

THE KERALA PREVENTION OF DEFACEMENT OF PROPERTY BILL, 2024

A

Bill

to Provide for the prevention of defacement of property or place open to public view and for matters connected therewith or incidental thereto.

Preamble: WHEREAS, the heritage sites, historical monuments, structures, sign boards, compound walls and public places are being widely defaced so as to destroy the natural beauty and environmental cleanliness of the State;

AND WHEREAS such defacement activities are causing inconvenience to the tourists and general public;

NOW, THEREFORE, it is expedient to provide for the prevention of defacement of property or place open to public view and for matters connected therewith or incidental thereto;

BE it enacted in the Seventy Fifth Year of the Republic of India as follows:-

1. Short title and commencement.-(1) This Act may be called the Kerala Prevention of Defacement of Property Act, 2024.
(2) It shall come into force at once.
2. Definitions.- In this Act, unless the context otherwise requires,-
 - (a) "advertisement" means any printed, cyclostyled, typed, written or affixed notice, document, paper, cloth, banner, board, pamphlet, flex or any other thing containing any figure, letter, word, picture, sign video or visible representation;

(b) " defacement " includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling, digging, committing waste or injuring in any way whatsoever and exhibiting, affixing or scrueing of any advertisement and the word 'deface' shall be construed accordingly;

(c) "Government" means Government of Kerala;

(d)"Local Self Government Institution" means a Grama Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality or Municipal Corporation constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(e) "place open to public view" includes any private or public place or building, public office, hut, monuments, statue, structure, wall including compound wall, fence, retaining wall, pole, tree or any other structure or contrivance visible to a person being in or passing along any public place;

(f) "public place" means any place including a road, street, pathway or way whether a thoroughfare or not or a landing place to which the public are granted access or have a right to assemble or over which they have a right to pass;

(g)" prescribed" means prescribed by the rules made under this Act;

(h) "writing" includes decoration, lettering, ornamentation, drawing or painting pictures by using ink, chalk or paint or other modes for representing or reproducing words, figures or letters in visible form.

3. Penalty for defacement of property.-(1)Whoever by himself or through any other person or agent, defaces any place open to public view shall, on conviction, be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both:

Provided that nothing in this section shall apply to any advertisement which,-

- (i) is exhibited with the written permission of the Local Self Government Institutions having jurisdiction over such area in this behalf; or**
- (ii) is exhibited on the building or premises of any building and the same relates to the trade, profession or business carried on in that building; or**
- (iii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or**
- (iv) relates to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or occupier of such land or building; or**
- (v) relates to the activities of Central Government, State Government, Public undertakings, Educational Institutions or Local Self Government Institutions and is exhibited upon any wall or other property of such Government, Undertakings or Institutions.**

(2) Where the offence under sub-section (1) is committed by a company or other body corporate or an association of persons whether incorporated or not, then such person, Association, Director, President, Chairperson, Partner, Manager, Secretary, Agent or any other officer or person concerned with the management thereof or for some other person or a political party or a candidate, as the case may be, shall, unless he proves that the offence was committed without his consent and he had exercised due diligence to prevent the commission of such offence, be deemed to be guilty of such offence.

(3) The owner or occupier of a private property, after giving written consent, may permit any person or persons, contesting an election, to which the Representation of the People Act, 1950 (Central Act 43 of 1951), the Kerala Panchayat Raj Act, 1994 (13 of 1994) or the Kerala

Municipality Act, 1994 (20 of 1994) is applicable, either as independent candidate or as a candidate of a political party or alliance to use his private property for the purpose of election campaign during the period notified by the Election Commission for the completion of the process of that election.

Explanation:- For the purpose of this sub-section private property means property which is owned or in lawful possession of a person or persons and is not used for any public purposes whatsoever.

(4) Immediately after completing the process of election, the District Collector shall direct the political parties and candidates who contested the election to erase writings and remove the advertisement put up by them within a stipulated time and in the event of not complying with the direction, the District Collector shall take necessary steps to erase or remove such advertisement or materials and realise the cost incurred for the same from the respective political parties or candidates as public revenue due on land.

(5) In the interest of tourism and economic activities of the State, the District Collector may allow display of any board, hoarding or advertisement at any public place on such terms and conditions and at such rates, as may be prescribed from time to time.

4. **Punishment for defacement of historical monuments, buildings etc..-** Whoever by himself or through any other person or agent defaces any historical monuments and buildings, its walls, traffic islands, signages, name boards etc. shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.
5. **Punishment for attempt to commit offence.-**Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any act towards the commission of the offence shall, on conviction, be punished for a term which may extend to one half of the term of imprisonment provided for that offence or with such fine as is provided for the offence or with both.

6. **Punishment for abettors.**-Any person who by supply of or solicitation for money by providing or permitting of premises, supply of materials or in any manner whatsoever procures, counsels, aids, abets or is accessory to the commission of any offence under this Act shall be punished with the punishment provided for the offence.
7. **Compounding of offence.**- (1) Any offence committed under this Act punishable under sections 3, 4, 5 and 6, may either before or after the institution of prosecution be compounded by such an officer or authority and for such amount as may be prescribed in this behalf.
- (2) *Every officer* referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.
- (3) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.
- (4) Where the compounding of the offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the court where the prosecution is pending by the officer referred to in sub-section (1) and on such notice the person against whom the offence is so compounded shall be discharged.
8. **Offence to be cognizable.**-An offence punishable under this Act shall be cognizable and bailable.
9. **Power to erase writing etc.**-Without prejudice to the provisions of section 3, it shall be competent for the Government, District Collector or the Secretary of the Local Self Government Institutions concerned to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property or place opened to public view and to realise the costs from the person responsible for such defacement as public revenue due on land.

10. **Powers of Local Self Government Institutions and District Collectors.**-It shall be the boundan duty of the District Collector and Secretary of Local Self Government Institutions concerned to see that the provisions of this Act are strictly enforced within the area of their jurisdiction and exercise its duties under the guidance and general instructions as may be issued by the Government from time to time.
11. **Protection of action taken in good faith.**-No suit, prosecution or other legal proceedings shall lie against the Government or any Local Self Government Institution or any person for anything which is in good faith or in public interest done or intended to be done under this Act.
12. **Act to override other laws.**- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.
13. **Power to remove difficulties.**-(1) If any difficulty arises in giving effect to the provisions of this Act or the Rules made thereunder, the Government may, by order, do anything, not inconsistent with the provisions of this Act which appears to them to be necessary or expedient for the purpose of removing the difficulty:
- Provided that, no such order shall be passed after two years from the date of commencement of this Act.
- (2) Every order made under this Section, shall, as soon as may be, after it is made, be laid before the Legislative Assembly.
14. **Power to make Rules.**-(1) The State Government may make rules for carrying out the purposes of this Act.
- (2) All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may comprise in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the sessions immediately following, the House of the State Legislature makes any

modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder

STATEMENT OF OBJECTS AND REASONS

In Kerala State, which is acclaimed as the Gods Own Country, there is large scale defacement of heritage sites and signages. The Public Accounts Committee of the Kerala Legislative Assembly in its report during 2006-2008 suggested that proper Law should be enacted to prevent the defacement of public as well as private places by affixing pamphlets, posters, banners etc. during election campaign and also to realise the costs incurred for erasing any writings or freeing any defacement from the persons or political parties responsible for such defacement.

The defacement of heritage sites, structures, signages, compound walls, public and private places all over Kerala is destroying the natural beauty, cleanliness and environment of the State. Kerala is considered as a prime spot for Tourists all over the world. The defacement of public and private places creates a bad impression among the Tourists also. More over signage covered with posters and advertisement or publicity materials causes inconvenience to tourists and travellers visiting our State. Therefore it is necessary to take stringent measures to put an end to this evil practice of defacing places open to public view by pasting pamphlets, posters, banners, boards or writing or making with inks, chalk or paint etc. Therefore it is proper to empower the District Collectors and Local Self Government institutions to take stringent action in this matter and also to impose penalty for defacement of property in addition to imposing punishment for such illegal acts.

The Bill seeks to achieve the above object.