

*THE KERALA LAND CONSERVANCY RULES, 1958

In exercise of the powers conferred by Section 13 of the Kerala Land Conservancy Act, 1957 the Government hereby make the following rules, the same have been previously published as required by the said section.

RULES

1. (a) These rules may be called the Kerala Land Conservancy Rules, 1958.
(b) They extend to the whole of the State of Kerala.
2. These rules shall come into force at once.
3. **Definitions.**— In these rules unless the context otherwise requires:—
 - (a) “The Act” means the Kerala Land Conservancy Act, 1957.
 - (b) “Collector” includes any officer who is authorised under Section 15 of the Act with all or any of the powers conferred on a Collector under the Act.
 - (c) “Village Officer” includes Village Assistant.
4. (i) All officers of the Land Revenue Department shall have it as their primary duty to prevent unauthorised occupation of lands which fall under any of the descriptions given in the definitions of ‘property of Government’ and ‘Poramboke’ in Section 3 and Section 4 of the Act.
(ii) The Village Officer, shall report to the Collector promptly all cases of encroachments on porambokes and on lands which are the property of Government other than porambokes, in Form A appended to these rules. The report shall be accompanied by a plotted sketch drawn to scale of the encroachment and a Mahazar containing full particulars of the land encroached upon, such as period of occupation, nature and value of improvements, if any, made on the land, the position of the land with reference to adjoining lands etc.
¹[**Explanation.**— For the purpose of these rules the erection of any wall, fence or building or the putting up of any overhanging structure or projection (whether on a temporary or permanent basis) on or over any land aforesaid without permission shall be deemed to be an encroachment;]
²[(iii) If any officer of the Land Revenue Department of and above the rank of Village Officer detects timber, earth, metal, laterite, sand, lime-shell or such other article of value, involved in unauthorised removal from Government land, such article shall be seized by him and taken under Government custody to be disposed of under the orders of the Collector. In such cases he shall prepare a mahazar giving the full particulars of the article so seized and shall as soon as may be, make a report of such seizure to the Tahsildar or the Taluk accompanied by a statement in Form ‘AA’ appended to these rules. The articles so seized shall be kept in custody or handed over for safe custody to a reliable third person and a receipt obtained therefor].
5. Departments other than the Land Revenue Department which are in charge of porambokes, shall intimate to the Collector all cases of unauthorised occupation of such lands. On receipt of the intimation the Collector shall arrange for statements in Form A appended to these rules being prepared in respect of such encroachments.
6. When reports in Form A under Rules 4 and 5 are received, the Collector shall inspect the land and satisfy himself that there is encroachment, before proceeding to deal with the case under the Act:
³[Provided that if on personal inspection the Collector is satisfied that there has been

encroachment, it shall not be necessary to obtain report in Form 'A' to deal with the case of unauthorised occupation under the Act].

7. Recourse may be had to the provisions of Sections 6, 7, 8, 10 & 11 of the Act in dealing with cases of unauthorised occupation of Government lands and also to those of Section 9 where found necessary.

Exception.— If however, the land encroached upon is available for assignment and the unauthorised occupant is eligible to have the land in issue on assignment under the law relating to the assignment of Government lands for the time being in force, without auction, orders need not be passed under the sections of the Act referred to in this rule provided the occupant agrees to take up the registry or lease of the land and puts in a formal application for the same.

Note.— In the event of eviction of the unauthorised occupant under the provisions of the Act, he shall not be entitled to any compensation from the Government for trees planted or other improvements effected by him on such land.

8. (a) Assessment shall be imposed in all cases of unauthorised occupation of Government land.

(b) Where the land unauthorisedly occupied is the property of Government other than poramboke, assessment shall be made at the rate of 5 naye paise per cent of land.

(c) Where the land unauthorisedly occupied is poramboke, the assessment to be levied shall be prohibitory which shall be a multiple of the assessment under clause (b). The multiple may be determined in each case by the Collector but it shall not in any case exceed ten times the assessment.

(d) Arrears of assessment shall be charged for the whole period of unauthorised occupation.

[Note.— Notwithstanding anything contained in this rule, in the case of objectionable encroachments on Cardamom lands under the Rules for lease of Government lands for Cardamom Cultivation, 1961, the prohibitory assessment to be levied shall be not less than Rs. 35 per acre (40.47 Ares) for every year of occupation].

9. Separate notices under Section 12 shall be served on each of the occupants in case of joint occupation by more occupants than one before passing an order under the Act. The notice, shall be in Form 'B' appended to these rules. The notice shall be served by delivering a copy to the person reported to be in unauthorised occupation of the land, or to his authorised agent, or some adult member of his family residing with him, who shall be required to sign an acknowledgement of service endorsed on the original notice. If such person refuses to acknowledge service of the notice as aforesaid, or if such person cannot be found and there is no other person on whom the service can be made, the serving officer shall affix a copy of the notice on the outer door of the house in which such person ordinarily resides or on some conspicuous part of the land unauthorisedly occupied, and return the original with an endorsement attested by two responsible witnesses stating that he has so affixed a copy and the circumstances under which he did so.

10. If the party appears in person or through authorised agent, a statement of the person so appearing may be recorded, any evidence adduced by him accepted and any documents filed as exhibits by him marked, dated and initiated by the Collector.

11. The final order of the Collector shall be in writing in his own hand, and shall contain the reasons for the decision. The decision shall be communicated to the party in writing and simultaneously a notice in Form 'C' appended to these rules shall be served on him requiring him to vacate the land within specified period. The notice shall also contain a direction that every thing, found on the land encroached upon shall be forfeited to the Government in the event of the encroacher failing to vacate the land within that period specified.

12. If while executing the order, any unauthorised occupant offers resistance or obstruction to the removal of encroachment, the Collector shall summarily enquire into the matter and if he is satisfied that there is resistance or obstruction may issue a warrant in Form 'D' appended to these

rules, for the arrest and production before him of such person. On such production the Collector shall hold a further summary enquiry under Section 11(2) of the Act and commit him to the Civil Jail, if found necessary.

13. Persons so committed to the Civil jail shall be paid subsistence allowance at the rates fixed by the Government under Section 57 of the Code of Civil Procedure, 1908 (Act V of 1908). The expenditure on this account shall be met by the Government in the first instance and then recovered as arrears of Land Revenue from the persons concerned.

⁵**[13A.** Notwithstanding anything contained in the foregoing rules, where the Collector is of opinion that it is expedient in the public interest to remove an unauthorised occupation, he may, after recording the reasons therefor, serve or cause to serve a notice in Form 'CC' appended to these rules on the person in occupation directing him to vacate the land within such period as may be specified therein, and if the land is not so vacated within the said period, any officer authorised by the Collector may enter upon the land and take possession of the same, if necessary by using such force as the circumstances of the case may justify].

14. Application for permission to quarry from any land which is the property of Government whether a poramboke or not shall be made to the Tahsildar of the Taluk in which the land is situated. The application shall describe the name of the Village, the survey number of the land and variety and approximate quantity of article required.

Exception.— In respect of lands vested in Municipal Councils and Corporations or in respect of rivers, estuaries, canals or backwaters within such Municipal or Corporation limits, the permits in respect of petty unobjectionable encroachments and also for the removal of the articles to be quarried may be granted by the Executive Authorities of the Local Bodies concerned subject to the provisions of the Municipal Act for the time being in force in the area.

15. The Tahsildar shall, on receipt of the application, inspect the land and see whether the application can be granted without prejudice to the interests of the Government. He shall also satisfy himself, if necessary in consultation with the Public Works Department, that the article is not required for any Government works.

16. If the land to which the application relates adjoins any public road under the control of the P.W.D. the application shall be forwarded to the local P.W.D. Sub Division Officer for his opinion and to mark out the road limit beyond which quarrying may be done.

17. If the Tahsildar finds on enquiry that the application can be granted, he shall issue a permit in Form 'E' appended to these rules, to the applicant on recovery of the prescribed seigniorage fee and on such special conditions as he may deem fit to impose.

18. When a permit under Rule 17 is issued the Tahsildar shall forward a copy of the permit to the Village Officer who shall point out to the holder of the permit the spot or place at which the quarrying or removal is permitted. A sketch of the site should be prepared in which the approximate location or dimensions of the proposed quarry should be specified and got signed by the permit holder.

19. The permit holder may quarry and remove the article from the land pointed out by the Village Officer under Rule 18 strictly according to the specifications made in the sketch and any unauthorised quarrying shall render the party liable for action under the Act and for the seigniorage for the article quarried in excess of the quantity allowed in the permit.

20. Quarrying by contractors engaged by the Government Departments will be free of seigniorage fee if the cost of such articles has not been taken into account in working out the date for the valuation of work covered by the contract. The contractors shall, for this purpose, produce a certificate to that effect from any Gazetted Officer of the Department under whose control the work is to be executed.

Note.— It may be necessary for the Government Departments, in emergent cases to allow contractors engaged for works to commence quarrying before obtaining the formal sanction of the Tahsildar concerned. In such cases an officer competent to sanction estimates or accept the tenders should intimate to the Tahsildar of the Taluk within 7 days of the issue of sanction particulars about—

(1) The name and address of the contractor and the time allowed for quarrying;
(2) The name of Village and Survey number of the lands where from quarrying is to be made;
(3) Nature and approximate quantity proposed to be quarried; and
(4) Whether any deduction of quarrying fee has been made from the rates allowed to the contractors. A formal application should also be obtained from the Contractor and forwarded to the Tahsildar for disposal in due course.

21. Quarrying and removal of clay or sand for bonafide agricultural purposes shall be free of compensation prescribed under sub-section (2) of Section 6 of the Act.

22. Quarrying from any land which is the property of Government is prohibited within a radius of 10 feet from any Survey mark.

23. If, as a result of quarrying operations, and any survey mark on the land is found to have been interfered with, or placed out of position, it shall be competent for the Tahsildar to have the survey mark repaired or renewed by the person responsible. If he fails to do so, the Tahsildar shall have the survey mark renewed and all incidental charges together with a penalty of Re.1 for survey mark recovered from such person.

24. Compensation prescribed under sub-section (2) of Section 6 of the Act repair and renewal charges of survey marks, penalty and all incidental charges levied under these rules shall be recovered in the same manner as arrears of Land Revenue.

25. A permit issued under these rules shall be valid only for six months from the date of issue, provided however that the Tahsildar shall have powers to renew the permit on the application of the permit holder, for a further period of six months, if sufficient grounds exist.

26. After the expiry of the period of the permit the Village Officer shall return the sketch under Rule 18 and the copy of the permit to the Tahsildar adding a certificate of the removal of the article and of the amount realised as compensation prescribed under sub-section (2) of Section 6 of the Act.

27. It shall be, competent for the Tahsildar, during the currency of the permit, to cancel the permit if the holder of the permit violates any of the conditions therein specified or provisions of the Act or these rules.

28. A register of applications for the issue of permits under these rules shall be maintained in all Taluk offices in Form appended to these rules.

29. ⁶[Appeals against all decisions or orders by the Tahsildar or Deputy Tahsildar relating to quarrying shall be presented within 30 days from the date of the decision or order appealed against before the Revenue Divisional Officer. In computing the period of 30 days, the date of the order or decision or the date of communication thereof whichever is later, and the time taken for granting a copy of it shall be excluded. The appellate authority may admit an appeal after the expiry of the prescribed period of 30 days, if it is satisfied that the appellant had good and sufficient cause for not preferring the appeal within the period].

30. No appeal shall be admitted unless accompanied by a true copy of the decision or order appealed against. No officer shall decide a case in appeal without giving notice to the parties concerned.

31. It shall be competent to the District Collector, at the request of the party concerned, to revise an order passed in appeal by the Revenue Divisional Officer, provided the revision is filed within 30 days of the date of issue of the appellate decision. The provisions contained in Rules 31 and 32 shall also apply to the revision petitions presented before the Collector.

⁷[32. Application for permission to erect or cause to erect any wall, fence or building or to put up or cause to put up any overhanging structure or projection whether on a temporary or permanent basis on or over any land which is the property of Government, whether a Poramboke or not, shall be made in Form 'G' appended to these Rules, to the Tahsildar of the Taluk in which the land is situated, with plan (in triplicate).

33. The Tahsildar shall, on receipt of the application, inspect the land and satisfy himself in consultation with the Public Works Department that the application can be granted without prejudice to the interests of the Government.

34. If the Tahsildar finds that application can be granted, he shall issue a permit to the applicant in Form 'H' appended to these rules on receipt of the prescribed fee and on such conditions as he may deem fit to impose.

35. A permit issued under these rules shall be valid only for three months from the date of issue, provided however that the Tahsildar shall have powers to renew the permit on the application of the permit holder for a further period of three months if sufficient grounds exist. If the permit holder fails to carry out the work within the prescribed period, the permit shall stand cancelled. It shall be competent for the Tahsildar during the currency of the permit, to cancel the permit in case the holder of the permit violates any of the conditions specified therein or provisions of the Act or these rules.

36. All sums found due from the permit holder under these rules shall be recovered from him in the same manner as if they are arrears of public revenue due on lands under the Kerala Revenue Recovery Act for the time being in force.

37. A register of applications for the issue of permits under these rules shall be maintained in all Taluk Offices in Form I appended to these rules].