

Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965

KERALA

India

Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965

Act 7 of 1965

- Published on 31 December 1965
- Commenced on 31 December 1965
- [This is the version of this document from 31 December 1965.]
- [Note: The original publication document is not available and this content could not be verified.]

Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965(Kerala Act No. 7 of 1965)Last Updated 9th December, 2019[Dated 31.12.1965]An act to make better provisions for the entry of all classes and sections of Hindus into places of public worship.In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), the President is pleased to enact as follows: -

1. Short title, extent and commencement.

(1)This Act may be called the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965.(2)It extends to the whole of the State of Kerala.(3)It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Hindu" includes a person professing the Buddhist, Sikh or Jaina religion;(b)"Place of public worship" means a place, by whatever name known or to whomsoever belonging, which is dedicated to, or for the, benefit of, or is used generally by, Hindus or any section or class thereof, for the performance of any religious service or for offering prayers therein, and includes all lands and subsidiary shrines, mutts, devasthanams, namaskara mandapams and nalambalams, appurtenant or attached to any such place, and also any sacred tanks, wells, springs and water courses the waters of which are worshipped, or are used for bathing or for worship, but does not include a "sreekoil";(c)"section or class" includes any division, sub-division, caste, sub-caste, sect or denomination whatsoever.

3. Places of public worship to be open to all sections and classes of Hindus.

- Notwithstanding anything to the contrary contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of court, every place of public worship which is open to Hindu generally or to any section or class thereof, shall be open to all section and classes of Hindus; and no Hindu of whatsoever section or class shall, in any manner, be prevented, obstructed or discouraged from entering such place of public worship, or from worshipping or offering prayers thereat, or performing any religious service therein, in the like manner and to the like extent as any other Hindu of whatsoever section or class may so enter, worship, pray or perform: Provided that in the case of a place of public worship which is a temple founded for the benefit of any religious denomination or section thereof, the provisions of this section shall be subject to the right of that religious denomination or section, as the case may be, to manage its own affairs in matters of religion. [Sabarimala Temple Entry - Indian Young Lawyers' Association v State of Kerala 2018. The Supreme Court declared unconstitutional the Sabarimala Temple's custom of prohibiting women in their 'menstruating years' from entering. The majority ruled that Sabarimala's exclusion of women violated the fundamental rights of women between the ages of 10 to 50 years. They further held that the devotees of Lord Ayyappa were not a separate religious denomination. Justices Misra, Khanwilkar and Chandrachud held that the custom was not an essential religious practice. While the Judges in the majority did not explicitly comment on whether the custom was against the right to equality under article 14, they stated that the practice was discriminatory as per Article 15. Justice Chandrachud stated that the right against untouchability is vast, and includes any kind of social exclusion based on notions of 'purity'. Further, Rule 3(b) of the Kerala Hindu Places of Worship (Authorisation of Entry) Act, 1965 (KHPW Act) which allowed the custom of prohibition of women was held to be unconstitutional. The majority decision of the Court struck down the impugned Rule 3(b) as it prevented women from exercising their right to religious freedom under Article 25(1), and did not warrant any exemption as an essential religious practice of a separate religious denomination. In her dissent, Justice Indu Malhotra observed that in a secular polity, 'It is not for the courts to determine which of these practises of a faith are to be struck down, except if they are pernicious, oppressive, or a social evil, like Sati.' (<https://indiankanoon.org/doc/163639357/>, <https://privacylibrary.ccgmlud.org/case/indian-young-lawyers-association-and-ors-vs-the-state-of-kerala-and>

4. Power to make regulations for the maintenance of order and decorum and the due performance of rites and ceremonies in place of public worship.

(1) The trustee or any other person in charge of any place of public worship shall have power, subject to the control of the competent authority and any rules which may be made by that authority, to make regulations for the maintenance of order and decorum in the place of public worship and the due observance of the religious rites and ceremonies performed therein: Provided that no regulation made under this sub-section shall discriminate in any manner whatsoever, against any Hindu on the ground that he belongs to a particular section or class. (2) The competent authority referred to in sub-section (1) shall be, - (i) in relation to a place of public worship situated in any area to which Part I of the Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act XV of 1950), extends, the Travancore Devaswom Board; (ii) in relation to a place of public worship situated

in any area to which Part II of the said Act extends, the Cochin Devaswom Board: and(iii)in relation to a place of public worship situated in any other area in the State of Kerala, the Government.

5. Penalty.

- Whoever, in contravention of section 3, -(a)prevents or attempts to prevent any person belonging to any section or class of Hindu from entering, worshipping or offering prayers, or performing any religious service, in any place of public worship; or(b)obstructs, or causes or attempts to cause obstruction to, or by threat of obstruction or otherwise discourages, any such person from doing or performing any of the acts aforesaid,shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five-hundred rupees, or with both:Provided that in a case where a sentence of fine only is awarded, such fine shall not be less than fifty rupees.

6. Abetment of offences.

- Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

7. Enhanced penalty on subsequent conviction.

- Whoever, having already been convicted of an offence under this Act or of an abetment of such offence, is again convicted of any such offence or abetment shall, on every such subsequent conviction, be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year and with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees.

8. Limitation of jurisdiction of civil courts.

- No civil court shall entertain or continue any suit or proceeding, or shall pass any decree or order, or execute wholly or partially any decree or order, if the claim involved in any such suit or proceeding, or if the passing of any such decree or order, or if such execution, would in any way be contrary to the provisions of this Act.

9. Offences under the Act to be cognisable and compoundable.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), -(a)every offence under this Act shall be cognisable; and(b)every such offence, except where it is committed by a person who has been convicted for the same offence previously, may, with the permission of the court, be compounded.

10. Saving.

- Nothing in this Act shall apply to any matter which is an offence under the Untouchability (Offences) Act, 1955 (22 of 1955).

11. Repeal.

- The Madras Temple Entry Authorisation Act, 1947 (Madras Act V of 1947), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), and such of the provisions of the Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950 (Travancore-Cochin Act XXVII of 1950), as have not been repealed by the Untouchability (Officers) Act, 1955 (22 of 1955), are hereby repealed.