

Kerala Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1968

KERALA

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Act 2 of 1969

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Kerala Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1968(Act No. 2 of 1969)Last Updated 3rd December, 2019[Dated 20.01.1970]An Act to provide for the preservation and regulation of parks, play-fields and open spaces in the State of KeralaPreamble. - Whereas it is expedient to provide for the preservation and regulation of parks, play-fields and open spaces in the State of Kerala;Be it enacted in the Nineteenth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Kerala Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1968.(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.(4)It shall apply-(a)to the cities of Trivandrum, Cochin and Calicut; and(b)to every municipality and township in the State of Kerala.(5)Notwithstanding anything contained in sub-section (4), the Government may, by notification in the Gazette, apply the provisions of this Act to any area in the State within the jurisdiction of a Panchayat With effect from such date as may be specified in the notification, and may cancel or modify any such notification.

2. Definitions.

- In this Act, unless the context otherwise requires,--(a)"executive authority" means in the case of a city or a municipality, the Commissioner of the Corporation or of the municipality concerned, and in the case of a panchayat or township, the executive officer of the panchayat or of the township committee concerned;(b)"open space" means any land, whether enclosed or not, belonging to the Government or any local authority, on which there are no buildings, or of which not more than one-twentieth part is covered with buildings, and the whole or the remainder of which is used for

purposes of recreation, air or light;(c)"park" means a piece of land on which there are no buildings or of which not more than one-twentieth part is covered with buildings, and the whole or the remainder of which is laid out as a garden with trees, plants or flower-beds or as lawn or as a meadow and maintained as a place for the resort of the public for recreation, air or light;(d)"play-field" means a piece of land adapted for the purposes of play, game or sport and used by any school or college or club or other associations.

3. Preparation and submission of list of parks, play-fields and open spaces by executive authorities.

(1)The executive authority of every local authority shall, not later than Six months from the date on which this Act comes into force in the area within the jurisdiction of the local authority, prepare and submit for the approval of the local authority a correct and complete list With plans and maps of all the parks, play-fields and open spaces in such area.(2)The list referred to in sub-section (I) shall be in such form and shall contain such particulars as may be prescribed.(3)The local authority shall, as soon as may be after the receipt of the list and other documents referred to in sub-section (I), publish the list in the prescribed manner, and such publication shall state at what place and time the maps, plans and documents aforesaid will be available to the public for inspection.

4. Approval and publication of list by local authority and Government.

(1)Any person interested may submit his objections and suggestions in writing in respect of anything contained in, or relating to, the list referred to section 3, to the local authority Within three months of the date of publication of the list under sub-section (3) of that section.(2)The local authority may, after considering the objections and suggestions, if any, received under sub-section (I) and after making such further inquiry as it thinks fit, approve the list with or without modifications.(3)The approval of the local authority to the list under subsection (2) shall be published in the prescribed manner and such publication shall contain the list and shall also state at what place and time the particulars relating to the matters mentioned in the list will be available to the public for inspection.(4)Any person who has any objectiOn to the list approved by the local authority may, within such time as may be prescribed, prefer an appeal to the Government in writing.(5)On such appeal the Government shall call for the records of the case from the local authority and after giving; the parties concerned an opportunity of being heard and if necessary, after making such further inquiry as they may deem fit revise the list with such modification as may be deemed necessary.(6)The list as revised under sub-section (5) shall be published in the Gazette.

5. Variation or revocation of list.

(1)The Government may at any time, either suo motu or at the instance of the local authority concerned or of any person interested add to, vary or revoke a list published under section 4.(2)Before making any such addition, variation or revocation, the Government shall publish in the prescribed manner a draft of such addition, variatiOn or revocation together with a notice specifying a date on or after which such draft will be taken into consideration, and shall consider any objection

or suggestion which may be received in respect of such draft from the local authority or any person interested before the date so specified.(3)The Government shall after considering the objections and suggestions, if any, received within the period referred to in sub-section (2) publish the addition, variation or revocation in the prescribed manner, and the addition, variation or revocation shall take effect on such publication.(4)Where any addition, variation or revocation is made at the instance of any person interested, the Government shall before making such addition, variation or revocation consult the local authority concerned regarding the proposal to make such addition, variation or revocation and consider any objection or suggestion submitted by the local authority within such time as may be specified in this behalf by the Government :Provided that it shall not be necessary to consult the local authority in cases where such addition, variation or revocation is made at the instance of the local authority.

6. Prohibition of the use of parks, play-fields and open spaces in certain cases.

- No park, play-field or open space specified in the list published under section 4 shall, except with the previous sanction of the executive authority, be used for any purpose other than the purpose or purposes for which it was used prior to the date on which this Act was made applicable to the local authority concerned if the use of such park, play-field or open space, is temporary for a period of less than one month or with the permission of the local authority concerned If such use is for a period of more than one month at a time:Provided that no such sanction or permission shall be necessary in respect of any park, play-field or open space belonging to the Government.

7. Maintenance of parks, play-fields and open spaces.

- The local authority shall maintain in a clean and proper condition all parks, play-fields and open spaces belonging to or vested in it and included in the list published under section 4.

8. Prohibition of construction of buildings, etc.

- No person shall, except with the previous sanction of the Government, construct any building or put up any structure likely to affect the utility of, or make any encroachment in or over, any park, play field or open space specified in the list published under section 4.

9. Obligation of owners of parks and play-fields.

- (I) in the case of a park or play-field not vested in a local authority but included in the list published under section 4 or varied under section 5, the executive authority may, by notice, require the owner or the person or authority in occupation of such park or play-field((a)to maintain such park or play-field in a clean and proper condition; or(b)to remove or alter any projection or obstruction in or over any such park or play-field or to execute such repair to any building in such park or play-field as the executive authority may consider necessary, within a date specified in the notice.(2)If the owner or the person or authority in occupation fails to comply with the notice under

sub-section (1), the executive authority shall himself arrange-(a)to maintain such park or play-field in a clean and proper condition; or(b)to remove or alter the projection or obstruction; or(c)to execute such repairs as he may consider necessary, and the cost of such maintenance, removal, alteration or repairs shall be recoverable from the owner or the person or authority in occupation, in such manner as may be prescribed.(3)Any dispute as to the amount of the cost recoverable under sub-section (2) shall be decided by the Government and their decision shall be final.(4)The executive authority may, instead of or in addition to taking action as indicated in sub-section (2), proceed to acquire the - land under the Kerala Land Acquisition Act, 1961 (21 of 1962), for the purpose of the effective management of the land as a park or play-field.(5)Any owner or any person or authority in occupation of a play-field desiring to convert the play-field to any use other than as a play-field may give notice to the person or authority managing the affairs of any educational institution or other duly constituted public body which uses the play-field or to the local authority within whose jurisdiction the play-field is situated to purchase his or its rights in the play-field and if such person, authority, public body or local authority does not agree to purchase his or its rights, he or it may, after the expiry of a reasonable period which shall be not less than six months after the date of the notice, put it to such use as he or it desires.

10. Submission of annual return.

(1)The executive authority shall submit to the Government in such form and containing such particulars as may be prescribed, an annual return in respect of the parks, play-fields and open spaces which are situated within the limits of the local authority concerned and which are specified in the lists published under section 4.(2)The return referred to in sub-section (1) shall also contain a list of the parks or play-fields in respect of which action was taken under sub-section (2) of section 9 together with particulars as regards the nature of the action taken in respect of them and the step, taken in regard to their proper maintenance.

11. Removal of unauthorised persons.

- If any person enters and remain in any park, play-field or open space belonging to or vested in the Government or a local authority in contravention of any rules prescribed in this behalf by the local authority, he may, without prejudice to any other proceeding that may be taken against him, be removed from such park, play-field or open space by any police officer or any other person acting on behalf of the local authority or the executive authority.

12. Penalties.

- Whoever Throws any rubbish into any park, play field or open space specified in the list published under section 4 or gets over the railings or fence of any such park, play-field or open space or steals or damages the fruits, plants, grass or any other thing whatsoever therein or commits any nuisance therein shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees.

13. Control of Government.

(1) If the Government are satisfied after giving the executive authority an opportunity of explanation, that the executive authority of the local authority has failed to enforce effectively the provisions of this Act or to execute any work which under this Act the executive authority is required to execute, the Government may order the local authority to do all things necessary for enforcing the provisions of this Act effectively or for executing any work which under this Act the executive authority is required to execute. (2) For the purpose of this section, the Government shall have the same powers of calling for records, of causing inspection to be made, and of enforcing their orders by appointing persons to enforce them, as they have under sections 41, 41A and 42 of the Kerala Municipal Corporations Act, 1961 (30 of 1961) or sections 43 and 49 of the Kerala Municipalities Act, 1960 (14 of 1961) or sections 48 and 56 of the Kerala Panchayats Act, 1960 (32 of 1960).

14. Power to make rules.

(1) The Government may, by notification in the Gazette, make rule for the purpose of carrying out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for (a) controlling or regulating the admission of persons to, and the conduct of persons in, and in the vicinity of parks, play-fields and open spaces; (b) restricting or prohibiting the admission of animals or any class of animals to any park, play-field or open space; (c) the procedure to be followed under sub-section (5) of section 9; (d) the time within which the annual return under section 10 shall be submitted to the Government; (e) removing from any park, play-field or open space any person who is therein in contravention of any order or direction of the executive authority or any person authorised under section 11; (f) any other matter which has to be, or may be, prescribed under this Act. (3) Every rule made, every notification issued and every list of parks, play fields and open spaces published under this Act shall be laid as soon as may be after it is made, issued or published before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule, notification or list or decides that the rule, notification or list should not be made, issued or published, the rule, notification or list 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, notification or list.