

# The Kerala Prohibition of Charging Exorbitant Interest Act, 2012

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### Act 2 of 2013

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The Kerala Prohibition of Charging Exorbitant Interest Act, 2012(Act No. 2 of 2013)An Act to prohibit lending of money for exorbitant interest and to provide for stringent punishment for charging exorbitant interest in the money lending business in the State of Kerala and for matters connected therewith or incidental thereto:Preamble. - Whereas, it is expedient to prohibit lending of money for exorbitant interest and to provide for stringent punishment for charging exorbitant interest in the money lending business in the State of Kerala and for matters connected therewith or incidental thereto;Be, it enacted in the Sixty-third Year of the Republic of India as follows:-

### 1. Short title and commencement.

(1)This Act may be called the Kerala Prohibition of Charging Exorbitant Interest Act, 2012.(2)It shall be deemed to have come into force on the 27th day of August, 2012.

### 2. Definitions.

(1)In this Act, unless the context otherwise requires,-(a)"daily vatti" means interest on daily basis which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958);(b)"debtor" means a person who receives loan for exorbitant interest;(c)"exorbitant interest" means an interest at the rate more than the rate specified in sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 and includes daily vatti, hourly vatti, kandu vatti, meter vatti and thandal;(d)"hourly vatti" means interest on hourly basis which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958);(e)"kandu vatti" means an interest which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958);(f)"loan" means an advance of money for daily vatti, hourly vatti, kandu vatti, meter vatti or thandal;(g)"meter vatti" means an interest which will work out to

an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) for every day on the loan amount not paid within the stipulated time;(h)"thandal" means interest which will work out to an interest rate more than that specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) which is to be recovered daily along with the part of the loan amount ;(2)Words and expressions used but not defined in this Act and defined in the Kerala Money-Lenders Act, 1958 (35 of 1958) shall have the meanings respectively assigned to them in that Act;

### **3. Prohibition of charging exorbitant interest.**

- No person shall charge exorbitant interest on any loan advanced by him.

### **4. Offences to be cognizable and non-bailable.**

- Any offence under this Act shall be cognizable and non-bailable.

### **5. Deposit of money and presentation of petition before the Court and the procedure related thereto.**

(1)A debtor may deposit the money due in respect of loan received by him from any person together with interest at the rate specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) into-the Court, having jurisdiction, along with a petition to record that the amount deposited is in full or in part satisfaction of the loan including the interest thereon, as the case may be.(2)The Court shall, on receipt of a petition under sub-section (1), refer a copy of the petition to the person mentioned in the petition, directing him to give his version of the case within a period of fifteen days or within such other time as may be granted by the Court. The Court may, after due inquiry and after considering the versions of the parties, pass orders recording the satisfaction 'of the loan and interest thereon in full or in part, as the case may be.

### **6. Restoration of possession of property.**

- The Court may, on filing a petition by the debtor, order the restoration of possession of property, whether movable or immovable, if any, taken possession by any person towards repayment of the loan advanced to him or interest thereon.

### **7. Voluntary disclosure.**

- Any person who charges exorbitant interest may, within one month from the date of coming into force of this Act, file a petition before the Court disclosing his intention to charge only the rate specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958) on the loan advanced by him and on such disclosure, the interest in respect of such loan shall be as specified under sub-section (1) of section 7 of the said Act and no prosecution for the offences under this Act shall be instituted in respect of such loan.

## **8. Adjustment of interest.**

- The Court may, on petition filed by the debtor for settlement of loan, including the interest thereon, pass an order for the adjustment of the interest, if any, paid by the debtor, over and above the rate of interest specified under sub-section (1) of section 7 of the Kerala Money-Lenders Act, 1958 (35 of 1958), towards the loan.

## **9. Penalty.**

(1)Notwithstanding anything contained in the Kerala Money-Lenders Act, 1958 (35 of 1958),-(a)whoever contravenes the provisions of section 3 shall, on conviction, be punished with imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees;(b)whoever harasses any debtor mentally or physically or abets such harassment for recovery of any loan, shall, on conviction, be punished with imprisonment for a term which may extend to one year and also with fine which may extend to ten thousand rupees.(2)Where the person who has advanced the loan or any other person as directed by him, harasses the debtor mentally or physically and consequently and immediately thereafter the debtor commits suicide, the person who advanced the loan, shall, on conviction, be punished with imprisonment for a term which may extend to five years and also with fine which may extend to fifty thousand rupees.

## **10. Court fees.**

- Notwithstanding anything contained in any other law for the time being in force, the court fee payable in respect of a petition under this Act shall be one hundred rupees.

## **11. Act not to be in derogation of any other laws.**

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

## **12. Application of the provisions of the Kerala Money-Lenders Act, 1958 (35 of 1958).**

- Subject to the provisions of this Act, the provisions of the Kerala Money-Lenders Act, 1958 (35 of 1958), in so far as they are applicable to money-lenders, shall mutatis mutandis apply to a person referred to in section 3 of this Act.Explanation. - Where an act of a person constitutes an offence under this Act and under the Kerala Money-Lenders Act, 1958 (35 of 1958), prosecution shall be launched under this Act.

## **13. Repeal and saving.**

(1)The Kerala Prohibition of Charging Exorbitant Interest Ordinance, 2012 (53 of 2012) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said

Ordinance shall be deemed to have been done or taken under this Act.