

THE KERALA AD HOC AND ITINERANT COURTS BILL

An Act to provide for the establishment of Ad hoc and Itinerant Courts with a view to accelerate the disposal of cases pending in Courts and for matters connected therewith.

BE it enacted in the 59th year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called The Kerala Ad hoc and Itinerant Courts Act—

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

(3) It shall extend to the whole of the State of Kerala.

2. *Definitions.*—In this Act, unless the context otherwise requires.—

(a) “Ad hoc Court” means a Court established under section 3 of this Act over and above the regular District Courts and other subordinate courts both Civil and Criminal.

(b) “Judicial Member” means a retired Judicial Officer namely District Judge, Subordinate Judge or Munsiff appointed as a member of the Ad hoc court.

(c) “High Court” means High Court of Kerala.

(d) “Member” means a member including the Presiding member of an Ad hoc Court.

(e) “Notification” means a notification published in the Official Gazette.

(f) “Prescribed” means prescribed by rules made under this Act.

(g) All other words and expressions used but not defined in this Act and defined in the Code of Civil Procedure and in the Code of Criminal Procedure shall have the meanings respectively assigned to them in the Code of Civil Procedure/Code of Criminal Procedure.

CHAPTER II AD HOC COURTS

3. *Establishment of Ad hoc Courts.*—(1) For the purpose of exercising the jurisdiction and powers conferred on an Ad hoc Court, the State Government, after

consultation with the High Court shall as soon as may be after the commencement of this Act, establish in every City, Corporation, Municipality, Block Panchayats and in any other territorial area as determined by the Government, sufficient number of Ad hoc courts by notification.

(2) The State Government shall, after consultation with the High Court specify, by notification, the local limits of the area to which the jurisdiction of Ad hoc Courts shall extend and may, at any time, increase, reduce or alter such limits.

4. *Appointment of members of the Ad hoc Courts.*—(1) The State Government may, with the concurrence of the High Court, appoint one or more persons to be members of the Ad hoc Court to exercise the powers vested in the court.

(2) When an Ad hoc Court consists of more than one member, the judicial member shall act as presiding member and in case there arise difference of opinion regarding the decisions to be taken in the case the majority decisions will prevail.

(3) A person shall not be qualified for appointment as a member of the Ad hoc Court unless he –

- (a) is a retired judicial officer
- (b) is an Advocate of not less than ten years standing
- (c) possesses such other qualifications as the State Government may, with the concurrence of the Chief Justice of Kerala, prescribe.

5. *Selecting persons for appointment as members.*—(a) In selecting persons for appointment as members every endeavour shall be made to ensure that persons committed to the need to promote settlement of disputes by mediation and conciliation are selected.

(b) The salary or honorarium and other allowances payable to a member shall be such as the State Government may in consultation with the High Court prescribe.

CHAPTER III JURISDICTION

6. *Subject to the other provisions of the Act, Ad hoc Courts shall.*—

(a) have and exercise jurisdiction exercisable by any district court or any other subordinate civil or criminal court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Schedule hereto:

Provided that all suits and proceedings shall be filed before the District Courts and other Civil and Criminal Courts and shall be forwarded to the Ad hoc courts as provided in this Act and Rules framed under this Act.

(b) be deemed for the purpose of exercising such jurisdiction and for the purpose of appeal revision etc., to be a District Court or as the case may be, such subordinate Civil/Criminal Court for the area to which the jurisdiction of the Ad hoc Court extends.

CHAPTER IV MISCELLANEOUS

7. *Transfer of cases to Ad hoc Courts and their disposal.*—(a) On after the commencement of this Act, the Sheristadars of all District Courts and other Subordinate Civil and Criminal Courts shall as soon as suits and proceedings of the nature specified in the schedule are filed, get orders from the Judge/Munsiff concerned for transfer of such cases to Ad hoc Courts and shall do so for trial and disposal.

(b) On receipt of records from the District and Subordinate Courts, the Ad hoc courts shall acknowledge the receipt of the records and enter the particulars in a register maintained by it as prescribed.

(c) Trial and disposal of cases transferred to Ad hoc Courts shall be conducted in accordance with the procedure followed by the ordinary Civil and Criminal Courts under the Civil Procedure Code and the Criminal Procedure Code.

(d) On disposal of the suits and proceedings the Ad hoc courts shall furnish a free copy of the order, judgment or decree passed in the suit or proceedings to the parties and forward the full records to the court from which the case was transferred to the Ad hoc Court.

8. *Special powers of the Ad hoc courts.*—(1) Ad hoc court may go on circuit and hold courts at such places and on such dates as determined by the Ad hoc Court after giving due notice to all parties concerned sufficiently early.

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(2) Ad hoc courts may function at such places and at such times as may be fixed by the court with prior notice to all parties and all others concerned.

9. *Custody of the records.*—The custody of the records of the cases referred to Ad hoc courts shall be with District court or the subordinate courts, Civil or Criminal as the case may be when they are sent back by the Ad hoc Courts after disposal of the cases. But it shall be the duty of the officer in charge of hearing of the cases before the Ad hoc court to ensure safe custody of the records of the cases pending in the Ad hoc court.

10. *The State Government's power to make rules.*—(1) The State

Government may, after consultation with the High Court, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the provisions contained in Sub-section (i), such rules may provide for all or any of the following matters, namely:—

- (a) The salary or honorarium and other allowances payable to and terms and conditions of Judges/members of the Ad hoc courts.
- (b) The salary or honorarium and other allowances payable to the staff attached to the Ad hoc courts.
- (c) The hours of work of the Ad hoc courts if the Ad hoc courts sit as Evening Courts after the regular office hours of the courts.
- (d) The procedure to be followed while the Ad hoc courts go on circuit and hold courts.
- (e) Any other matter which is required to be, or may be prescribed by rules.

(3) Every rule under this Act shall be laid as soon as may be after it is made or issued before the legislative assembly 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 to which it is so laid or the session immediately following, the legislative assembly makes any modification in the rule or decides that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

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Statement of Objects and Reasons

The ordinary Civil and Criminal Courts in the State are faced with heavy arrears of work and consequent delay in the disposal of cases has become inevitable. The arrears are mounting day by day and if the present situation continues without being remedied, the faith of the public in the judiciary will be eroded. Hence it has become necessary to enact a Bill for creating Ad hoc courts manned by retired District Judges, Sub Judges and Munsiffs. The Bill also envisages establishing Evening Courts after the usual working hours. Ad hoc Courts are also permitted to go on circuit and hold sitting in different places at different times. Through the functioning of the Ad hoc and Evening courts, a considerable volume of work in the regular courts can be reduced with minimum administrative expenses. Hence this Bill.

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