case of other lands, *75 per cent* of the contract rent, or the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III applicable to the class of lands comprised in the holding, whichever is less; provided that the tenant may opt to pay
 - (i) in the case of any nilam, *50 per cent* of the contract rent, or *75 per cent* of the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III applicable to the class of lands comprised in holding;
 - (ii) in the case of other lands, *75 per cent* of the contract rent, or the fair rent determined under any law in force immediately before the 21st January, 1961, or the rent calculated at the rates specified in schedule III applicable to the class of lands comprised in the holding and where the tenant has so

opted, such rent shall be deemed to be the fair rent for all purpose of the Act with effect from the beginning of the agricultural year in which notice was sent to the landlord. *[Sn 27]*.

Schedule III is given as Appendix I

Where any land included in a holding is set apart for communal purposes, and is used for such purposes, the extent of the land so set apart shall not be taken into account when determining the fair rent of the holding in accordance with that section. *[Sn 28]*.

16.12. Determination of Fair Rent by Land Tribunal

- (1) The cultivating tenant or any landlord may apply in the prescribed form to the Land Tribunal for determining the fair rent in respect of a holding
- (2) On receipt of an application the Land Tribunal issue notices to all persons interested and after enquiry, determine by an order
 - (i) the fair rent in respect of the holding;
 - (ii) if there is an intermediary or intermediaries, the rent payable by such intermediary or intermediaries to his landlord or to their respective landlords;
 - (iii) the instalment, if any, in which the rent shall be payable; and
 - (iv) the date or dates on which the said rent or installment shall be payable.
- (3) In determining the fair rent under sub-section (2), the Land Tribunal may take into account the statistics published under Section 44. *[Sn 31]*

Agreement as to Fair Rent

It shall be competent for the landlord and the tenant to agree as to what shall be the fair rent payable in respect of the holding. *[Sn 33]*

Date from which the order is to take effect

The order determining the fair rent under section 31 or section 33 and the rent payable by an intermediary shall take effect from the beginning of the agricultural year in which the tenant or the landlord filed the application for such determination or the agreement under Section 33. *[Sn 34]*.

Rent payable when Land Tribunal has not determined fair rent

Where in a case the rent payable in respect of a holding has not been determined by the Land Tribunal, either under Section 31 or Section 33, the landlord shall be entitled to receive and the tenant shall be bound to pay at his option-

- (a) in the case of nilams, 50 *per cent* of the contract rent, or 75 *per cent* of the fair rent if any, determined under any law in force immediately before the 21st January, 1961;
- (b) in the case of other lands, 75 *per cent* of the contract rent, or the fair rent, if any, determined under any law in force immediately before the 21st January 1961. *[Sn. 35]*

Mode of payment of rent

Where the rent is payable in kind, it shall be paid either in kind or in money at the option of the tenant. *[Sn. 36]*.

16.13. Remission of rent

Where there has been damage to or a failure of, crops owing to causes beyond the control of the tenant in any holding, the tenant shall be entitled to a remission of the rent payable by him in proportion to the extent of such damage or failure. *[Sn. 38]*.

Abatement or reduction of rent

The fair rent determined shall be liable to alteration or revision on the application made by the cultivating tenant to the Land Tribunal, on any ground specified in sub-section (2) or sub-section (3) of Sn. 39.

No tenant shall be liable to pay to his landlord any customary dues or renewal fees or anything more or anything else than the rent payable *[Sn. 40]*.

Arrears of rent shall bear interest at the rate of six *per cent per annum* or at the contract rate, whichever is less. *[Sn. 41]*

Every tenant paying shall be entitled to receive and the landlord shall be entitled to receive and the landlord shall be bound to grant a receipt containing such particulars as may be prescribed. *[Sn. 45]*

16.14. Rights of tenant to be heritable and alienable

All rights which a tenant has in his holding shall be heritable and alienable. *[Sn.50]*

A tenant entitled to fixity of tenure shall have the right to use his holding in any manner he thinks fit, provided that nothing in the Section shall be deemed to empower the tenant to use the holding in contravention of any order issued under the Essential Commodities Act, 1955.

Where the tenant in respect of a nilam is a Varamdar and the fishing right in that nilam is exercised by the landlord, such right of the landlord shall cease to exist and the tenant shall be entitled to exercise such right. *[Sn.50A]*

16.15. Surrender by tenant

A tenant may terminate the tenancy in respect of any land held by him at any time by surrender of his interest therein provided that no such surrender shall be made in favour of any person other than the Government. Such surrender shall not be effective unless it is made in writing and is admitted by the tenant before the Land Tribunal and is registered in the office of the Land Tribunal in the prescribed manner.

The Government shall pay to the landlord fair rent of the tenancy surrendered to it. The Government may let any land surrendered to it to any person. *[Rule 52 of Kerala Land Reforms (Tenancy) Rules, 1970, Sn.51].*

16.16. Abandonment by tenant

No landlord shall enter on any land which has been abandoned by a tenant. If a tenant abandons his holding and ceases to cultivate the holding either by himself or by some other person, the Government may, after notice to the tenant and the landlord and after hearing objections if any, take possession of the land comprised in the holding. The Government shall pay to the landlord fair rent for the land taken possession of by them. The Government may let to another tenant the land taken possession of under rule 52 of the Kerala Land Reforms (Tenancy) Rules, 1970. The tenant to whom any land is let shall pay the

fair rent thereof directly to the landlord and the Government's liability with regard to the payment of the fair rent for such land shall cease. *[Sn. 51 A]*.

16.17. Vesting of landlord's right in Government

On a date to be notified by the Government in this behalf in the Gazette, all rights, title and interest of the landowners and intermediaries in respect of holdings held by cultivating tenants (including holders of Kudiyiruppus and holders of Karaimas) entitled to fixity of tenure under Section 13 and in respect of which certificates of purchase under sub-Section (2) of Section 59 have not been issued, shall vest in Government free from all encumbrances created by the landowners and intermediaries and subsisting thereon on the said date. provided that nothing contained in the sub-section shall apply to a holding or a part of holding in respect of which an application for resumption under the provisions of the Act is pending on such date before any Court or tribunal or in appeal or revision

If the application for resumption is rejected the right, title ad interest of the landowner and the intermediaries, if any, shall vest in the Government with effect from the date of rejection. The right , title and interest of the landowner and intermediaries in respect of any land restored to a tenant subsequent from the date of such restoration. *[Sn. 72]*.

16.18. Compensation to landlords for vesting of their rights in Government

Every landlord and intermediary whose right, title and interest in respect of any holding have vested in the Government under Section 72 shall be entitled to compensation.

(a) the aggregate of

(1) sixteen times the fair rent of the holding or part thereof , the right, title and interest in respect of which have vest in the Government,

(2) the value of structures, wells and embankments of a permanent nature belonging to the landowner and the intermediaries if any; and

(3) one-half of the value of timber trees belonging to the landowner provided that the aggregate of (2) and (3) shall not exceed sixteen times the fair rent of the holding.

(b) Where the total compensation due to a landlord in respect of holding held by cultivating tenants, after deducting the value of encumbrances and claims for maintenance or alimony, is more than twenty thousand rupees, the compensation payable to such landlord shall be limited to the amount specified in the table below :

Scales of Compensation	
Total amount of compensation	Rate
On the first Rs. 20,000	100 Percentage
On the next Rs. 10,000	95 Percentage
On the next Rs. 10,000	90 Percentage
On the next Rs. 10,000	85 Percentage
On the next Rs. 10,000	80 Percentage
On the next Rs. 10,000	75 Percentage
On the next Rs. 10,000	70 Percentage
On the next Rs. 10,000	65 Percentage
On the next Rs. 10,000	60 Percentage
On the next Rs. 10,000	55 Percentage
On the next Rs. 10,000 and above	50 Percentage

Where the landowner or intermediary of a holding or part of a holding entitled to receive fifty percentage of the compensation in respect of that holding or part in a lump under section 72 H, the compensation payable to such landlord or intermediary shall, subject to the calculation as per the above table, be 75 percentage of the compensation payable under sub-section (2) of section 72 A.

16.19. Right of landlord to Apply for Assignment and Compensation

Any landowner or intermediary whose right, title and interest in respect of any holding have vested in the Government may apply to the Land Tribunal for the assignment of such right, title and interest to the cultivating tenant and for the payment of the compensation due to him under section 72 A. (*Sn 72 BB*)

16.20. Apportionment of Compensation by the Land Tribunal

The compensation payable to the landowner and the intermediaries, if any, for the vesting of their right, title and interest in respect of a holding in the Government under section 72 shall be apportioned among the landowners and the intermediaries in proportion to the profits derived by them from the holdings or part and the value of structures, wells and embankments of a permanent nature

and one half of the value of timber trees belonging to each subject to the provisions of section 72 A. (*Sn 72 G*)

16.21. Purchase Price

The cultivating tenant shall be liable to pay purchase price to the Government on the assignment to him of the right, title and interest of the landowner and the intermediaries, if any.

Where the total extent of land held as tenant by a cultivating tenant is one hectare or below, he shall not be liable to pay purchase price.

Rights and Liabilities of Kudikidappukars

16.22. Kudikidappukaran to have fixity

No Kudikidappukaran shall be liable to be evicted from his Kudikidappu except on the grounds, detailed in section 75 (*Sn 75*)

16.23. Register of Kudikidappukars

The Government shall cause a register of Kudikidappukars within the limits of each local authority to be prepared and maintained. (*Sn 80*)

Form of the register, procedure for registration, appeal against registration etc are detailed in Rules 73 to 76 of The Kerala Land Reforms (Tenancy) Rules, 1970.

16.24. Right of Kudikidappukaran to Purchase his Kudikidappu

A Kudikidappukaran shall have the right to purchase the Kudikidappu occupied by him and lands adjoining thereto to the extent of three cents in a city or major municipality or five cents in any other municipality or ten cents in a Panchayat area or township subject to the provisions detailed in section 80 A.

Procedure for purchase by Kudikidappukaran is detailed in section 80 B to 80 G and in Rule 79 of The Kerala Land Reforms (Tenancy) Rules, 1970.

16.25 Restriction of Ownership and Possession of Land in Excess of Ceiling Area and Disposal of Excess Land

No person to hold land in excess of the ceiling area. With effect from 1st January 1970, no person shall be entitled to own, or hold or to possess under a mortgage lands in the aggregate in excess of the following ceiling area.

- a) in the case of an adult unmarried person or a family consisting of a sole surviving member, five standard acres, so that the ceiling area shall not be less than six and more than seven and a half acres in extent;
- b) in the case of a family constituting of two or more, but not more than five members, ten standard acres, so that the ceiling area shall not be less than twelve and more than fifteen acres in extent;
- c) in the case of a family consisting of more than five members, ten standard acres increased by one standard acre for each member in excess of five, so that ceiling area shall not be less than twelve and more than twenty acres in extent; and
- d) in the case of any other person, other than a joint family, ten standard acres, so that the ceiling area shall not be less than twelve and more than fifteen acres in extent.

In computing the ceiling area the following lands exempted under section 81 shall be excluded.

1. Lands owned or held by the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or the Cochin Port Trust or any other authority which the Government may in public interest, exempt by notification in the Gazette from the provisions of chapter III. This exemption shall not apply to lands owned by the Government of Kerala and held by any person under lease whether current or time expired or otherwise,

Lands, the right, title and interest in respect of which have vested in Government under sub-section (9) of section 66 or section 72, shall not be deemed to be lands owned by the Government of Kerala for the purpose of exemption.

2. Land taken under the management of the court of Wards; this exemption shall cease to apply at the end of three years from the commencement of the Act.

3. Lands comprised in mills, factories or workshops and which are necessary for the use of such mills, factories or workshops;

4. Private forests;

5. Plantations;

6. Lands mortgaged to the Government, or to a Co-operative society for three years from the commencement of the Act;
7. Lands purchased by the Land Mortgage Bank etc, under section 18 of the Kerala Co-operative Land Mortgage Bank Act 1960 or by the Kerala State Co-operative Bank etc so long as such lands continue in the possession of the Bank;
8. Lands purchased by the Kerala Financial Corporation or lands under the management of that corporation under section 32 of State Financial Corporation's Act, 1951 so long as the land continue under the possession of the corporation. Lands taken over under the management after 1964 will not be eligible for exemption;
9. Lands belonging to or held by an industrial or commercial undertaking and set apart for use for the industrial or commercial purpose of the undertaking within the time prescribed by the District Collector;
10. House Sites;
11. Sites of temple, church, mosques and cemeteries and burial and burning grounds;
12. Sites of buildings including warehouses;
13. Commercial sites;
14. Lands occupied by educational institutions including play grounds;
15. Lands vested in Bhoodan Yagna Committee;
16. Lands owned or held by
 - (i) a university established by law, or
 - (ii) a religious, charitable or educational institution of a public nature, or
 - (iii) a public trust including a wakf provided the entire income of such land appropriated for the university, institution or trust concerned; and if the land comes under their possession after the commencement of the Act, the Government have certified previously that such lands are bonafide required for the purpose of the university, institution or trust.
17. Lands granted to defence personnel for gallantry;

16.26 Certain Voluntary Transfers to be Null and Void

All voluntary transfers effected after the date of publication of the Kerala Land Reforms Bill, 1963 in the Gazette, other than by way of partition or in favour of a person who was a tenant of the holding before the 27th July 1960, and continued to be so till the date of transfer; by a family or any member thereof or by an adult unmarried person owning or holding land in excess of the ceiling area, or otherwise than by way of gift in favour of his son or daughter or the son or daughter of his predeceased son or daughter, by any person owning or holding land in excess of the ceiling area. (*Sn 84*).

16.27 Surrender of Excess Land

Where a person owns or holds land in excess of the ceiling area on 1-1-70, such excess land shall be surrendered as provided in section 85 and in Rules 4 to 16 of KLR (Ceiling) Rules, 1970.

16.28 Vesting of Excess Land in Government

On the determination of the extent and other particulars of the lands, the ownership or possession or both of which is or are to be surrendered under section 85, the ownership or possession or both, of the land shall vest in the Government free from all encumbrances and the Taluk Land Board shall issue an order accordingly. On receipt of the order such person shall make the surrender demanded as prescribed in Rule 17 to 24 of KLR (Ceiling) Rules, 1970. (*Sn 86*).

16.29 Excess Land Obtained by Gift etc. to be surrendered

Where any person acquires any land after 1-1-70 by gift, purchase, mortgage with possession, lease, surrender or any other kind of transfer inter vivos, or by bequest or inheritance or otherwise and in consequence thereof, the total extent of land owned or held by such person exceeding the ceiling area, such excess shall be surrendered.

16.30 Persons Surrendering Land Entitled to Compensation

Where ownership or possession or both of any land is vested in Government under section 86 or section 87, such person shall be entitled to compensation. Where the rights of an intermediary are extinguished, such intermediary shall also be entitled to compensation. No person shall be entitled to

any compensation in respect of any land owned by Government of Kerala and held by him under lease or otherwise.

The compensation payable to an owner for the vesting in the Government of ownership and possession of land shall be an amount calculated at the rate specified in schedule IV given in Appendix II.

Other details of compensation are given in section 88 to 93.

16.31. Constitution of Land Tribunal, Appellate Authority, Land Board and Taluk Land Boards

(i) Land Tribunal is constituted under section 99, powers of Land Tribunals are defined in section 101 and Rule 92 of KLR (Tenancy) Rules, 1970.

(ii) Appellate Authority

Appellate authority is constituted under section 99A. The authority shall consist of a sole member who shall be judicial officer not below the rank of a Subordinate Judge or an officer not below the rank of a Deputy Collector. The procedure for appeals under section 102 and revision by High Court under section 103 is prescribed in Rules 94 and 94 A of KLR (Tenancy) Rules, 1970.

(iii) Land Board

It is constituted under section 100 of the Act read with Rules 95 to 97 of the KLR (Tenancy) Rules, 1970. Its powers are defined in section 101.

(iv) Taluk Land Board

Taluk Land Boards are constituted under Section 100A, 100B of the Act and Rules 95 to 97 of KLR Tenancy Rules, 1970. Its powers are detailed in Section 100C.

16.32. Payment of Purchase Price

The purchase price on the land assigned on registry under Section 96 shall be an amount calculated at the rate specified in Schedule IV and shall be payable either in lump or in sixteen equal instalments. The assignment shall be made on payment of the purchase price either in lump or in the first instalment thereof.

Where the purchase price is payable in instalments, the amount outstanding after payment of each instalment shall bear interest at the rate of 4½

per cent per annum. All amounts due from an assignee shall be a first charge on the land assigned and shall be recoverable as arrears of land revenue under the Revenue Recovery Act. (*Sn 97*).

16.33. Miscellaneous

(i) *Constitution of Agriculturist Rehabilitation Fund and Kudikidappukars Benefit Fund*

The funds shall consist of grants or loans by or from the State Government and other money if any, received by the Government from any person or raised by the Government in accordance with the K.L.R (Agricultural Rehabilitation Fund) Rules, 1973 and the K.L.R (Kudikidappukars Benefit Fund) Rules 1970. The Agriculturist Rehabilitation Fund shall be utilized for payment of solatium to small holders under Section 109 A and for rendering help by way of loan, grant, or otherwise to persons affected by the Act who are eligible for the same in accordance with the Rules. The Kudikidappukars Benefit Fund is for meeting twelve and half *per cent* of the amount of compensation payable for acquisitions under section 75 (3E), for meeting one half of the purchase price payable by the Kudikidappukars and for providing better facilities to Kudikidappukars to whom certificates of purchase have been issued under section 80 (C2). [*Sn 109*]

(ii) *Penalties*

The following penalties are prescribed

1	Penalty for disturbance of customary easement and other rights of Kudikidappukars	Imprisonment upto one year or fine which may extend to Rs 2,000 or both (<i>Sn 117A</i>)
2	Penalty for failure to furnish return	Fine upto Rs 200, Rs. 50 per day after the previous date of conviction. (<i>Sn.118</i>)
3	Penalty for failure to furnish statements under section 85 A If continues to fail to file the statement	Imprisonment upto one year or fine which may extend to Rs 2,000 or both. Rs 200 per day after the previous date of conviction during which he continued so to offend (<i>Sn 118 A</i>)

4	Penalty for furnishing false returns or information	Fine which may extend to one thousand rupees (Sn 119)
5	Penalty for making false declaration to the Taluk Tahsildar through the Registering Officer	Fine not exceeding one thousand rupees (Sn 120)
6	Penalty for contravention of any lawful order under the Act	Fine which may extend to five hundred rupees (Sn 121)
7	Penalty for cutting trees or for removing machinery, building, plant or apparatus from land indicated under section 85 (2)	Imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both (Sn 122)

(iii) Application of the Provision of Section of Indian Limitation Act

Unless otherwise specifically provided in the Act, the provision of section 5 of the Indian Limitation Act, 1908, shall apply to all proceedings under the Act. (Sn 108)

CHAPTER - XVII

AUDIT CHECKS

17.1. Collection of Basic Tax

The demand of basic tax is determined with reference to the extent of the holding in the possession or ownership of a landholder as per the land settlement records, supplemented by further data maintained in the village offices. The collection is mostly through the process of voluntary payment at the village office. In case of default provision exists in the law for recovery under the provisions of Revenue Recovery Act.

The scope of audit in the matter of basic tax collection is to see that the demand is properly and correctly worked out and the sums received are duly brought to credit in the accounts and that the various accounts and registers are maintained properly and kept upto date. A test check of the accounts of one or two village offices in each Taluk may be carried out along with the audit of the accounts of Taluks offices to ensure that the sums collected are duly credited.

The important checks to be excercised are Kuduthal-Kuravu Account.

- i. Compare the entries in the Kuduthal-Kuravu account with the entries in the corresponding Register of the Taluk and other documents in order to ensure that all the changes affecting the Ayacut have been duly brought in.
- ii. Whether annual figures in these accounts have been correctly taken to the Thavanamudakkom account.
- iii. Whether the arrears shown in the Demand Collection and Balance Statement of Thavanamudakkom account agree with the aggregate of the persons from whom tax is due as at the close of the previous year shown in the register 'Arivu Number'.

Entries brought forward in this account may be test checked with Thandapper account in order to ensure the correctness.

17.2. Thandapper Account

- i. Whether all changes that have taken place from time to time in the area of the holdings and changes in the name of the 'pattadars' are entered in the

Thandapper account when the proprietorship of the tax paying lands, changes hands, whether corresponding changes are effected in the 'Thandaper Account'

ii. Whether instalments of demands have been correctly fixed and noted in the remarks column and whether the collections noted on the reverse agree with the demand.

iii. Whether Thandaper No. is noted in the Nalvazhi against each collection for cross reference.

iv. Whether collections have been duly noted in the Thandaper account.

v. Whether the demand in this account at the close of the previous year agree with the corresponding figures in the 'Thavanamudakkom' account. If not what is the action taken to set right the difference.

vi. A few registers may be selected at random and checked to see that there are no bogus entries posted.

vii. Whether the actual collections of basic tax agrees with the posting in the Thandaper Accounts.

17.3. Land Assignment Register

i. whether the register is maintained in proper form giving all necessary details regarding assignment

ii. whether the value of land collected is according to the nature of land.

iii. arithmetical accuracy has to be checked.

iv. certain files may be scrutinized to see whether the assignment is in order according to the rules applicable to the particular category of land, the value of trees assessed is appropriate and according to the rules and in cases where exemption from remittance of dues is granted, the exemption is as per rules.

v. verify remittances with reference to challans.

vi. whether remittances have been made to the correct head of account.

vii. whether arrears due have been made to the correct head of account

viii. whether arrears due have been taken to the DCB register.

ix. whether reconciliation of remittances made into the treasuries is being done promptly.

x. whether action under Revenue Recovery Act has been initiated as stipulated in Rule 23 of Land Assignment Rules for the recovery of dues in cases of default.

17.4. The Tahsildar concerned shall maintain a register showing the lands assigned in each village of the Taluk with particulars of the assignee and conduct periodical check to ensure that the conditions of assignment are not violated.

17.5. The village and Taluk offices may also keep lists of lands which should be reserved for Government or public purposes in each village and lists of lands which may be made available for assignment in each village.

17.6. Revenue Recovery Register

A ‘Revenue Recovery Register’ is maintained in the Taluk office for each Department. The details such as name and address of defaulter, nature of default, amount defaulted, amount due including interest if any, rate of future interest etc. are recorded in the register. A case file is opened for each case and a number is allotted for each case. This number is recorded in the Revenue Recovery Register. Similar registers and files are opened in the village office also.

The Revenue Recovery Register should be scrutinized to see whether the registers are maintained in the manner required. The revenue recovery case files should be scrutinized to see whether.

- i. Timely action has been taken for the recovery of the defaulted amount.
- ii. The amount of arrears worked out is arithmetically correct.
- iii. The interest, if any, worked out and realized is at the rate prescribed.
- iv. Any remission or reduction allowed is strictly according to the orders issued to that effect.
- v. Action for effecting recovery as contemplated in the Revenue Recovery Act has been taken wherever necessary.
- vi. Whether any loss has been occurred to Government properties due to the negligence or delayed action by any departmental officer in the disposal of the property attached.

vii. Incase of attachment or sale of movable or immovable properties, the following points may be particularly seen.

Sale of movable property

1. The attachment of movable property (other than crop or ungathered property) has been done by actual seizure and a list of inventory of the property attached has been prepared by the authorized officer.
2. The sale of the property has been in public auction and to the highest bidder.
3. The purchase money has been paid before the property was removed.
4. When the purchaser failed to remit the purchase money, the property has been resold and the defaulted purchaser has been made liable for any loss therefore, as well as the expenses incurred on the resale.

Attachment or sale of immovable property

1. It should be seen that in the accounts maintained by the agent all the receipts for the property/business have been duly accounted for.
2. The sale accounts should be verified to see that the sale has been in public auction and to the highest bidder.
3. 15% of the bid amount has been remitted by the highest bidder immediately after the bid.
4. In cases, where the purchaser refused to remit the deposit amount or the purchase money, and the property has been resold at the hazard and expenses of the first bidder, the losses or expenses on account of the reauction have been made good from him.
5. The challans of remittance of money are forthcoming in all cases.

17.7 The following points should specially be looked into at the time of audit of receipts and payments under the Kerala Land Reforms Act, 1963.

- i. Whether all the registers and other documents prescribed under the Act and various Rules have been maintained up to date and correct in the Land Board, Taluk Land Boards and office of Land Tribunal.

ii. It may be seen that the orders of the Land Tribunal under Sn. 72 F are correct and true to the facts.

- a) The compensation has been correctly worked out.
- b) It has been correctly apportioned among the landowners and intermediaries.
- c) Encumbrances, maintenance, alimony etc. have been correctly worked out and deducted.
- d) Purchase price has been correctly worked out.

iii. Whether payments of compensation under Sections 72 H and 72 I are made correctly.

iv. Whether payment of compensation in lump has been made only in cases where such payments are eligible under law.

v. Whether purchase price has been remitted in lump and within the time prescribed where the cultivating tenant has opted to remit the amount in one instalment.

vi. Whether annuity has been paid only to the institution which are eligible for the same under law, that the annuity has been correctly worked out and the payments have been authorized by the Accountant General under proper sanction of Government.

vii. Whether the orders of Land Tribunal under section 80B are correct and true to the facts.

viii. In cases of surrender of land in excess of ceiling, the compensation has been correctly worked out and paid in accordance with law, and the purchase price has been correctly fixed and collected as prescribed in law.

APPENDIX I *(Referred to in Para 16.11)*

SCHEDULE III
 (See Section 27)
Rates of fair rent

Sl. No.	Class of Land		Rate of fair rent
	(1)	(2)	(3)
1	Nilams		
	(i)	Lands converted into nilams by tenant's labour not falling under items (v), (vi) and (vii)	1/8 th of the gross paddy produce.
	(ii)	Other nilams not falling under items (v), (vi) and (vii)	1/4 th of the gross paddy produce.
	(iii)	Kole land	1/6 th of the gross paddy produce
	(iv)	Land not being Karinilam cultivated on the Kaipad system	1/6 th of the gross paddy produce For the districts of Cannanore, Ernakulam, Alleppey and Kottayam. No such land in other districts.
	(v)	Karinilam	
	(a)	Converted into wet by tenant's labour	1/9 th of the gross paddy produce.
	(b)	Other Karinilam	1/5 th of the gross paddy produce.
	(vi)	Nilam in the North Wynad and South Wynad taluks –	
	(a)	Converted by tenant's labour	1/20 th of the gross paddy produce
	(b)	Other nilam	1/12 th of the gross paddy produce
	(vii)	Nilam in the Devicolam, Peermade and Udumbanchola taluks and the Attappaddy valley –	
	(a)	Converted by tenant's labour	1/16 th of the gross paddy produce
	(b)	Other wet land	1/18 th of the gross paddy produce
	(viii)	Nilam where fishing is carried on for part of the year by a varamdar	Aggregate of rent fixed as for nilam and 1/8 th of the gross annual income derived from fishing [determined in such manner as may be prescribed]
	(ix)	Nilam not used for paddy cultivation (but not cultivated with sugarcane)	Rent that would have been payable had the land been used for cultivation of paddy
2.	Garden		

	(i)	Coconut trees in respect of which the landlord is bound to pay compensation for Tenant's Improvements Act, 1958	1/16 th of the gross coconut produce
	(ii)	Coconut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/4 th of the gross coconut produce
	(iii)	Arecanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/16 th of the gross arecanut produce
	(iv)	Arecanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	1/4 th of the gross arecanut produce
	(v)	Pepper-vines in respect of which the landlord is bound to pay compensation under the Kerala compensation for Tenant's Improvements Act, 1958	1/20 th of the gross pepper produce
	(vi)	Pepper-vines in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenant's Improvements Act, 1958	⁹¹ [[1/6 th] of the gross pepper produce
3. Dry land			
	(a)	cultivated with groundnut or other crops notified by the Government	1/10 th of the gross produce
	(b)	In other cases	Rs.4 per acre
4. Palliyal land			
5.	Land under Punam or Kumri cultivation		Rs.3 per acre
6.	Land under sugarcane cultivation		1/4 th of the gross sugarcane produce
7.	Land not falling under any of the above items		Contract rent

APPENDIX II

SCHEDULE IV

[See Section 88 (2)]

Rates of Compensation

Part I

Lands other than nilam

Class of Land		Rate per acre Rs.
Trivandrum, Quilon, Alleppey, Kottayam, Ernakulam and Thrissur District		
1.	Garden land	
	(i) Land used principally for growing coconut trees	2,000
	(ii) Land used principally for growing arecanut trees	2,000
	(iii) Land used principally for growing pepper vines	1,300
2.	Dry land principally cultivated with cashew	750
3.	Palliyal land	500
4.	Waste land (with or without scattered trees)	400
4A.	Land not yet cultivated and which cannot be put to cultivation without incurring heavy expenditure	100
5.	Land not falling under any of the above classes	500

Palghat, Malappuram, Kozhikode and Cannanore Districts

1.	Garden land:	
	(i) Land used principally for growing coconut trees	1,600
	(ii) Land used principally for growing arecanut trees	3,000
	(iii) Land used principally for growing pepper vines	700
2.	Dry land principally cultivated with cashew	500
3.	Palliyal land	400
4.	Waste land (with or without scattered trees)	200
4A.	Land not yet cultivated and which cannot be put to cultivation without incurring heavy expenditure	100
5.	Land not falling under any of the above classes	300

Part II

Nilams

Sl.No	Taluk	Rate per acre of Double crop nilam	Rate per acre of Single crop nilam
(1)	(2)	(3)	(4)
		Rs.	Rs.
1.	Neyyattinkara Trivandrum Nedumangad Chirayikil	2,000	1,000
2.	Quilon Kottarakara Kunnathur Pathanapuram Pathanamthitta	2,000	1,000
3.	Karunagappally Karthikappally Mavelikkara	2,000	1,000
4.	Chengannur Thiruvalla Kuttanad	2,000	1,200
5.	Ambalapuzh Shertallai	1,300	800
6.	Changanacherry Kanjurappally Peermade Kottayam Vaikom Meenachil Devicolam Udumbanchola	2,000	1,000
7.	Thodupuzha Moovattupuzha Cochin Kanayannur	2,000	1,000
8.	Kunnathunad Parur Alwaye	1,600	900
9.	Crangannur Mukundapuram Tichur Talappally	1,600	1,000
10.	Chittur Alathur Palghat	2,000	1,300
11.	Ottappalam Perinthalmanna Mannarghat Ernad	2,000	1,000

Sl.No	Taluk	Rate per acre of Double crop nilam	Rate per acre of Single crop nilam
(1)	(2)	(3)	(4)
		Rs.	Rs.
12.	Chowghat Ponnani Tirur	1,600	900
13.	Kozhikode Quilandy Badagara	1,300	700
14.	South Wynad North Wynad	1,600	900
15.	Tellicherry Cannanore Taliparamba Hosdurg Kasargod	1,600	900.]