

**THE KERALA REVENUE RECOVERY (AMENDMENT)**  
**ORDINANCE, 2007**

(Ordinance No. 38 of 2007)

Promulgated by the Governor of Kerala in the Fifty-eighth Year of the Republic of India.  
An Ordinance further to amend the Kerala Revenue Recovery Act, 1968.

**Preamble** – WHEREAS the Kerala Revenue Recovery (Amendment) Ordinance, 2005 (20 of 2005) was promulgated by the Governor of Kerala on the 12<sup>th</sup> day of December, 2005.

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 3<sup>rd</sup> day of February, 2006 and ended on the 21<sup>st</sup> day of February, 2006 and its session which commenced on the 14<sup>th</sup> day of March, 2006 and ended on the 15<sup>th</sup> day of March, 2006.

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Revenue Recovery (Amendment) Ordinance, 2006 (10 of 2006) was promulgated by the Governor of Kerala on the 17<sup>th</sup> day of March, 2006.

AND WHEREAS a Bill to replace Ordinance No. 10 of 2006 by an Act of the Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 24<sup>th</sup> day of May, 2006 and ended on the 30<sup>th</sup> day of June, 2006;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Revenue Recovery (Amendment) Ordinance, 2006 (38 of 2006) was promulgated by the Government of Kerala on the 5<sup>th</sup> day of July 2006.

AND WHEREAS a Bill to replace Ordinance No. 38 of 2006 by an Act of State Legislature, could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 18<sup>th</sup> day of September, 2006 and ended on the 26<sup>th</sup> day of October, 2006.

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Revenue Recovery (Amendment) Ordinance, 2006 (51 of 2006) was promulgated by the Governor of Kerala on the 30<sup>th</sup> day of October, 2006.

AND WHEREAS a Bill to replace the Ordinance No. 51 of 2006 by an Act of State Legislature could not be introduced in, and passed by the legislative Assembly of the State of Kerala during its session which commenced on the 27<sup>th</sup> day of December, 2006 and ended on the 29<sup>th</sup> day of December 2006.

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Revenue Recovery (Amendment) Ordinance, 2007 (10 of 2007) was promulgated by the Governor of Kerala on the 4<sup>th</sup> day of February 2007.

AND WHEREAS a Bill to replace the Ordinance No. 10 of 2007 by an Act of the State Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 2<sup>nd</sup> day of March, 2007 and ended on the 29<sup>th</sup> day of March 2007.

AND WHEREAS under sub-clause (a) of clause (2) of Article 213 of the Constitution of India, the said Ordinance will cease to operate on the 13<sup>th</sup> day of April 2007.

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. **Short title and commencement:-** (1) This Ordinance may be called the Kerala Revenue Recovery (Amendment) Ordinance 2007.  
(2) Section 4 of this Ordinance shall be deemed to have come into force on the 27<sup>th</sup> day of February, 1980 and the remaining provisions shall be deemed to have come into force on the 12<sup>th</sup> day of December, 2005.
2. **Act 15 of 1968 to be temporarily amended:-** During the period of operation of this Ordinance, the Kerala Revenue Recovery Act, 1968 (15 of 1968) (here in after referred to as the principal Act), shall have effect subject to the amendments specified in Section 3 to 7.
3. **Amendment of Section 69:-** In Section 69 of the principal Act-
  - (1) in sub-section (2), for the words “the demand arose”, the defaulter or his surety resides or holds property” shall be substituted;
  - (2) in sub-section (5),-
    - (a) for the words, figures and brackets “when a certificate is received under sub-section (1) or sub-section (4)”, the words, figures and brackets “when a certificate under sub-section (1) or a requisition under sub-section (2), as the case may be, is received” shall be substituted;
    - (b) the words, figure and brackets “ or sub-section (4)” in the second sentence shall be omitted.
4. **Amendment of Section 71:-** To Section 71 of the principal Act, the following proviso shall be added, namely:-

“Provided that such specified institution or class or classes of institutions or autonomous bodies, as the case may be, shall be liable to pay collection charges for the recovery of the amounts, at such rate and in such manner as may be prescribed by the Government”.

**5. Amendment of Section 72:-** In Section 72 of the principal Act,-

- (1) in the marginal heading, the words “ save where fraud alleged” shall be Omitted;
- (2) the existing Section 72 shall be renumbered as sub-section (1) of that section and,-
  - (a) in sub-section (1) as so renumbered,-
    - (i) in clause (i), for the words “Board of Revenue”, the words “ Commissioner of Land Revenue” shall be substituted;
    - (ii) the proviso shall be omitted;
  - (b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

“(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the government, or the Commissioner of Land Revenue or the Collector or any officer or authority under this Act”.

**6. Amendment of Section 81:-** In Section 81 of the principal Act,-

- (1) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Subject to the provisions contained in Section 72, any person aggrieved by any decision or order passed or proceedings taken under this Act for arrears due or alleged to be due from him, may file a suit against the Government in a Civil Court of competent jurisdiction:

Provided that the persons aggrieved has availed himself of the remedies, for redressing his grievances provided in this Act”.

- (2) in the proviso to sub-section (2) for the words “ Board of Revenue”, occurring in two places, the words “Commissioner of Land Revenue” shall be substituted

**7. Amendment of Section 83:-** In Section 83 of the principal Act:-

- (1) In the marginal heading, for the words “Board of Revenue” the words “ Commissioner of Land Revenue” shall be substituted.
- (2) In sub-section (1), (2) and (3) for the words “Board of Revenue” wherever they occur, the words “ Commissioner of Land Revenue” shall be substituted.

**8. Repeal and Saving. -** (1) The Kerala Revenue Recovery ( Amendment) Ordinance, 2007 (10 of 2005) is hereby repealed.

- (2) Not with standing such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

**STATEMENT OF OBJECTS AND REASONS**  
**(Kerala Revenue Recovery (Amendment) Bill, 2006)**

At present revenue recovery requisitions is sent to the Collector of the District in which the demand arose. Many of the Public Sector Corporations have their head offices in Thiruvananthapuram and they send their requisitions to the Collector, Thiruvananthapuram as the “demand arose” in the head offices of the Corporations at Thiruvananthapuram. This causes much difficulties to the Collector, Thiruvananthapuram and to the authorities of the Public Sector Undertakings. Therefore the Government decided to amend the Kerala Revenue Recovery Act, 1968 so as to enable the requisitioning authorities to send the requisition to the Collector of the District where the defaulter or his surety resides or holds property.

2. As per Section 72 of the Kerala Revenue Recovery Act, 1968 every question relating to Revenue Recovery shall be determined not by suit but by the order of the Commissioner of Land Revenue, where the Collector is a party and the Collector in other cases, provided a suit may be brought in a Civil Court on the ground of fraud. But Section 81 of the Act provides that nothing in the said Act shall be held to prevent parties aggrieved by any decision or order passed or proceedings taken under the Act for arrears due, from suing the Government in the Civil Court. There is an anomaly between Sections 72 and 81 of the Act regarding Civil Court's jurisdiction. The Civil Courts in spite of the general bar under Section 72 are entertaining suits against every question relating to revenue recovery and granting stay orders which has caused major set back in the collection of huge arrears. It has been decided to amend the Act so that only after availing of the remedies provided under the statute, the aggrieved can move a Civil Court in cases where revenue recovery action has been initiated.

3. The Government have also decided to incorporate provisions in the Kerala Revenue Recovery Act, 1968 for the realisation of collection charges from all the institutions and autonomous bodies on whose behalf recoveries are being made by the Government.

4. A Bill for the above purpose viz. Bill No. 134 was published in the Legislative Assembly and the same could not be introduced or passed by the Legislature before its prorogation. As the Legislative Assembly was not in session and the above proposals will have to be given effect to immediately it was decided to promulgate it as an Ordinance. Accordingly the Kerala Revenue Recovery (Amendment) Ordinance, 2005 (20 of 2005) was promulgated by the Governor on the 12<sup>th</sup> day of December, 2005 and published in the Kerala Gazette Extraordinary No. 2661 dated 12<sup>th</sup> December 2005.

The Bill seeks to replace the Ordinance by an Act of State Legislature.

## **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve additional expenditure from the Consolidated Fund of the State.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

The proviso to Section 71 proposed to be inserted by clause 3 of the Bill seeks to empower the Government to prescribe the rate of collection charges and the manner in which such charges shall be realised. The above matter is of routine or of administrative nature. The delegation of Legislative power is, thus, of a normal character.