

Kerala Local Authorities Entertainments Tax Act, 1961

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Act 20 of 1961

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Kerala Local Authorities Entertainments Tax Act, 1961(Act No. 20 of 1961)Last Updated 30th November, 2019 [kar091]An Act to unify and amend the law relating to the imposition and collection of taxes on amusements and other entertainments in the State of KeralaPreamble. - Whereas, it is expedient to unify and amend the law relating to the imposition and collection of taxes on amusements and other entertainments in the State of Kerala;BE it enacted in the Twelfth Year of the Republic of India as follows: -

1. Short title, extent and commencement.

(1)This Act may be called the Kerala Local Authorities Entertainments Tax Act, 1961.(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 -(1)'admission' includes admission as a spectator or as one of an audience and admission for the purpose of amusement by taking part in an entertainment;(2)'admission to an entertainment' includes admission to any place in which the entertainment is held;(3)'agriculture' includes horticulture and breeding of animals of every description;(4)'entertainment' includes any exhibition, performance, amusement, game, sport or race to which persons are admitted for payment; but does not include any magic performance;(5)'institution' includes a company, society, club or other association of persons by whatever name called;(6)"Local authority" means a village panchayat constituted under section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a municipality constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994).;(7)"payment for admission" means -(a)the price for admission, and(b)any payment for any purpose whatsoever connected with an entertainment

(including any tax) which a person is required to make as a condition for attending or continuing to attend the entertainment in addition to the price for admission;(7A)"price for admission" means the cost of a ticket (excluding any tax) for a seat or other accommodation in a place of entertainment and includes in respect of any person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a higher payment is required;(8)'Proprietor' in relation to any entertainment includes any person responsible for the management thereof.

3. General provision regarding the levy of tax and the rate of tax.

- Any local authority may levy a tax (hereinafter referred to as the entertainments tax) at a rate not less than twenty four percent and not more than forty eight per cent on each price for admission to any entertainment. Provided that the rate thus fixed shall not be lower than the sum of the entertainment tax levied under this section and additional tax on entertainment levied under the Kerala Additional Tax on Entertainment and Surcharge on Show Tax Act, 1963 (22 of 1963) prevailing in the area prior to the date of commencement of the Kerala De-centralization of Powers Act, 2000.

3A. Entertainment tax on seating capacity.

- Notwithstanding anything contained in sections 3 and 4, a local authority may levy entertainment tax based on seating capacity in the manner prescribed.

3B. Entertainment tax for amusement parks.

(1) Notwithstanding anything contained in sections 3, 3A and 4 and subject to such rules as may be made by Government in this behalf, a proprietor of an amusement park shall pay an annual entertainment tax fixed by the local authority within the range of rates specified against each category, namely:-

Category	Range of rates of entertainment tax to be fixed by the local authority.
(1)	(2)
CATEGORY A Amusement park having an investment up to Rs.3 crores and having area to an extent of 2 hectares and below (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs.3 to 6 lakhs.
CATEGORY B Amusement park having an investment of above Rs.3 crores but below Rs.10 crores and having area to an extent of above 2 hectares but below 4 hectares (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs.10 to 15 lakhs.
	Rs.25 to 30 lakhs.

CATEGORY C Amusement park having an investment of Rs.10 crores and above but below Rs.20 crores and having area to an extent of 4 hectares and above but below 6 hectares (excluding the area provided for parking vehicles and other unutilized/vacant area)

CATEGORY D Amusement park having an investment of Rs.20 crores and above but below Rs.50 crores and having area to an extent of 6 hectares and above but below 10 hectares (excluding the area provided for parking vehicles and other unutilized/vacant area) Rs.50 to 60 lakhs.

CATEGORY E Amusement park having an investment of Rs.50 crores and above and having area to an extent of 10 hectares and above (excluding the area provided for parking vehicles and other unutilized/vacant area) Rs.80 to 100 lakhs.

Provided that during the first four-year period of operation of an amusement park, the annual entertainment tax leviable shall be relaxed at the following rates, namely: -

Period	Relaxation of rate of entertainments tax.
(a) First Year	Sixty per cent
(b) Second year	Forty per cent
(c) Third year	Twenty per cent
(d) Fourth year	Ten per cent.

Provided further that the local authority may permit the proprietor of an amusement park to pay the entertainment tax in equated monthly installments. Explanation 1. - Amusement park means a permanent out door facility set up for entertainment which may include structures and buildings where admission is based on payment. Explanation 2. - For the purpose of this section, in categorizing the amusement park, if both the investment and area of land do not come under any of the above categories, but either the investment or the area comes under any one of the categories, the amusement park shall be assessed in the category to which the higher rate of tax is applicable. (2)(a) The Government may by notification in the Gazette constitute a committee for the purpose of categorization of the amusement parks, ensuring the safety of parks and to advise the Government for review of the tax structure every three years. (b) The Committee shall consist of - (i) The Secretary to Government, Local self Government Department (Urban) - ex-officio; (ii) The Secretary to Government, Local Self Government Department (Rural) - ex-officio; (iii) The Secretary to Government, Finance (Expenditure) - ex-officio; (iv) The Secretary to Government, Tourism - ex-officio; (v) Chair Person, Mayors' Chamber; (vi) Chair Person, Municipal Chairpersons' Chamber; (vii) President, Kerala Grama Panchayath Association; (viii) Chief Town Planner. (c) The Committee shall exercise such other functions as may be specifically authorised in this behalf."

4. Composition and consolidated payment of tax.

- On the application of the proprietor of any entertainment in respect of which the entertainments tax is payable under section 3, the local authority may, subject to such rules as may be made by the Government in this behalf, compound the tax payable in respect of such entertainment for a consolidated payment.

5. Admission of persons to entertainments subject to tax.

(1) Save in the cases referred to in section 4, 10 [and section 6A no person shall be admitted for payment to any entertainment 11 where the price for admission is subject to entertainments tax except -(a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by the local authority indicating the proper tax for such ticket; or (b) in special cases, with the approval of the local authority, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted, unless the proprietor of the entertainment has made arrangements approved by the local authority for furnishing returns of the payments for admission to the entertainment and has given security approved by the local authority for the payment of the entertainments tax. (2) Nothing contained in sub-section (1) shall be deemed to preclude the local authority from requiring security from the proprietor of an entertainment for the payment of the entertainments tax in any other case.

6. Manner of payment of tax.

(1) The entertainments tax shall be levied in respect of each person admitted for payment, and in the case of admission by ticket, shall be paid by means of a ticket referred to in clause (a) of sub-section (1) of section 5, and in the case of admission otherwise than by ticket, shall be calculated and paid on the number of admissions. (2) The entertainments tax in the case of admission otherwise than by ticket shall be recoverable from the proprietor. (3) Where 12 on the price for admission to an entertainment is made wholly or partly by means of a lump sum paid as a subscription or contribution to any institution, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum, but where the local authority is of the opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment or covers admission to an entertainment during any period during which the tax has not been in operation, the tax shall be levied on such amount as appears to the local authority to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

6A. Entertainments tax on dramatic and circus performances.

(1) Notwithstanding anything contained in sections 3 and 6, the entertainments tax leviable by a local authority -(a) on dramatic performances to which persons are admitted for payment shall be 14 hundred rupees on each performance; and (b) on circus performances to which persons are admitted for payment shall be 15 sixty rupees on each performance. (2) The tax referred to in sub-section (1) shall be recoverable from the proprietor of the dramatic performance or circus performance, as the case may be. Explanation. - For the purposes of this section, the expression "dramatic performance" means any play, pantomime or other drama.

7. Entertainment exempted from payment of tax.

(1)The entertainments tax shall not be levied on payments for admission to any entertainment where the local authority is satisfied -(a)that the entertainment is of a wholly educational character; or(b)that the entertainment is provided for purposes which are wholly or partly educational, cultural or scientific by an institution not conducted or established for profit; or(c)that the entertainment is provided by an institution not conducted for profit and established solely for the purposes of promoting public health or the interests of agriculture or a manufacturing industry, and which consists solely of an exhibition of articles which are of material interest in connection with questions relating to public health or agriculture, or of the products of the industry for promoting the interests of which the institution exists or of the materials, machinery, appliances or food stuffs used in the production of those products; or(d)that the whole or the net proceeds of the entertainment is devoted to philanthropic, religious or charitable purposes.(2)*** (3)***

7A. Power to exempt.

(1)Notwithstanding anything contained in this Act, the Government may, by general or special order and for reasons to be specified in such order exempt from liability to tax, -(a)any entertainment or class of entertainments; or(b)any or all of the entertainments provided in a place owned by the Government or a Corporation owned or controlled by the Government.(2)Any local authority concerned shall be bound to comply with any order made by the Government under sub-section (1)(3)A local authority may with the previous sanction of the Government, exempt any entertainment or class of entertainments not exempted under sub-section (1) from liability to the tax".

8. Manner of recovery of tax and fines under the Act.

(1)Any amount due on account of the entertainments tax may be recovered by the local authority in the same manner as any tax payable to the local authority.(2)Any fine imposed under this Act or rules or bye-laws made thereunder shall be recovered in the manner provided in the Code of Criminal Procedure 1898, for the recovery of fines and shall on recovery be paid to the local authority concerned to be applied for the general purposes of such authority.

9. Inspection by Local Authority.

(1)The Director of Municipal Administration or the Director of Panchayats or the Mayor of a Corporation or the Chairperson of the municipality or President of the village panchayat or any officer authorized by the Government or the local authority concerned or any police officer authorised by the Government in this behalf may enter any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment at any reasonable time, with a view of seeing whether the provisions of this Act or any rules made thereunder are being complied with.(2)If any person prevents or obstructs the entry of any officer authorised by or under sub-section (1) , he shall, in addition to any other punishment to which he is

liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two thousand rupees(3)24 Every officer authorised by or under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

10. Penalty for non-payment of tax.

(1)If any person is admitted for payment to any place of entertainment and the provisions of section 5 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction by a Magistrate, be liable in respect of each such offence to a fine not exceeding 25 two thousand rupees and shall in addition be liable to pay any tax 26 including escaped-tax which should have been paid.Explanation. - The Term "escaped tax" shall mean and include any amount of tax detected or revealed to have been not paid or to have escaped assessment on a verification by the licensing authority or an authorised officer and calculated or assessed with details collected during his inspection or enquiry. Such assessment shall be presumed to be correct unless the assessee produces sufficient proof to rebut the calculation of the escaped tax.(2)Without prejudice to the provisions of sub-section (1) 28 any officer authorized by or under sub-section (1) of section 9 may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable time, and if satisfied that the provisions of section 5 are not complied with, by order in writing prevent the further use of such place for the purposes of any entertainment:Provided that before preventing the further use of the place for the purpose of the entertainment the proprietor of the entertainment shall be given a reasonable opportunity to show cause against the proposed action.(3)If the order under sub-section (2) is not complied with, the officer may request the officer in charge of the police station having jurisdiction over the place to prevent the further use of such place for the purpose of any entertainment and the officer in charge of the police station shall be bound to comply with the request.

11. Power of the Government to make rules.

(1)The Government may make rules to carry out all or any of the purposes of this Act, not inconsistent therewith.(2)In particular and without prejudice to the generality of the foregoing power they may make rules -(a)for the composition and consolidated payment of tax under section 4; and(b)for the presentation and disposal of applications for exemption from payment of the entertainments tax.(3)In making any rules the Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.(4)All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly, as soon as possible after they are made and shall be subject to such modification whether by way of repeal or amendment, as the legislative Assembly may make during the session in which they are so laid or the session immediately following.

12. Power of Local Authority to make bye-laws.

(1)Any local authority may make bye-laws not inconsistent with this Act or any rules made thereunder -(a)for the supply and use of labels or stamped or embossed tickets or for the stamping or embossing of tickets sent to be stamped or embossed and for securing the defacement of labels

when used;(b)for the use of tickets covering the admission of more than one person and the calculation of the tax thereon and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payment for seats or other accommodation;(c)for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount) and for securing proper records of admission by means of barriers or mechanical contrivances;(d)for the checking of admissions, the keeping of accounts and furnishing of returns by the proprietors of entertainments to which the provisions of section 4 are applied or in respect of which the arrangements approved by the local authority for furnishing returns are made under section 5;(e)for the renewal of damaged or spoiled labels;(f)for the keeping of accounts of all labels used under this Act;(g)for the regulation of the time and place of holding an entertainment and supervision thereof;(h)for the regulation of the time and mode of collecting the tax under this Act; and(i)in general, for carrying out the purposes of this Act.(2)In making a bye-law, the local authority may provide, that a breach thereof shall be punishable with fine which may extend to fifty rupees and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach.(3)All such bye-laws shall have effect when they have been approved by the Government or any officer authorised by the Government in that behalf and published in the Gazette.

13. Repeal and Savings.

- The Travancore-Cochin Local Authorities Entertainments Tax Act, 1951 (Act VI of 1951) and the Madras Entertainments Tax Act, 1939 (Act X of 1939) as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) are hereby repealed:Provided that any notification, order, rule or bye-law issued or made under the repealed Acts, shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made or issued under the provisions of this Act, unless and until it is superseded by any notification, order, rule or bye-law made or issued under this Act.