

Theiruppuvram Payment (Abolition) Act, 1969

KERALA

India

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Act 19 of 1969

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Theiruppuvram Payment (Abolition) Act, 1969(Act No. 19 of 1969)Last Updated 21st December, 2019Published in the Gazette Extraordinary No 98, dated 9th April, 1969.An Act to provided for the extinguishment of the right to receive, and the liability to pay, ThiruppuvaramPreamble. - Whereas it is necessary in the public interest to provide for the extinguishment of the right to receive, and the liability to pay, Thiruppuvaram,Be in enacted in the Nineteenth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Thiruppuvram Payment (Abolition) Act, 1969.(2)It extends to those territories of the State of Kerala which, before the 1st day of July, 1949, were comprised in the State of Tiavancree.(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)"appointed day" means the day on which this Act comes into force;(b)"compensation officer" means an officer appointed under section 7;(c)"landholder" means any person liable to pay Thiruppuvaram in respect of any land;(d)"prescribed" means prescribed by rules made under this Act;(e)"Thiruppuholder" means a person entitled to receive Thiruppuvaram immediately before the appointed day;(f)"Thiruppuvaram" means an assignment of the whole or a specific portion of the revenue payable to the Government by the holder of a specified land in favour of a person called the Thiruppuholder in lieu of any payment which the Government were under an obligation to make to

such person and entered as Thiruppuvaram in the revenue accounts and includes sums payable to the Thiruppuholder directly by the Government consequent on-(i)the omission to enter in the Land Revenue Settlement Register of 1386 M. E. the assignment in favour of a Thiruppuholder of the whole or a portion of the land revenue payable by a landholder to the Government, or(ii)the land revenue fixed as payable by a landholder at the Land Revenue Settlement of 1086 M. E. being less than the Thiruppuvaram assigned before that settlement in favour of a Thiruppuholder out of the land revenue payable by that landholder.Explanation. - For the purposes of this clause, "revenue account" means the approved janiabandi accounts and includes the settlement register.

Chapter II

Abolition of Thiruppuvaram

3. Thiruppuvaram to be abolished.

(1)On and after the appointed day, notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, or in any contract or other document for the time being in force,-(a)the Thiruppuholder shall not have the right to receive payment of Thiruppuvaram,(b)the landholder shall have no liability to pay any Thiruppuvaram to the Thiruppuholder;(c)the Government shall have no liability to pay any Thiruppuvaram to the Thiruppuholder, whether such Thiruppuvaram was an assignment of revenue made in lieu of any payment which the Government were under an obligation to make or whether it was payable directly by the Government,and the right to receive payment of and the liability to pay, Thiruppuvaram shall stand extinguished.(2)Every Thiruppuholder whose right to receive payment of Thiruppuvaram has been extinguished under sub-section (1) shall be entitled to receive and be paid compensation as provided in this Act.

4. Compensation to certain religious or charitable institutions of a public nature.

(1)Where a Thiruppuholder whose right to receive payment of Thiruppuvaram has been extinguished is, at the commencement of this Act, a religious or charitable institution of a public nature established and maintained by a religious denomination or any section thereof, the Government shall, by way of compensation, pay to the institution every year an amount equal to the Thiruppuvaram payable annually to the institution after deducting five percentum thereof by way of collection charges;Provided that no such deduction shall be made in cases where the liability to pay Thiruppuvaram was on the Government.(2)If any question arises as to whether an institution is a religious or charitable institution of a public nature established and maintained by a religious denomination or any section thereof, it shall be decided by such authority as may be prescribed.(3)Any person aggrieved by a decision of the prescribed authority under sub-section (2) may, within thirty days from the date of the decision, prefer an appeal to the District Collector, and the District Collector shall, after giving the appellant and the institution where it is not the appellant, a reasonable opportunity of being heard and after making such further enquiry as may be prescribed, pass such order on the appeal as he thinks fit.(4)The payment referred to in sub-section

(1) shall be made in the institution so long as it exists.

5. Service Thiruppuholders.

(1)The provisions of this section shall apply to a Thiruppuholder entitled to Thiruppuvaram immediately before the appointed day on condition of rendering service to a religious or charitable institution of a public nature established and maintained by a religious denomination or any section thereof (hereinafter referred to in this Act as the service-Thiruppuholder).(2)For so long as the service-Thiruppuholder renders the service, the institution shall pay to the service-Thiruppuholder the annuity paid by the Government under section 4 in respect of that Thiruppuholder.(3)The prescribed officer, on a complaint made to him by the institution or any person interested that the service-Thiruppuholder has failed to render the service, may, after, such inquiry and after such notice to the service-Thiruppuholder and the complainant as may be prescribed, by order, declare-(a)that the service-Thiruppuholder has failed to render the service and that the annuity payable to the institution or part thereof in respect of that Thiruppuholder for the period subsequent to the failure shall be the absolute property of the institution; or(b)that the service-Thiruppuholder has not failed to render the service.(4)Where a declaration has been made under clause (a) of sub-section (3), the institution shall be at liberty to make such arrangement as it thinks fit for the performance of the service.(5)Any person aggrieved by an order of the prescribed officer under sub-section (3) may, within thirty days from the date of the order, prefer an appeal to the District Collector, and the District Collector shall, after giving the institution, the service-Thiruppuholder and the appellant (where the institution or the service-Thiruppuholder is not the appellant) a reasonable opportunity of being heard and after making such further enquiry as may be prescribed, pass such order on the appeal as he thinks fit.Explanation. - For the purposes of this section,-(i)service-Thiruppuholder includes his heirs;(ii)non-performance of the service due to illness or other temporary disability shall not be deemed to be failure to render service, provided the service-Thiruppuholder makes alternative arrangements for rendering the service during the period of such illness or of other temporary disability.

6. Scale of compensation to Thiruppuholder not governed by section 4.

- The Government shall pay to every Thiruppuholder (other than a religious or charitable institution of a public nature established and maintained by a religious denomination or any section thereof or a service-Thiruppuholder) whose right to receive payment of Thiruppuvaram has been extinguished, compensation at twelve times the amount of Thiruppuvaram payable annually to the Thiruppuholder.(2)In computing the compensation payable under sub-section (1), five percentum of the annual Thiruppuvaram shall be deducted therefrom for collection charges and the balance alone shall be multiplied by twelve to constitute the compensation:Provided that no such deduction shall be made in cases where the liability to pay Thiruppuvaram was on the Government.(3)The amount of compensation payable under this section shall be deemed to have accrued due from the date on which the compensation is determined under sub-section (1) of section 11, and interest thereon shall be payable at the rate of four percentum per annum from that date till the date of payment of compensation in case the amount of compensation is paid in cash, or till the date of redemption of the bonds if compensation is paid in Government bonds.

Chapter III

Inquiry into claims relating to Thiruppuvaram

7. Compensation officers.

- The Government shall, by notification in the Gazette, appoint compensation officers for such areas as may be specified in the notification to carry out the functions and duties assigned to them by or under this Act.(2)Every compensation officer shall be subordinate to the Board of Revenue and shall be guided by such lawful instructions it may issue from time to time.

8. Inquiry into Thiruppuvaram claims.

(1)The compensation officer shall, subject to the provisions of sub-sections (3) and (4), inquire into the claims of any person entitled to Thiruppuvaram immediately before the appointed day and decide which claim should be allowed or rejected or which claim stands escheated or lapsed.(2)When giving a decision under sub-section (1), the compensation officer shall have regard to the following matters, namely:-(a)whether the conditions, if any, subject to which the grant of Thiruppuvaram was made are complied with,(b)whether the purpose, if any, for which such grant was made, subsists;(c)such other matters as may be prescribed.(3)Before holding an inquiry under sub-section (1), the compensation officer shall give notice in the prescribed manner to the Thiruppuholder, to the landholder, to the Tahsildar of the taluk in which the land is situate and to such other persons as may be specified in the rules made by the Government in this behalf.(4)The compensation officer shall also publish in the prescribed manner in the village the notice referred to in sub-section (3) and after giving the parties who appear before him an opportunity to be heard and to adduce their evidence, give his decision.(5)Against a decision of the compensation officer under sub-section (4), the Government or any person aggrieved may, within three months from the date of the decision, appeal to the Subordinate Judge's Court having jurisdiction over the area, and the court may pass such order on the appeal as it thinks fit.(6)The District Court may, for the purpose of satisfying itself that an order made in any appeal decided by the Subordinate Judge's Court under sub-section (5) was according to law, call for the records of the case and pass such order with respect thereto as it thinks fit.

9. Lapse of Thiruppuvaram in certain cases.

- Where in any case the grant of Thiruppuvaram is subject to any condition or performance of any service and where at any time before the appointed day the grantee has failed to comply with such condition or has ceased to perform such service, the Thiruppuvaram in such case shall be deemed to have lapsed with effect from the date of such failure to comply with the condition or from the date of such cessation of service.

10. Time for preference of claim.

(1) Every Thiruppuholder entitled to compensation under sub-section (2) of section 3 shall apply to the compensation officer within one year from the appointed day for determination of the compensation payable to him. (2) Notwithstanding anything contained in sub-section (1), the Government may suo motu direct the compensation officer to determine the compensation payable to any Thiruppuholder.

Chapter IV

Determination and payment of compensation

11. Determination of annuity and compensation.

(1) The compensation officer shall, by order in writing, determine in respect of each Thiruppuholder the annuity payable under section 4 or, as the case may be, the compensation payable under section 6. (2) Any Thiruppuholder or other person interested may, within such time as may be prescribed or such further time as the compensation officer may, in his discretion allow, apply in writing to that officer for a copy of the data on the basis of which he proposes to determine the annuity or compensation payable. (3) On receipt of an application under sub-section (2), the compensation officer shall furnish the data aforesaid to the applicant, and he shall also, before passing any order under sub-section (1), give the applicant a reasonable opportunity of making his representations in regard thereto, in writing or orally. (4) A copy of every order passed under sub-section (1) shall be communicated to the Thiruppuholder and to every applicant under sub-section (2). (5) The compensation officer may at any time either of his own motion or on the application of any person, review an order passed by him under sub-section (1) on any one or more of the following grounds, namely:—(a) that the said order is vitiated by any clerical or arithmetical mistake or error apparent on the face of the record; or (b) that subsequent to the passing of the said order, data for the better calculation of the annuity or compensation have become available; or (c) that the said order requires to be modified in pursuance of the final order of any competent authority or court. Provided that the compensation officer shall not exercise the powers under this sub-section without giving the Thiruppuholder concerned and every applicant under this sub-section or sub-section (2), a reasonable opportunity of being heard. (6) A copy of every order passed under sub-section (5) shall be communicated to the Board of Revenue and also to the Thiruppuholder concerned and to every applicant under sub-section (2) or sub-section (5). (7) Any person aggrieved by an order of the compensation officer under sub-section (1) or sub-section (5) may, within thirty days from the date of the order, prefer an appeal to the District Collector and the District Collector shall, after giving the appellant and the Thiruppuholder where he is not the appellant a reasonable opportunity of being heard and after making such further enquiry as may be prescribed, pass such order on the appeal as he thinks fit. (8) The Board of Revenue may, either of its own motion or on application by any person aggrieved by an order passed by the District Collector under sub-section (7), call for and examine the record of any proceeding in which such order has been passed for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceeding and pass such order thereon as it thinks fit; Provided that the annuity or the compensation, as the case may be, payable to a

Thiruppuholder shall not be altered by the Board of Revenue without giving him and every person who has made an application under this sub-section to sub-section (2), a reasonable opportunity of being heard.(9)The Board of Revenue shall not of its own motion call for and examine the record of any proceeding under sub-section (8) if the order to which the proceeding relates has been made more than one year previously.(10)In the case of an application under sub-section (8) by any person aggrieved, the application shall be made within thirty days of the date of the order in question.(11)The Board of Revenue may, on application made to it by the compensation officer or by any other person in that behalf, review any order passed by it under sub-section (8), if it is of the opinion that the said order is vitiated by an error in the decision on a point of law or by a mistake and may make such order on the application as it thinks fit:Provided that no application for review shall be granted by the Board of Revenue without previous notice to the Thiruppuholder and to the applicant, to enable, them to appear and be heard in support of the order, a review of which is applied for.(12)No order passed by the compensation officer under sub-section (1) or sub-section (5) shall be liable to be cancelled or modified except by the District Collector or the Board of Revenue as aforesaid.

12. Compensation to be paid in cash or in bonds.

- The compensation payable under section 6 may be paid either in cash or in Government bonds carrying interest at the rate of 4 per centum per annum and redeemable after the expiration of six years from the date of issue of the bonds, or partly in cash and partly in such bonds, as may be prescribed.

13. Commutation rate of paddy and other commodities.

(1)For the purpose of calculating the annuity or the compensation payable under this Act, the paddy portion of Thiruppuvaram shall be commuted into money at the rate of Rs. 2-12 per standard para.Explanation. - For the purposes of this sub-section, "standard para" means a measure equivalent to 13-11 litres.(2)Where Thiruppuvaram is payable in any commodity other than paddy, the commutation rate of such commodity for the purpose of calculating the annuity or compensation payable under this Act shall be as specified in the Schedule.

14. Payment of compensation.

(1)The amount of compensation finally determined as payable to the Thiruppuholder (not being a religious or charitable institution of a public nature established and maintained by a religious denomination or any section thereof, or a service-Thiruppuholder) and the interim payments under section 18 shall on application by the Thiruppuholder concerned to such authority and within such period as may be prescribed, be paid to him.(2)In disposing of an application under sub-section (1), the prescribed authority shall follow such procedure as may be prescribed.(3)Where it is alleged that the interest of the Thiruppuholder entitled to receive payment of compensation has devolved on any other person or persons, whether by act of parties or by operation of law, the prescribed authority shall determine whether there has been any devolution of the interest, and if so, on whom it has devolved, and the amount of compensation shall be paid to the persons on whom such interest

has devolved.

15. Appeal from orders under section 14.

(1) Any person aggrieved by the decision of the prescribed authority under section 14 may, within three months from the date of the decision, appeal to the Subordinate Judge's Court and the court may pass such order on the appeal as it thinks fit. (2) The District Court may, for the purpose of satisfying itself that an order made in any appeal decided by the Subordinate Judge's Court under sub-section (1) was according to law, call for the records of the case and pass such order with respect thereto as it thinks fit.

16. Unclaimed and undisbursed amounts how to be dealt with.

(1) All amounts remaining unpaid and with reference to which no application for payment has been made within the period prescribed under section 14 shall be deposited in the Subordinate Judge's Court having jurisdiction. (2) All amounts remaining unpaid after the expiry of a period of six months from the date of disposal of the application under section 14 or from the date of the decision on appeal or revision under section 15 shall be deposited in the Subordinate Judge's Court having jurisdiction, in the name of the person or persons in whose favour an order for payment has been made, by the prescribed authority or the Subordinate Judge's Court or the District Court, as the case may be. (3) All amounts deposited in the Subordinate Judge's Court under sub-section (1) or sub-section (2) shall be dealt with by that court in accordance with such rules as may be made by the Government in this behalf. (4) Every person making a claim to or enforceable against, any amount held in deposit under sub-section (1) or sub-section (2) shall apply to the Subordinate Judge's Court in the prescribed form setting forth his claim. (5) The Subordinate Judge's Court shall, after giving notice to all persons who have applied under sub-section (1) and to any others whom it considers to be interested, make inquiry into the validity of the claims received by it and determine the persons who are entitled to the amount held in deposit and the amount to which each of them is entitled.

17. Wrong and excess payments to be recoverable as arrears of public revenue.

- Where any payment made to any person is subsequently found to be not due to him or to be in excess of the amounts due to him, the amount which is found to be not due or which is in excess, as the case may be, with interest thereon at 4 per centum per annum, or any portion thereof which cannot be otherwise adjusted by deduction from any amount due to such person, shall be recoverable as if it were an arrear of public revenue due on land under the Revenue Recovery Act for the time being in force.

18. Interim compensation to be paid in case of delay in payment of compensation.

(1)Where there is delay in the assessment or payment of compensation payable under section 14, the compensation officer may direct payment of interim compensation to such extent and in such manner as may be prescribed, provided that if the compensation payable to a Thiruppuholder has not been determined in accordance with the provisions of this Act before the expiry of one year from the appointed day, the compensation officer shall, on the application of the Thiruppuholder concerned, direct the payment of an interim compensation.(2)The interim compensation paid under sub-section (1) shall be deemed to be part of the compensation payable under this Act and shall be deemed to be part of the compensation payable under this Act and shall be deducted from and adjusted against the compensation payable under this Act.(3)Where there is a dispute in regard to the right to the compensation amount or any portion thereof, no interim compensation or part, as the case may be, shall be paid to the Thiruppuholder.

Chapter V

Recovery from landholders of compensation paid to Thiruppuholders

19. Landholder liable to pay compensation.

- The Government shall be entitled to collect from each landholder and each landholder shall be liable to pay to the Government an amount calculated at twelve times the annual Thiruppuvaram payable by him to the Thiruppuholder immediately before the appointed day towards compensation for the extinguishment of his liability to pay Thiruppuvaram.

20. Compensation recoverable in twelve installments.

(1)The landholder shall be liable to pay to the Government the compensation due from him under section 19 in twelve equal half-yearly installments, the first installment commencing from such date as the Government may specify by notification in the Gazette.(2)If any installment of the compensation payable under subsection (1)is not paid on the due date, the amount of such installment shall bear interest at the rate of five per centum per annum from that date till the date of payment of that installment.(3)Nothing contained in sub-section (1) shall be deemed to preclude a landholder from paying at any time a larger sum than the amount of an installment or from paying two or more installments together or from paying the whole amount due in one installment.(4)If any sum in excess of the amount of any installment is paid by the landholder, it shall be credited towards the succeeding installment or installments.(5)Where a landholder pays the entire amount due in a lump sum on the date on which the first installment is payable, he shall be allowed a rebate of twenty-five per centum of the amount so paid.

21. Compensation how to be paid.

- All payments due under section 20 shall be paid to the compensation officer or at the nearest Government treasury or at the taluk office within the jurisdiction of which the land in respect of

which Thiruppuvaram is payable is situate, to the credit of the Government.

22. Board of revenue may condone default.

- The Board of Revenue may, by a general order notified in the Gazette, or by a special order, for sufficient reason, postpone the payment of any installment of the compensation or condone default in the payment of the compensation.

23. Compensation recoverable under Revenue Recover Act.

- Any amount due to the Government as arrears of compensation or otherwise may be recovered as if they were arrears of public revenue due on land under the Revenue Recovery Act for the time being in force.

Chapter VI

Miscellaneous

24. Powers of control of Board of Revenue.

- The Board of Revenue shall have power-(a)to give effect to the provisions of this Act, and(b)to issue instructions for the guidance of the compensation officers.

25. Arrears of Thiruppuvaram.

(1)Notwithstanding to the contrary contained in this Act, all arrears of Thiruppuvaram which accrued due before the appointed day and remain unpaid the Thiruppuholders in the same manner as they were recoverable immediately before the appointed day.(2)Notwithstanding anything contained in sub-section (1) or in any judgment, decree or order of any court, all such arrears as are referred to in that sub-section shall be deemed to be fully discharged by payment to the Thiruppuholder within one year from the appointed day of an amount equal to the arrears for one year immediately preceding the appointed day or the actual amount in arrears, which ever is less.

26. Communication of decisions or orders against which appeal or revision lies.

- A copy of every decision or order in any proceedings against which an appeal or revision is provided for under this Act shall be communicated to the parties concerned in such manner as may be prescribed.

27. Limitation.

(1)For the purpose of computing the period of limitation in respect of any appeal or application for revision against any decision or order under this Act, the date of communication of a copy of the decision or order to the appellant or applicant shall be deemed to be the date of the decision or order.(2)Where under this Act an appeal or application for revision may be preferred to any authority or officer within a prescribed period or within such further time not exceeding a specified period as may be allowed by such authority or officer, the further time aforesaid shall be computed on and from the expiry of such prescribed period computed in accordance with the provisions of sub-section (1).

28. Finality of orders.

- Any order passed by any officer or authority or any decision of the Subordinate Judge's Court or the District Court under this Act in respect of matters to be determined for the purposes of this Act shall, subject to any appeal or revision provided under this Act, be final.

29. Jurisdiction of courts barred in certain cases.

(1)No suit or other legal proceedings shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.(2)No suit, prosecution or other legal proceeding shall be against any officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder, without the previous sanction of the Government.(3)No officer or servant of the Government shall be liable in respect of any act done or purporting to be done under this Act or any rule made thereunder in good faith in the course of the exercise of the powers or the performance of the functions or the discharge of the duties conferred or imposed by or under this Act.(4)No suit, prosecution or other legal proceeding shall be instituted against any officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the expiry of six months from the date of the act complained of.

30. Compensation officer to be public servant.

(1)The compensation officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

31. Powers of Board of Revenue etc., to summon and examine witnesses.

- The Board of Revenue, the District Collector and the compensation officer shall, for the purposes of the Act, have all the powers of civil court when trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-(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 of affidavit, and(d)requisitioning any public record or copy

thereof from any court or office.

32. Payment of compensation to be full discharge of liability to pay Thiruppuvaram.

- The payment of compensation under this Act to the Thiruppuholders shall be a full discharge of the liability for payment of Thiruppuvaram and no further claim for Thiruppuvaram or for payment of compensation shall lie against the Government or the land holders.

33. Power to make rules.

(1)The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.(2)Every rule under this Act shall be laid as soon as may be after it is made before the legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

34. Amendment of Land Tax Act, 1961.

- In the Kerala Land Tax Act, 1961 (13 of 1961),-(a)in clause (9) of section 3, the words "Thiruppuvaram or", in both the places where they occur, shall be omitted,(b)for section 14, the following section shall be substituted, namely:-"14. Melvaram. - Melvaram charged on and payable in respect of and land shall continue to be paid to those entitled to it as heretofore in addition to the basic tax thereon payable to the Government"The Schedule[See section 13 (2)]

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