

**Fifteenth Kerala Legislative Assembly**  
**Bill No. 42**

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**THE KERALA PANCHAYAT RAJ (AMENDMENT)**  
**BILL, 2021**

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2021

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[Translation in English of “2021-ലെ കേരള പഞ്ചായത്ത് രാജ് (ഭേദഗതി) ബിൽ”  
published under the authority of the Governor.]

**THE KERALAPANCHAYAT RAJ ( AMENDMENT)**

**BILL, 2021**

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***BILL***

*further to amend the Kerala Panchayat Raj Act, 1994.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Panchayat Raj Act, 1994 (13 of 1994) for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Panchayat Raj ( Amendment) Act, 2021.

(2) Save as otherwise provided in this Act,—

(a) section 3 shall be deemed to have come into force on the 4<sup>th</sup> day of May, 2020;

(b) sub-section (1) of section 4 and section 5 shall be deemed to have come into force on the 30<sup>th</sup> day of September, 2020;

(c) sub-section (2) of section 4 shall be deemed to have come into force on the 19<sup>th</sup> day of November, 2020;

(d) section 2 and sections 6 to 11 shall be deemed to have come into force on the 12<sup>th</sup> day of February, 2021.

2. *Amendment of section 2.*— In the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act) in section 2,—

(i) after clause (xvi), the following clause shall be inserted, namely:—

“(xxvia) “ empanelled licensee” means any institution, architect, engineer, building designer, supervisor or town planner, as the case may be, registered under the Regional Joint Director of Urban Affairs Department or deemed to be registered under the Kerala Panchayat Building Rules, 2019 and empanelled in such manner, as may be prescribed by the Local Self Government Department for the purpose of issuing self-certification.”;

(ii) after clause (xxii), the following clause shall be inserted, namely :—

“(xxiia) “ low risk buildings” include residential buildings under Group A1 occupancy, with built-up area of less than three hundred square meters and height less than seven meters and limited to two storeys, hostel, orphanage, dormitory, old age home, seminary under Group A2 occupancy having built-up area less than two hundred square meters, educational buildings under Group B occupancy having built-up area less than two hundred square meters, Group D occupancy buildings where persons congregate for religious and patriotic purposes having built-up area less than two hundred square meters, Group F occupancy buildings having built-up area less than one hundred square meters, Group G1 occupancy buildings without any nuisance and not dangerous and having built-up area less than one hundred square meters.”;

(iii) after clause (xxvi), the following clause shall be inserted, namely:—

“(xxvii) “self-certification” means self-certification issued jointly by the owner of the building and the empanelled licensee to the effect that, the building plan and site plan for the construction or reconstruction of the low risk buildings, are in accordance with the provisions of the Act and rules, for the time being in force, and any lawful direction issued, any stipulation as to the standard of specifications, laws, rules and directions. ”.

3. *Amendment of section 6.*—In the principal Act, in sub-section (3) of section 6,—

(i) in clause (a), for the words “ less than fourteen or more than twenty four”, the words “less than thirteen or more than twenty three” shall be substituted;

(ii) in clause (b), for the words “ less than fourteen or more than twenty four”, the words “less than thirteen or more than twenty three” shall be substituted;

(iii) in clause (c), for the words “less than seventeen or more than thirty three”, the words “less than sixteen or more than thirty two” shall be substituted.

4. *Amendment of section 70.*—In section 70 of the principal Act,—

(1) the existing provision shall be numbered as sub-section (1) thereof, and in the proviso to sub-section (1) as so numbered, for the figures, word and letters “ 7 a.m. and 5 p.m.” the figures, word and letters “7 a.m. and 6 p.m.” shall be substituted;

(2) after sub-section (1) as so numbered, and the proviso thereunder, the following sub-section shall be inserted, namely:—

“(2) The last one hour of the time fixed under sub-section (1) shall be used for voting by such classes of persons as specified under section 74A.”.

5. *Insertion of new section after section 74.*—In the principal Act, section 74A shall be renumbered as section 74B, and before section 74B as so renumbered, the following section shall be inserted, namely:—

“ 74A. *Special provision for postal ballot to certain classes of persons.*—(1) Without prejudice to the generality of the provisions contained in section 74, the following classes of voters shall have the opportunity to give their vote by postal ballot in such manner, as may be prescribed, namely:—

(a) any person who is affected by epidemic disease;

(b) any person in quarantine;

*Explanation.*—For the purpose of this section,—

(i) “epidemic disease” means epidemic disease as defined under clause (a) of section 2 of the Kerala Epidemic Diseases Act, 2021 (4 of 2021) and notified by the Government under section 3 of the said Act from, time to time;

(ii) “ person in quarantine ” means a person who is in quarantine in the State as per the guidelines issued by the Ministry of Health and Family Welfare, Government of India, from time to time, to prevent the spread of epidemic diseases.

(2) A voter as specified in any of the classes under sub-section(1) may give his vote by postal ballot or may give his vote directly at the polling station, at the time fixed under sub-section (2) of section 70.

*Note:*—The provisions of sub-section (2) shall be deemed to have come into force on the 19<sup>th</sup> day of November 2020.”.

6. *Amendment of section 235 F.*—In section 235 F of the principal Act,-

(i) in sub-section (1), after the word “hut”, the words “or low risk buildings ” shall be inserted;

(ii) in clause (a), for the words “an application in writing”, the words “an application in writing or through online ” shall be substituted;

(iii) in clause (b), for the words “an application in writing”, the words “an application in writing or through online ” shall be substituted.

7. *Amendment of section 235 H.*—In section 235 H of the principal Act, after the words “re-construction of a building” the words “ including low risk buildings” shall be inserted.

8. *Amendment of section 235 I.*—In section 235 I of the principal Act, for the words “ within thirty days ” the words “within fifteen days” shall be substituted.

9. *Amendment of section 235 J.*— In section 235 J of the principal Act,—

(i) for the words, “thirty days”, the words “fifteen days” shall be substituted;

(ii) in the proviso, for the words “ thirty days”, the words “ fifteen days” shall be substituted.

10. *Insertion of new section 235K.*—After section 235K of the principal Act, the following section shall be inserted, namely:—

“ 235KA. *Application for the construction of low risk buildings.*—(1) Any person who intends to construct or reconstruct a low risk building, shall file an application to the Secretary, for approval of the building site and for permission to execute the work of such building, along with a self- certification, in such form and along with such documents, as may be prescribed.

(2) On receipt of an application under sub-section (1), complete in all respect, the Secretary shall, within five working days, issue an Acknowledgement Certificate, in such form, as may be prescribed.

(3) On receipt of an Acknowledgement Certificate under sub-section (2), such Acknowledgement Certificate shall be deemed to be approval of the building site and permission to execute the work of such building.” .

11. *Amendment of section 235 Z.*—After sub-section (2) of section 235Z of the principal Act, the following sub-sections shall be inserted, namely: —

“ (3) In the case of issue of self-certification by the empanelled licensee for the construction or reconstruction of low risk buildings, if the Registering Authority finds that the empanelled licensee issued the self-certification to such building in violation of the provisions of this Act or the rules made thereunder or any lawful directions issued, or provisions of any Act, for the time being in force, or concealing any fact, such registering authority may debar the empanelled licensee from practising in the State for a period of not less than five years, and after issuing a show cause notice to such licensee, a fine as provided in sub-section (4) may be realised from such licensee.

(4) Where a building is constructed or reconstructed in violation of the provisions specified in the self-certification, an amount of rupees two lakh each for building with built-up area upto one hundred square meters, four lakh rupees each for building with built-up area upto two hundred square meters, six lakhs rupees each for building with built-up area upto three hundred square meters, shall be realised as fine from such owner and empanelled licensee who have issued such self-certification after giving a show cause notice and considering the reply, if any, furnished by such owner or licensee.

(5) A person who is aggrieved by the actions taken or the orders issued by the Registering Authority, may file an appeal before the Government against such order or action within thirty days from the date of receipt of the order under sub-section (3).”.

12. *Repeal and saving.*—(1) The Kerala Panchayat Raj (Amendment) Ordinance, 2021 (134 of 2021) is hereby repealed.

(2) Notwithstanding 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 Act.

## STATEMENT OF OBJECTS AND REASONS

As the population of Kerala has been increased as per the Census of 2011, the ratio between the population and numbers of seats in Panchayats to be filled by election have increased, the number of seats in Panchayat was increased by one each as per the Kerala Panchayat Raj (Amendment) Act, 2020 (2 of 2020) by amending sub-section (3) of section 6 of the Kerala Panchayat Raj Act, 1994. Due to nation wide lock down declared as a preventive measure against the spread of COVID-19 epidemic and restrictions were in force, the delimitation process of wards could not be completed within the stipulated time. As social distancing was to be implemented, and the COVID-19 restrictions were in force, delimitation process of wards could not be completed. As the above process could not be completed in a time bound manner, and the elections to Local Self Government Institutions were to be conducted immediately, the Government have decided to amend sub-section (3) of section 6 of the Kerala Panchayat Raj Act, 1994 suitably, so as to maintain the number of seats of members of Panchayat in the Village Panchayat, Block Panchayat and District Panchayat as before the amendment by Act No. 2 of 2020.



2. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Panchayat Raj (Amendment) Ordinance, 2020 (32 of 2020) was promulgated by the Governor of Kerala on the 2<sup>nd</sup> day of May, 2020 and the same was published in the Kerala Gazette Extraordinary No. 1127 dated 4<sup>th</sup> day of May, 2020.

3. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which convened on 24<sup>th</sup> day of August, 2020.

4. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Kerala Panchayat Raj (Amendment) Ordinance, 2020 (68 of 2020) was promulgated by the Governor of Kerala on the 26<sup>th</sup> day of September, 2020 and the same was published in the Kerala Gazette Extraordinary No. 2224 dated 29<sup>th</sup> day of September, 2020.

5. As the polling has to be conducted complying the COVID-19 Protocol, it was not possible to complete the polling within the stipulated time as provided in the proviso to section 70 of the Kerala Panchayat Raj Act, 1994, the Government had decided to amend section 70 in such a way to provide that, the total period allotted on any one day for polling at an election “ shall not be less than eight hours between 7 a.m and 6 p.m” instead of “ shall not be less than eight hours between 7 a.m and 5 p.m” and also decided to insert a new section 74A after section 74 in order to provide postal ballot facility to the persons affected by COVID-19, and to those who are under quarantine.

6. As the Legislative Assembly of the State of Kerala was not in session, and the above proposals had to be given effect to immediately, the Kerala Panchayat Raj (Second Amendment) Ordinance, 2020 (69 of 2020) was promulgated by the Governor of Kerala on the 26<sup>th</sup> day of September, 2020 and the same was published in the Kerala Gazette Extraordinary No. 2232 dated 30<sup>th</sup> day of September, 2020.

7. As per section 74 A of the Act as amended by the above said Ordinance, postal ballot facility was provided to the persons affected by the epidemic diseases and also to the persons who are in quarantine. The Government have decided to bring suitable amendments in sections 70 and 74A so as to permit such persons to cast their vote in polling station during the last hour of the poll.

8. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Panchayat Raj (Third Amendment) Ordinance, 2020 (78 of 2020) was promulgated by the Governor of Kerala on the 19<sup>th</sup> day of November, 2020 and the same was published in the Kerala Gazette Extraordinary No. 2848 dated 19<sup>th</sup> day of November, 2020.

9. A Bill to replace the Kerala Panchayat Raj (Amendment) Ordinance, 2020 (68 of 2020) and the Kerala Panchayat Raj (Third Amendment) Ordinance, 2020 (78 of 2020) 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 convened on the 31<sup>st</sup> day of December, 2020 and also during its session which commenced on the 8<sup>th</sup> day of January, 2021, and ended on the 22<sup>nd</sup> day of January, 2021.

10. As the provisions of the Kerala Panchayat Raj (Amendment) Ordinance, 2020 (68 of 2020) and the Kerala Panchayat Raj (Third Amendment) Ordinance, 2020 (78 of 2020) had to be kept alive and the the Legislative Assembly of the State of Kerala was not in session, the Kerala Panchayat Raj (Amendment) Ordinance, 2021 (14 of 2021) was promulgated by the Governor of Kerala on the 9<sup>th</sup> day of February, 2021 and the same was published in the Kerala Gazette Extraordinary No. 653 dated 10<sup>th</sup> day of February, 2021.

11. As per the provision of section 235H of the Kerala Panchayat Raj Act 1994, the construction or reconstruction of a building shall not be commenced unless and until the Secretary has granted permission for the execution of work. In order to alleviate the hardships of the general public in building construction, to expedite the projects undertaken by the public authorities and as part of the measures taken in the industrial sector as part of the Ease of Doing Business, the Government have decided to include a category of low risk building and also decided to incorporate a provision for issuing an acknowledgement certificate within five working days which shall be deemed to be a permit for the construction of building, on filing an application for approval of the building site along with self-certification by bringing amendments to sections 2, 235F, 235H, 235I, 235J, 235Z of the Kerala Panchayat Raj Act, 1994 respectively and by inserting a new section 235 KA . It was also decided to realise fine from the

owners of the building who construct building in violation of the provisions of self-certification and also decided to reduce the period for obtaining permit for the construction of buildings other than the low risk buildings from 30 days to 15 days and also decided to bring consequential amendments in the Act.

12. As the Legislative Assembly of the State of Kerala was not in session, and as the above proposals had to be given effect to immediately, the Kerala Panchayat Raj (Second Amendment) Ordinance, 2021 (33 of 2021) was promulgated by the Governor of Kerala on the 12<sup>th</sup> day of February, 2021 and the same was published in the Kerala Gazette Extraordinary No. 728 dated 12<sup>th</sup> February, 2021.

13. A Bill to replace the Kerala Panchayat Raj (Amendment) Ordinance, 2021 (14 of 2021) and the Kerala Panchayat Raj (Second Amendment) Ordinance, 2021 (33 of 2021) 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 24<sup>th</sup> day of May, 2021 and ended on the 10<sup>th</sup> day of June, 2021.

14. As the provisions of the Kerala Panchayat Raj (Amendment) Ordinance, 2021 (14 of 2021) and the Kerala Panchayat Raj (Second Amendment) Ordinance, 2021 (33 of 2021) had to be kept alive and the the Legislative Assembly of the State of Kerala was not in session, the Kerala Panchayat Raj (Amendment) Ordinance, 2021 (56 of 2021) was promulgated by the Governor of Kerala on the 1<sup>st</sup> day of July, 2021 and the same was published in the Kerala Gazette Extraordinary No. 1928 dated 2<sup>nd</sup> day of July, 2021.

15. A Bill to replace the said Ordinance 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 22<sup>nd</sup> day of July, 2021, and ended on the 13<sup>th</sup> day of August , 2021.

16. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Kerala Panchayat Raj (Amendment) Ordinance, 2021 (134 of 2021) was promulgated by the Governor of Kerala on the 23<sup>rd</sup> day of August, 2021 and the same was published in the Kerala Gazette Extraordinary No. 2495 dated 25<sup>th</sup> day of August, 2021.

17. The Bill seeks to replace Ordinance No. 134 of 2021 by an Act of the State Legislature.

## FINANCIAL MEMORANDUM

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

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause (xvia) of section 2 of the principal Act proposed to be inserted by Clause 2 of the Bill, seeks to empower the Government to prescribe the manner of empanelling institution, architect, engineer, building designer, supervisor or town planner for the purpose of issuing self-certification.

2. Sub-section (1) of section 74A of the principal Act proposed to be inserted by Clause 5 of the Bill, seeks to empower the Government to prescribe the manner of casting postal ballot by any person affected by epidemic disease and persons who are in quarantine.

3. Sub-section (1) of section 235KA of the principal Act proposed to be inserted by Clause 10 of the Bill, seeks to empower the Government to prescribe the form and documents to be furnished along with an application for the approval of the building site and for permission to execute the work of such building, by a person who intends to construct or reconstruct a low risk building. Sub-section (2) of the said section empowers the Government to prescribe the manner of the form for issuing the acknowledgement certificate to the applicant.

4. The matters in respect of which rules may be made or notification may be issued are matters of procedure and are of routine or administrative in nature. Further, the rules, after they are made, are subject to scrutiny by the Legislative Assembly. The delegation of legislative powers is, thus, of a normal character.

M. V. GOVINDAN MASTER.

EXTRACT FROM THE KERALA PANCHAYAT RAJ ACT, 1994  
(13 of 1994)

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

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(xvi) ‘electoral right’ means the right of a person to stand or not to stand as or to withdraw or not to withdraw from being, a candidate or to vote at an election;

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(xxii) ‘*Local Authority*’ or *Local Self-Government institution*’ means a Panchayat at any level constituted under Section 4 of this Act or a Municipality constituted under Section 4 of the Kerala Municipality Act, 1994 ( 30 of 1994)

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(xxvi) ‘*Panchayat area*’ means the area within the territorial jurisdiction of a Panchayat;

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6. *Strength of Panchayats.*—(1) The total number of seats in a Village Panchayat, a Block Panchayat and a District Panchayat to be filled by direct election shall be notified by the Government in accordance with the scale specified in sub-section (3) with reference to the population of the territorial area of the Panchayat concerned.

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(3) The number of seats to be notified under sub-section (1) or sub-section (2) shall not,—

(a) in the case of Village Panchayat, be less than fourteen or more than twenty four;



235 F. *Application to construct or re-construct buildings.*—(1) Where any person intends to construct or re-construct a building other than a hut within a Village Panchayat area he shall send to the Secretary,—

(a) an application in writing together with a site plan of the land for the approval of the site and;

(b) an application in writing together with a ground plan, elevation and sections of the building and specification of the work for permission to execute the work.

*Explanation.*—Building in this sub-section shall include a wall on the boundary of the public street or any height abutting any public street.

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235H. *Prohibition of commencement of work without permission.*—The construction or re-construction of a building shall not be commenced unless and until the Secretary has granted permission for the execution of the work.

235I. *Period within which approval or disapproval shall be intimated.*—Within thirty days after the receipt of an application made under Section 235 F for approval of a site or of any information, or further information required under any rules or bye-laws, the Secretary shall by an order in writing either approve or refuse to approve the site and shall intimate the fact to the applicant.

235J. *Period within which Secretary is to grant or refuse to grant permission to execute work.*—Within thirty days after the date of receipt of an application made under Section 235 F for permission to execute any work or of any information or of document or further information or documents required under any rules or bye-laws, made under this Act, the Secretary shall by an order in writing either grant or refuse to grant such permission on any of the grounds mentioned in Section 235 L and shall intimate the fact to the applicant in writing:

Provided that the said period of thirty days shall not commence until the site has been approved Section 235I.

235K. *Reference to Village Panchayat where Secretary makes delay in granting or refusing approval or permission.*—(1) Where, within the period specified in Section 235I of 235 J, as the case may be, the Secretary has neither given nor refused approval of a building site, or permission to execute any work, as the case may be, the Village Panchayat shall be bound on the written request of the applicant, to determine whether such approval or permission should be given or not.

(2) Where the Village Panchayat does not, within one month from the date of receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given, and the applicant may proceed to execute the work. But it shall not be so as to contravene any of the provision of this Act or any rules or bye-laws made thereunder.

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235 Z. *Penalty for unlawful construction of building.*—(1) Where the construction, re-construction or alteration of any building,

(a) is commenced without the permission of the Secretary; or

(b) is carried on or completed otherwise than in accordance with the particulars on which such permission is based; or

(c) is carried on or completed in contravention of any unlawful order or in breach of any provision contained in this Act or in any rule or bye-law made thereunder or of any direction or requisition lawfully given or made; or

(d) about which alteration or addition required by notice issued under Section 235 N is not duly made; or

(e) about which any person to whom a direction, given by the Secretary under Section 235 W, fails to obey such direction, the owner of the building or such person, as the case may be, shall, on conviction be liable to a fine which may extend to rupees ten thousand in the case of a building and to rupees one thousand in the case of a hut and to a further fine of rupees one thousand in the case of a building and rupees ten in the case of a hut for each day of continued offence:



Provided that the construction or reconstruction of the building may be regularized under Section 235 W and if so regularized by the Secretary, no person shall be made liable for conviction under this sub-section.

(2) Where the violation of any stipulation as to the standard or specification mentioned in any of the provisions of this Act or any rules made thereunder or any lawful directions in respect of the construction of a building poses threat to public safety or danger to human life, the owner or the builder of such building shall on conviction be punishable with imprisonment for a term which may extend up to one year.

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