THE KERALA CONSERVATION OF PADDY LAND AND WETLAND ACT, 2008

(Act 28 of 2008)

Amended by Act 14 of 2011

An Act to conserve the paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system, in the State of Kerala

Preamble.— WHEREAS, it has come to the notice of the Government that indiscriminate and uncontrolled reclamation and massive conversion of paddy land and wetland are taking place in the State;

AND WHEREAS, there is no existing law to restrict effectively, the conversion or reclamation of paddy land;

AND WHEREAS, the Government are satisfied that it is expedient, in public interest, to provide for the conservation of paddy land and wetland and to [restrict the conversion] or reclamation thereof, in order to promote agricultural growth, to ensure food security and to sustain the ecological system in the State of Kerala;

Be it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Kerala Conservation of Paddy Land and Wetland Act, 2008.

    (2) It extends to the whole of the State of Kerala.

    (3) It shall come into force at once.


Statement of Objects and Reasons

Act 28 of 2008

Till recently, Kuttanad, Palakkad and such other paddy fields of Kerala were remained as the granaries of the State of Kerala. But the situation has changed for the last few decades. There has been an alarming shift from rice and subsistence food farming to cash crops. The area under rice cultivation has drastically declined from above eight lakhs hectares in the early 1970s to nearly two lakhs hectares in 2000s mainly due to conversion of paddy lands. Kerala is importing more than eighty per cent of its rice requirements from other States. Several social, economical and cultural changes have led to conversion of paddy fields. The paddy fields throughout Kerala is facing severe threats as they are being converted to cash crop plantations. Even the marshes are filled for new constructions. Majority of landowners feel that sustained paddy cultivation is not economically viable and they aspire to shift into more remunerative crops and cropping patterns. Paddy field conversion had led to enormous ecological degradation in the watershed region, reduction in humus formation, intensification of soil erosion that affected the fertility of soil, reduction in water level in wells, ponds etc. The ecological system loses its quality irrecoverably forever and the entire society is the loser. It has led to loss of direct and indirect employment to farm workers and rural women. The rural poor will have to experience acute water shortage than at present. They lost access to nutrient-rich, low cost food materials, which had been available in and around the paddy fields. Now majority are unaware of the true value of the loss of resources and its consequences on the livelihood conditions and gravity of the problem. It is very likely that the remaining paddy lands would be vanished in the near future, if the present policy is continued.

(2) In the wider interest of the society and mankind, paddy lands are to be preserved. Paddy is an amphibious crop that can be cultivated along with the maintenance of ecological functions of wetland and hence paddy cultivation is to be preserved and promoted at any cost.

(3) Similarly, wetlands are some of the most diverse ecosystems on earth as they have both land and aquatic characteristics. Different plant species of a wetland provide habitat for a variety of animal communities. In addition to
case law

Public interest litigation: Construction of cricket stadium at Edakochi: Direction sought not to allow construction in the reclaimed lands. Held, construction activity of the proposed stadium should be pursued only on obtaining statutory clearance from various authorities concerned. Thampi C. G. and Another v. Union of India and Others — 2011 (1) KHC 764 (DB).

Effect of Paddy Land Act on orders passed under Kerala Land Utilisation Order: Orders issued under the Kerala Land Utilisation Order are not affected by the enactment of Paddy Land Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Order issued under the Kerala Land Utilisation Order allowing conversion: Impact of provisions of Paddy Land Act, 2008. Held, orders issued under the Kerala Land Utilisation Order cannot be taken as inoperative or is nullified by the provisions of the Paddy Land Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Deeds and documents: Description of property as wetland in the document. Whether the property answers the definition of wetland under the Paddy Land Act. Held, usually in documents, nomenclature "wetland" is used in contra distinction to "dry land" relating to transaction of properties. Mere mention of wetland in the document cannot mean that it answers the description of wetland under the Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Interference of Court when there is statutory remedy: When writ petition is entertained and interim orders passed, it cannot be said that Writ Court has no jurisdiction. When serious questions like interpretation of provisions of Act arise for consideration, Writ Court is duty-bound to consider and pass orders. Kaipadath Property Development Company (P) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Micro organisms and invertebrates, reptiles are common in wetland. Many amphibians live in wetland during at least part of their life cycle. A large number of fish species require wetland habitat for spawning, feeding, or protection from predation. Birds are attracted to wetland by the abundant food resources and sites for nesting, resting and feeding. Inland wetland help control floods by storing water and slowly releasing it to downstream areas after the flood peak.

(4) Kerala has a total wetland area of 127930 hectares, out of which an area of 34200 is in the 'inland wetland' and 93730 hectares is in the 'coastal wetland'. We have three fresh water lakes at Pookot in Wayanad District, Sashamkotta in Kollam District and Vellayani in Thiruvananthapuram District. All the wetland including fresh water lakes are facing severe threat as they are drained, cleared and reclaimed for the use of agriculture, settlement, industrial and several other purposes. This behavior will certainly disturb the ecological balance and scarcity for drinking water, drying up of perennial water sources and saline intrusion in the sweet water wells.

(5) Therefore, it is proposed to bring a new legislation covering various aspects of the issue to conserve, regulate the reclamation and conversion of paddy fields and wetland in Kerala.

(6) The proposed enactment will facilitate conservation of paddy land and wetland; to regulate illegal and vast reclamation of paddy land and other wetland; indiscriminate clay mining from the paddy field; and to improve the overall ecological conditions of the State.

(7) The Bill seeks to achieve the above objects. (Published in K. G. Ext. No. 1694 dt. 17/09/2007).

Act 14 of 2011

As per Section 12 of the Kerala Conservation of Paddy Land and Wetland Act, 2008 it has been authorised to appoint an officer of the Revenue Department not below the rank of Revenue Divisional Officer as the authorised officers. It is the said authorised officers to inspect whether any provisions of the Act has been violated and also to take initial steps to seize and confiscate any vehicles or instruments used or intended to be used. The power to enter any premises and to inspect for the said purpose is also with such officer. Usually the illegal reclamation are reported before the Village Officer. Since the actions taken as per this by the Village Officer or Deputy Tahsildar or Tahsildar is not in accordance with the existing provisions, the actions taken by such officers will become violative of law. Further, since the officers below the Revenue Divisional Officer do not now have the power to enter into any premises and to conduct inspection and seize the vehicles and instruments etc. used against the provisions of the Act as per Section 19 of the Act also, the Government consider it necessary to empower the Government to appoint an officer not below the rank of Village Officer for the purposes of the said sections. As per Section 13 of the Act, the Collector is empowered only to take appropriate steps to restore to the original position of any paddy land reclaimed. The Government have decided to give this power in the matter of reclamation of wetland also. The Government consider that the said amendments are necessary to implement the provisions of the Act more effectively.

As the Legislative Assembly of the State of Kerala was not in session and the above proposal had to be given effect to immediately, the Kerala Conservation of Paddy Land and Wetland (Amendment) Ordinance, 2011 (38 of 2011) was promulgated by the Governor of Kerala on the 27th day of April, 2011 and the same was published in the Kerala Gazette Extraordinary No. 929 dated the 28th day of April, 2011.

The Bill seeks to replace Ordinance No. 38 of 2011 by an Act of the State Legislature. (Published in K. G. Ext. No. 1392 dt. 16/07/2011).
Description of the land in the revenue records as 'nilam', whether conclusive to hold that land is a paddy land: Mere description of the property on the revenue record by itself may not be conclusive and may not estop a party from producing materials to show otherwise. Question whether a land is a 'nilam' has to be adjudged based on materials on record. Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).

Whether provisions of the KLU are valid after the enactment of the Paddy Land Act: Except in the case of paddy land and wetland, the provisions contained in the KLU still survives in respect of the other food crops. Restriction imposed under KLU in respect of other food crops and conversion of such land will be continued to be governed by the provisions contained in the KLU. Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).

Application under Kerala Land Utilisation Order: If an application is made under the Kerala Land Utilisation Order, the same is not liable to be dismissed before an enquiry is held by the concerned authority under the Act and a finding is entered that the land in respect of which the application is made is a paddy land or a wetland. If the land is not found to be paddy land or wetland, application has to be considered as per the provisions of the KLU. Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).

Order issued under the Kerala Land Utilisation Order allowing conversion: Impact of provisions of Paddy Land Act, 2008. Held, orders issued under the Kerala Land Utilisation Order cannot be taken as inoperative or is nullified by the provisions of the Paddy Land Act. Kaidath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

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

(i) “Collector” means the Collector of the district and includes any other officer appointed or authorised by the Government to perform the functions of the Collector;
(ii) “Committee” means the Local Level Monitoring Committee constituted under Section 5;
(iii) “conversion” means the situation whereby, land that has been under paddy farming and its allied constructions like drainage channels, ponds, canals, bunds and ridges are put to use for any other purpose;
(iv) “district” means a revenue district;
(v) “District Level Authorised Committee” means the District Level Authorised Committee to be constituted under Section 9;
(vi) “drainage channel” means the inlets or outlets for the flow of water to or from a paddy land;
(vii) “Government” means the Government of Kerala;

Case Law

Paddy land and wetland: Filling up of 'Kole' land. Whether land can be ordered to be reclaimed. Held, wetland used for any paddy cultivation does not fall under paddy land or wetland. Paddy lands and rivers are specifically excluded from the definition of "wetland". Before passing order directing restoration of land to its earlier position, the District Collector will have to verify whether the land in question was a wetland or a land which was cultivated with paddy. Kole land which is a wetland cannot be ordered to be reclaimed. Kaidath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

(viii) “holder of paddy land” means a person holding any paddy land whether as owner or under a legal right;
(ix) “intermediary crop” means a short term crop, cultivated in between two paddy cultivation periods in an interchangeable manner according to the ecological nature of the paddy land like vegetables, pulses, plantain, fish, etc.;

Case Law

Paddy land: Meaning of: Paddy land also includes lands suitable for paddy cultivation but uncultivated and left fallow. Hence, unsuitability of not being cultivated and left fallow cannot be a reason to exclude such lands from the definition of 'paddy land'. Adani Infrastructure & Developers Pvt. Ltd. Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

Land not cultivated with paddy but has growth of other plants and trees: Whether would come under the definition of paddy land: Any paddy land left uncultivated, would be rendered uncultivable
for reason of undergrowth, water logging, mud clumping etc. and would result in growth of plants and trees. However, such growth of plants and trees by itself cannot take the land outside the definition of paddy land. Conversion of land would require a deliberate act of reclamation. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

Land suitable for paddy cultivation but uncultivated and left fallow: When can fall outside the definition of paddy land: Lands though paddy land in village records, if locked on all four sides with lands which were reclaimed before the coming into force of Paddy Land Act, such lands cannot be said as suitable for cultivation and may come outside the definition of paddy land. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

(x) “Kudumbasree units” means the Kudumbasree unit functioning under the State Poverty Eradication Mission of the Government and includes the Self Help Groups;

(xi) “Local Self Government Institution” means a Panchayat as defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality as defined in the Kerala Municipality Act, 1994 (20 of 1994);

(xii) “paddy land” means all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy cultivation but uncultivated and left fallow, and includes its allied constructions like bunds, drainage channels, ponds and canals;

Case Law


Mere description of an item of property as ‘Nilam’ (paddy field): Kerala Conservation of Paddy Land and Wetland Act, 2008, deals with the conversion of lands, which are wetland or paddy fields, on the basis of the actual fact situation and not depending on the description of the property in the revenue records. Mere description of an item of property as ‘Nilam’ (paddy field) or wetland, in the revenue records, is insufficient to assume that the land cannot be used for any purpose other than those for which a paddy field or wetland can be used. Shahanaz Shukoor v. Cheflunnur Grama Panchayat — 2009 KHC 4499 : 2009 (3) KLT 899.

(xiii) “Padasekhara Samithi” means an organisation of farmers of a locality registered under any law for the time being in force, with the objective of promoting cultivation of paddy and allied crops;

(xiv) “public purpose” means purposes for the schemes undertaken or financed by the Centre-State Governments, Government-Quasi-Government Institutions, Local Self Government Institutions, Statutory Bodies and other schemes as may be specified by the Government from time to time;

(xv) “reclamation” means such act or series of acts whereby a paddy land or a wetland as defined in this Act is converted irreversibly and in such a manner that it cannot be reverted back to the original condition by ordinary means;

(xvi) “State” means the State of Kerala;

(xvii) “State Level Committee” means the State Level Committee constituted under Section 8.

(xviii) “wetland” means land lying between terrestrial and aquatic systems, where the water table is usually at or near the surface or which is covered by shallow water or characterized by the presence of sluggishly moving or standing water, saturating the soil with water and includes backwaters, estuary, fens, lagoon, mangroves, marshes, salt marsh and swamp forests but does not include paddy lands and rivers;

(xix) “year” means a Malayalam calendar year.
3. Prohibition on conversion or reclamation of paddy land.— (1) On and from the date of commencement of this Act, the owner, occupier or the person in custody of any paddy land shall not undertake any activity for the conversion or reclamation of such paddy land except in accordance with the provisions of this Act.

(2) Nothing contained in sub-section (1) shall apply to the cultivation of any intermediary crops that are cultivated without changing the ecological nature of that paddy land or the strengthening of the outer bunds for protecting the cultivation.

**Case Law**

**Building permit : Rejection of : Whether justified:** If land in question was converted prior to the enactment of Paddy Land Act, property in question cannot be described as ‘paddy field’ or ‘wetland’ coming within the purview of the said Act. Building permit cannot be rejected based on the description of land contained in possession certificate or revenue records. Grant of building permit need be decided taking into consideration ground reality existing. Mohammed Abdul Basheer C. P. v. State of Kerala and Another — 2012 (3) KHC 489 : 2012 (3) KLT 86.

**Conversion of land classified as paddy land : Permissibility of:** Under Paddy Land Act, conversion, if at all, can only be for putting up a residential house for the owner and that too, to the restricted extent permissible. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

**Conversion:** No conversion could be carried on ‘paddy lands’ by any order issued under KLU Order after the Paddy Land Act came into force. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

**Rejection of building permit for the reason that document is registered after 19/01/2009 and land in question comes under Paddy Land Act: Correctness of:** Merely because the property is described as paddy field in the Revenue records, property cannot be treated as one coming under Paddy Land Act. Hence, before rejecting building permit, present condition of the land has to be ascertained. Smijo K. Sunny and Another v. State of Kerala and Another — 2012 (4) KHC 909.

**Property is a dry land situated in a thickly populated residential area : Wrongly described as wetland (nilam) in title deed and in Basic Tax Register : Whether will come under the Paddy land Act:** Held, since the certificates issued by the Village Officer and the Agricultural Officer shows that the land is a dry land, merely because the property is described as a nilam in the documents, provisions of the Paddy Land Act will not apply. Since there is no cultivation, Land Utilisation Order also will not apply. Land Utilisation Order. Jalaja Dileep v. Revenue Divisional Officer and Others — 2012 (3) KHC 273 : 2012 (3) KLT 333 : ILR 2012 (3) Ker. 601 : 2012 (3) KLT 342.

**Rampant conversion of agricultural land, in spite of laws to prevent such conversion :**

**Deprecated by Court:** Authorities should take stern steps to implement the provisions of law. Killimangalam-Paanjaal 5th Ward v. State of Kerala and Others — 2012 (3) KHC 749 : 2012 (4) KLT 63 : 2012 (4) KLT 18 (Reversed in 2012 (4) KHC 568).

**Paddy land converted prior to the commencement of the Act: Manner to be dealt with:** Those who have converted paddy land prior to the commencement of the Act cannot be called upon to restore such land to paddy land under this Act. Jafarkhan v. K. A. Kochumakkar and Others — 2012 (1) KHC 523 : 2012 (1) KLT 491 : 2012 (1) KLT 607 : ILR 2012 (1) Ker. 535 (DB).

**Wetland or Paddy land not suitable for cultivation of paddy:** Whether such land can be converted: Court opines that wherever paddy or wetland has become unfit for cultivation viably, such land should be permitted to be converted for suitable use instead of allowing it to be retained as wasteland. Government directed to look into the matter. Jafarkhan v. K. A. Kochumakkar and Others — 2012 (1) KHC 523 : 2012 (1) KLT 491 : 2012 (1) KLT 607 : ILR 2012 (1) Ker. 535 (DB).

**Conversions of Paddy land or wetland happening prior to the commencement of the Act, that is before 12/08/2008:** In such cases there is no violation of the provisions of the Act. Violation under the Act can be said to happen only if such conversion takes place after the commencement of the Act. Jafarkhan v. K. A. Kochumakkar and Others — 2012 (1) KHC 523 : 2012 (1) KLT 491 : 2012 (1) KLT 607 : ILR 2012 (1) Ker. 535.

**Application for conversion of wetland:** Any application for conversion of wetland has to be done under the provisions of Kerala Conservation of Paddy Land and Wetland Act and not under Kerala Land Utilisation Order. Hajee Abubacker and Another v. Revenue Divisional Officer, Palakkad — 2009 (4) KHC 90 : 2009 (4) KLT 49.

**Land lying without any agricultural operation for more than 20 years : Application claiming exemption : Procedure to be followed:** Authorities shall first consider whether the land is paddy land or
wet land. If it is found that it is paddy land, then the plea for conversion shall be dealt with in accordance with Act 28 of 2008. If it is found that it is not paddy land or wet land, the application shall be dealt with under the provisions of the Land Utilisation Order. Jayakrishnan v. District Collector and Others — 2008 (4) KHC 514 : 2008 (2) KLD 888 : 2009 (1) KLT 123.

Removal of clay from paddy fields: Any permission to remove clay from any paddy field should not be dealt with casually. Competent authority should always bear in mind the possibility of the said land being reclaimed immediately after the licensing period and render it suitable for paddy cultivation. Court issuing directions to be followed for removal of clay from paddy fields. Strict compliance of the direction to be ensured by the authorities. Kairali Swayam Sahaya Sangam v. State of Kerala and Others — 2009 (2) KHC 312.

Whether permission under Land Utilisation Order is necessary for construction: No permission under the Land Utilisation Order is necessary for any activity of construction or use of any land in the residential use zone or any other zone in the town planning scheme. Town Planning Act, 1108. Reliance Industries Ltd. and Others v. The Commissioner of Land Revenue and Others — 2007 (2) KHC 346.

Applicability of the Act: Act is confined to paddy land and wetland alone. No conversion or reclamation of paddy land is permissible except in accordance with the provisions of the Act. Act also prohibits conversion or reclamation of wetland and removal of sand therefrom, from the date of commencement of the Act. Praveen K. v. Land Revenue Commissioner, Thiruvanantapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).

Application filed under Land Utilisation Order: Whether to be considered. Once the Paddy Land Act has come into force, all pending applications for conversion on have to be dealt under the Paddy Land Act. Mere pendency of the application is of no consequence. Praveen K. v. Land Revenue Commissioner, Thiruvanantapuram and Others — 2010 (2) KHC 499 : 2010 (2) KLT 617 (DB).

There are no provisions in Act 28/2008 whereby the permissions granted by the Kerala Land Utilisation Order has been nullified: Permission was granted prior to the coming into force of the said Act. There is nothing in law which prohibits the Revenue Divisional Officer to pass orders granting extension of the conditions provided in Ext. P4. Mohanan v. R.D.O. — 2010 KHC 6218 : 2010 (3) KLT 67.

Whether there is prohibition for conversion: There is no total prohibition for allowing conversion as far as paddy lands are concerned. Mohanan v. R.D.O. — 2010 KHC 6218 : 2010 (3) KLT 67.

4. Incentives for paddy cultivation.— The Government, shall take suitable measures, from time to time, in order to assist the farmers to augment the production of paddy in the State.

5. Constitution of Local Level Monitoring Committee.— (1) There shall be a Local Level Monitoring Committee in each Panchayat or Municipality, consisting of the members specified in sub-section (2), for the purpose of monitoring the implementation of the provisions of this Act.

(2) The composition of the Committee shall be as follows:—

(i) The President or Chairperson/Mayor of the Grama Panchayat or the Municipality or the Corporation, as the case may be;  
Chairman

(ii) The Agricultural Officer/Officers having jurisdiction in the Grama Panchayat or Municipality/Corporation;  
Member/Members

(iii) Village Officer/Officers having jurisdiction in the said area;  
Member/Members

(iv) Three representatives of farmers in the Panchayat/ Municipality/Corporation to be nominated in such manner, as may be prescribed.  
Members

The Agricultural Officer shall be the Convenor of the Committee.

(3) The Committee shall have the following powers, namely:—

(i) Subject to the provisions of this Act, to recommend to the State Level Committee or District Level Authorised Committee, as the case may be, for the reclamation of paddy land, for public purpose or for construction of residential building for the owner of the paddy land:

Provided that the Committee shall not recommend for filling of paddy land of more than ten cents in a Panchayat or five cents in a Municipality/Corporation, as the case may be, for the construction of residential building for the owner of the paddy land;
(ii) to inspect the paddy land situated within the jurisdiction of the Committee to monitor whether the provisions of this Act are being complied with and to report to the Revenue Divisional Officer regarding violations, if any, of the provisions of this Act;

(iii) to examine the complaints received from the public regarding the attempts to violate the provisions of this Act and to intervene in the issue to prevent such violation;

(iv) to examine the reason for keeping the paddy land fallow and to suggest remedial measures so as to persuade the holder of paddy land to cultivate it with paddy or any intermediary crops;

(4) The Committee shall perform the following functions, namely:

(i) to prepare the data bank with the details of the cultivable paddy land and wetland, within the area of jurisdiction of the Committee, with the help of the map prepared or to be prepared by the State Land Use Board or Centre-State Science and Technology Institutions on the basis of satellite pictures by incorporating the survey numbers and extent in the data bank and get it notified by the concerned Panchayat/ Municipality/Corporation, in such manner as may be prescribed, and exhibit the same for the information of the public, in the respective Panchayat/Municipality/ Corporation Office and in the Village Office/Offices;

(ii) to make alternate arrangements under Section 16 where a paddy land is left fallow without taking steps in spite of the instructions given by the Committee under item (iv) of sub-section (3);

(iii) to prepare detailed guidelines for the protection of the paddy lands/wetlands in the areas under the jurisdiction of the Committee;

(iv) to collect the details of the paddy land within the area of jurisdiction of the Committee, reclaimed in contravention of the provision of any law for the time being in force, before the date of commencement of this Act and to give the report to the Revenue Divisional Officer;

(v) to perform such other functions, as may be prescribed from time to time.

(5) The quorum for a meeting of the Committee shall be three and it shall meet as and when required and the venue for the meeting shall be the respective Panchayat Office and the time of meeting shall be fixed by the Chairman.

(6) The Committee may decide the procedure for its meetings and the concerned Agricultural Officer shall keep the proper minutes of the meeting signed by every person attended.

Case Law

Report of Local Level Monitoring Committee cannot be considered as a final order: There is no appeal or remedy provided under the Act against the decision/report of the Local Level Monitoring Committee. Such report can only be taken as a recommendation to the District Level Authorised Committee, who can pass final orders. However, order of the District Level Authorised Committee is appealable before the Collector. Ali Akbar v. Maranchery Grama Panchayath and Others — 2013 (4) KHC 730 : 2013 (4) KLT 600.

Paddy land once included in the Data Bank, whether can be taken out of Data Bank: Authority preparing Data Bank has to look into the ground realities and decide upon the suitability for prospective cultivation of lands included in Data Bank. If preservation of lands as such, is found to be impracticable, Authority could delete such lands from Data Bank. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

Deletion of land from the draft Data Bank: Justification of: When it is found that a land is a paddy land, the Principal Agricultural Officer cannot delete such land from the draft Data Bank prepared by the Local Level Monitoring Committee. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

Preparation of Data Bank: Purpose of: Inclusion of a property in the Data Bank is necessary only for the District Collector to invoke his powers to order resumption of unauthorisedly reclaimed paddy land. For prevention as such, the District Collector is clothed with such powers, immediately on the Paddy Land Act coming into force. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.
Powers of Local Level Monitoring Committee (LLMC): Held, LLMC has power to examine whether the land included in the Data Bank is suitable for cultivation and whether prospective cultivation is feasible and whether such proposition is financially viable. If land is found not cultivable, it cannot be left unutilised as such. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

Permission not granted for developing property for the reason that land is included in the Data Bank: Whether entry in Data Bank can be corrected: What is now available is only a draft notification. Changes can be made depending upon the actual state of affairs which existed as on the date when the Act had come into force. Hence, if land in question requires to be deleted from the Data Bank, the aggrieved party has to approach Local Level Monitoring Committee. Castlerock Projects and Developers Pvt. Ltd. and Another v. Revenue Divisional Officer, Fort Kochi and Others — 2013 (3) KHC 219 : 2013 (2) KLD 216 : 2013 (3) KLT 545.

Land though classified as paddy land, surrounded by flats, villas and other reclaimed land: Manner to be dealt with: If the lands are cultivable, Authorities under the Paddy Land Act ought to put the same into cultivation. But, if it is not so possible, merely for the reason that Local Level Monitoring Committee included the land as paddy land in the draft Data Bank, the lands cannot be left unutilised. Adani Infrastructure & Developers Pvt. Ltd., Mumbai and Others v. State of Kerala and Others — 2014 (1) KHC 685 : 2014 (1) KLT 774.

Land not included in data bank prepared as per the Act: Held, such land cannot be classified as paddy land or wetland under the Act. Application for building permit cannot be rejected if the land in question is not included in the data bank. Ashraf K. K. and Others v. Eramala Grama Panchayath and Others — 2012 (3) KHC 332 : 2012 (3) KLT 849 : 2012 (3) KLT 523.


Local Level Monitoring Committee: Purpose of the Local Level Monitoring Committee is to monitor the implementation of the provisions of the Act. Committee is given power to inspect the "paddy lands" and find out any violation of the provisions of the Act regarding 'paddy land'. Committee is also having the power for taking action to cultivate the lands which are left fallow. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Prosecution proceedings: For any successful prosecution proceedings under the Act, there should be a data -bank of paddy land and wetland prepared and notified by the Committee under S.5(4). If land as mentioned in the data-bank is converted or reclaimed, only then, prosecution proceedings can follow. In the absence of such notification under S.5(4), there cannot be prosecution and conviction under the Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Contention that Act is a conditional legislation and unless a Local Level Monitoring Committee comes with a notification giving details of the paddy land and wetland, no action can be initiated: Notification is a must for taking remedial and penal actions such as restoration of the paddy land and initiating prosecution. However notification is not a must for taking preventive action under the Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Role of Local Level Monitoring Committee constituted under S.5 of the Act: Local Level Monitoring Committee has a vital role to play in the implementation of the Act. Local Level Monitoring Committee alone can monitor the implementation of the provisions of the Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Criminal proceedings initiated for alleged conversion of paddy land: Whether proper: Prosecution under the Act could stand only if the alleged conversion of land takes place on any date after the data-bank is prepared and notified in the manner prescribed under the Act — Firoze v. RDO, 2011 (1) KHC 615 : 2011 (1) KLD 448 : 2011 (1) KLT 868 : ILR 2011 (1) Ker. 980 : 2011 (2) KLT 130.

6. The term of the Local Level Monitoring Committee and other related matters.— (1) The term of office of the non-official members of the Local Level Monitoring Committee shall be three years from the date of its Constitution. But after the expiry of the term of the Committee its non-official members may continue in office till the Constitution of the next Committee.

(2) A non-official member may resign his office at any time by giving letter in writing under his hand.

7. Reporting Officers.— (1) The Agricultural Officers shall be the reporting officers, in
respect of the paddy land in the area under their jurisdiction and it shall be their responsibility to report the Revenue Divisional Officer regarding any act in violation of the provisions of this Act. If any paddy land is kept fallow during any agricultural season, the Agricultural Officer shall inform that matter also to the Committee.

(2) Wilful omission to make a report under sub-section (1), regarding the contravention of the provisions of the Act shall be deemed to be an offence under Section 23.

8. Constitution of State Level Committee.— (1) The Government shall, constitute a State Level Committee for furnishing report to Government after the detailed scrutiny of the applications recommended by the Committee regarding the filling of paddy land for public purposes.

(2) The Agricultural Production Commissioner, the Commissioner of Land Revenue and an expert in the field of environment and a Scientist in the field of paddy cultivation, to be nominated by the Government, shall be the Members of the State Level Committee and the Agricultural Production Commissioner shall be its Convenor.

(3) The State Level Committee shall scrutinize each application recommended by the Local Level Monitoring Committee for filling up or reclamation of paddy land for public purpose and shall examine in detail whether any alternate land, other than paddy land, is available in that area and the ecological changes that may occur due to such filling up of paddy land and submit a report to Government.

9. Constitution of District Level Authorised Committee.— (1) Notwithstanding anything contained in Section 3, each Collector shall constitute in the District, District Level Authorised Committee for considering the applications for reclamation of paddy land for the construction of residential building to the owner of paddy land and for taking suitable decision:

Provided that the District Level Authorised Committee shall not take any decision granting permission for the filling up of paddy land for the construction of residential building exceeding ten cents in a panchayat and five cents in a Municipality/Corporation, as the case may be.

(2) The District Level Authorised Committee shall consist of the Revenue Divisional Officer, Principal Agricultural Officer and three paddy cultivators to be nominated by the Collector and the Revenue Divisional Officer shall be its Chairman and the Principal Agricultural Officer, shall be its Convenor.

Provided that where there are more than one Revenue Divisional Officer in a District, the Collector shall nominate one among them to the District Level Authorised Committee.

(3) The term of office of the nominated members shall be three years from the date of their assuming charge in the office. But after the expiry of the term they may continue in office till the succeeding members are nominated.

(4) Nominated members may resign from the Committee at any time by giving letter under his hand to the Collector.

(5) The District Level Authorised Committee shall take decision on the recommendations made available to it within one month.

(6) Any person aggrieved by the decision of the District Level Authorised Committee, may prefer an appeal before the Collector within thirty days from the receipt of the decision, in such manner as may be prescribed.

(7) The Collector shall take a decision thereon within one month from the date of receipt of the appeal and the decision of the Collector shall be final.

(8) Notwithstanding anything contained in sub-section (1), no application shall be considered by the District Level Authorised Committee, unless the Local Level Monitoring Committee has recommended that,—
(i) such reclamation shall not adversely affect the ecological condition and the cultivation in the adjoining paddy land;
(ii) the owner of the paddy land or his family do not own a suitable land for this purpose in that District;
(iii) the building to be constructed is for his own purpose; and (iv) such paddy land is not situated surrounded by other paddy lands.

Case Law

Order passed under Paddy Land Act: Appeal filed under Minor Mineral Concession Rules:
Non-consideration of: Wrong quoting of the provision shall not place any hurdle in causing the matter to be considered and decided on merits, subject to satisfaction of the relevant requirements, including payment of necessary court-fees. Kurian K. J. v. District Collector, Kottayam and Another — 2013 (1) KHC 878.

10. Power of Government to grant exemption.— (1) Notwithstanding anything contained in Section 3, the Government may grant exemption from the provisions of this Act, if such conversion or reclamation is essential for any public purpose.

(2) No exemption under sub-section (1) shall be granted by the Government unless the Local Level Monitoring Committee has recommended the conversion or reclamation and the Government are satisfied on the basis of the report submitted by the State Level Committee, that no alternate land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the ecological conditions in that area.

Case Law

Land lying without any agricultural operation for more than 20 years: Application claiming exemption: Procedure to be followed: Authorities shall first consider whether the land is paddy land or wetland. If it is found that it is paddy land, then the plea for conversion shall be dealt with in accordance with Act 28 of 2008. If it is found that it is not paddy land or wetland, the application shall be dealt with under the provisions of the Land Utilisation Order. Jayakrishnan v. District Collector and Others — 2008 (4) KHC 514 : 2008 (2) KLD 888 : 2009 (1) KLT 123.

11. Prohibition on reclamation of wetland.— On and from the date of commencement of this Act, the wetlands of the State shall be maintained as such and there shall be a total prohibition on reclamation of such wetland and removal of sand therefrom:

Provided that nothing contained in this section shall affect the removal of slurry and mud to maintain the ecological condition of such wetland.

Case Law

Prohibition on reclamation of wetland: Removal of sand from the paddy land can be done only on the strength of specific permission granted by competent authority under the Act. Any unauthorised removal has to be seriously dealt with. Lalu C. V. v. Director of Mining and Geology, Kesavadasapuram and Others — 2009 (3) KHC 362.

Removal of clay from paddy fields: Any permission to remove clay from any paddy field should not be dealt with casually. Competent authority should always bear in mind the possibility of the said land being reclaimed immediately after the licensing period and render it suitable for paddy cultivation. Court issuing directions to be followed for removal of clay from paddy fields. Strict compliance of the direction to be ensured by the authorities. Kairali Swayam Sahaya Sangam v. State of Kerala and Others — 2009 (2) KHC 312.

12. Appointment of Authorised Officers and their Powers.— (1) The Government may, by notification* in the Official Gazette, appoint such officers of the Revenue Department [*not below the rank of Village Officer] as authorized officers and may determine the area of jurisdiction within which they shall exercise their powers under this Act.

* For notification see end of the book.
2. Substituted by Act 14 of 2011 for the words "not below the rank of Revenue Divisional Officer" (w.e.f. 12/08/2008).
(2) The Authorized Officer may, for the purpose of inspecting whether any of the provisions of this Act have been violated, or to prevent the commission of any of the offences under this Act,—

(a) enter any premises or any place connected therewith with such preparation as he thinks necessary for the inspection or investigation into the alleged offence under this Act;
(b) require any person to stop any act in contravention of Section 3 or Section 11;
(c) seize any vessel, vehicle or other conveyance or any implements used or purported to be used in contravention of the provisions of this Act and send a report to the Collector for initiating proceedings for their confiscation;
(d) require any person to furnish such information as he may consider necessary;
(e) take photographs, make inventories or do other things necessary for collecting evidence regarding the commission of the offence and send a report to the Court of competent jurisdiction in order to prosecute the accused.

(3) Any person required to produce any document or thing or to give any information to an authorised officer under this section shall be legally bound to do so within the meaning of Section 175 and 176 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(4) Every authorised officer appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act 45 of 1860).

3[(5) If an officer authorised under sub-section (1) fails to take action on the report received by him regarding the violation of the Act, he shall be deemed to have committed an offence punishable under Section 23.]

13. Power of the District Collector.— Notwithstanding anything contained in this Act, the Collector may take such action, as he deems fit, without prejudice to the prosecution proceedings taken under the Act, to restore the original position of “any paddy land or wetland” reclaimed violating the provisions of this Act, and realize the cost incurred in this regard from the holder or occupier of “the said paddy land or wetland”, as the case may be, so reclaimed after giving him a reasonable opportunity of being heard.

Case Law

Contestion that non-obstante clause in the Act confers power on the Collector to order restoration of land, even in the absence of formulation of data-bank under the Act: District Collector has to rely on the data-bank as prepared by the Committee under S.5(4), before initiating proceedings under the Act. Collector cannot rely on any other data. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Restoration of converted wetland by removing mud: Power of the District Collector to order such restoration. Held, if the property is a wetland, the District Collector is not having any jurisdiction under S.13. Restoration of a wetland is not mentioned anywhere in the Act even though there is total prohibition of its conversion. This amounts to a lacuna in the Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

Power of the Collector: Contention that under the principle of ‘Public Trust Doctrine’ Collector is empowered to order reclamation of filled up land. Held, purpose of the Act is not to restrict the use of natural resources vested in the Government, by the public. Doctrine can have no application for enforcement of provisions of the Paddy Land Act. Kaipadath Property Development Company (Pvt.) Ltd. v. State of Kerala and Others — 2011 (1) KHC 291.

14. Refusal of licence by the Local Authority.— Notwithstanding anything contained in

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3. Substituted by Act 14 of 2011 (w.e.f. 12/08/2008). Prior to the substitution it read as: “(5) If an officer authorised under sub-section (1), fails to take action on the basis of the report regarding the violation of the Act submitted by the reporting officer under Section 7, he shall be deemed to have committed an offence punishable under Section 23.”
4. Substituted by Act 14 of 2011 for the words "any paddy land" (w.e.f. 12/08/2008).
5. Substituted by Act 14 of 2011 for the words "the said paddy land" (w.e.f. 12/08/2008).
the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994) no Local Authority shall grant any licence or permit under the said Act for carrying out any activity or construction in a paddy land or a wetland converted or reclaimed in contravention of the provisions of this Act.

15. **Direction to cultivate paddy land left fallow.**— The Committee may direct the holder of any paddy land which is uncultivated and left fallow, to cultivate it by himself or through any other person of his choice, with paddy or any other intermediary crops under the provisions of this Act.

16. **Fallow paddy land to be got cultivated.**— (1) If the Committee is satisfied, on the basis of the reply furnished by the holder of the paddy land, that it was due to practical difficulties that he could not comply with the direction given under Section 15, the Committee may request him to grant permission in writing to cause to cultivate the said paddy land through the Panchayat.

   (2) On receipt of a letter under sub-section (1), the holder of paddy land shall give a reply in writing, as early as possible, either granting or denying permission.

   (3) If the holder of the paddy land grants permission to cultivate the said paddy land, the Committee may execute an agreement between the Panchayat and the holder of the paddy land, in such form and subject to such conditions as may be prescribed, entrusting the said paddy land to the Panchayat either to cultivate or to get it cultivated for a fixed period.

   (4) If the Panchayat/Municipality/Corporation is not directly cultivating the paddy land entrusted to it under sub-section (3), it may make an order entrusting the right to cultivate the said paddy land, by auction or otherwise, not inconsistent with the conditions of the agreement executed under sub-section (3), for a maximum period of two years and make arrangement for the same.

   (5) While entrusting the right to cultivate the said paddy land under sub-section (4) the following order of priority shall be followed, namely:

   (i) Padasekhara Samithis or Joint Farmers Societies;

   (ii) Self Help Groups;

   (iii) the Kudumbasree Units functioning in the Grama Panchayat/Municipality where the paddy land is situated.

   (6) The person getting the right to cultivate the said paddy land under sub-sections (4) and (5), while returning the said paddy land shall neither cause any changes in the structure of the land making it unsuitable for cultivation nor convert or reclaim the same.

   (7) The person who got the right to cultivate the paddy land under sub-section (4) shall, pay in advance, the remuneration as per the agreement, to the holder of the paddy land and such sum shall form part of the cost of cultivation.

   (8) Notwithstanding anything contained in this section, if an owner of paddy land is unable to cultivate his paddy land by himself, he may request the Committee if he so desires, to entrust his paddy land with the Panchayat for cultivation even without the receipt of a notice under this section.

17. **Eviction of Person to whom the right has been entrusted in certain cases.**— The person entrusted with the right to cultivate a paddy land shall have no right whatsoever, except to cultivate the same with paddy or such other crop as provided in this Act, and to take the proceeds thereof and after the expiry of the period for which such right has been accrued or after the termination of such right, as the case may be, he shall be liable to be summarily evicted, if he continues in possession of such paddy land after such expiry or termination.

18. **Special power of the Collector.**— The Collector may take or cause to be taken proceedings as may, in his opinion, be reasonable for the compliance of an order issued under the provisions of this Act.

19. **Power of entry and seizure.**— (1) Any officer of the Revenue Department not below the rank of Village Officer or any Officer authorised by the Government in this behalf or any
police officer not below the rank of a Sub-Inspector, with a view to ensure the compliance of the provisions of this Act, may enter and search any premises and seize any vessel, vehicle or any other conveyance or machinery used or deemed to have been used for any activity in contravention of the provisions of this Act, and a report regarding such seizure, whether prosecution proceedings have been initiated or not, shall be given to the Collector having jurisdiction over that area within forty eight hours of such seizure.

(2) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to search and seizure shall, so far as may be, apply to search and seizure under this Act.

20. Confiscation of vessel, vehicle, etc.— (1) After obtaining a report regarding seizure under Section 12 or Section 19, the Collector may, if he thinks fit, order confiscation of the object seized:

Provided that the owner or the person in custody of the same, shall be given an option to pay, in lieu of its confiscation, a sum equal to one and a half times the value of the seized articles, as may be determined by the District Collector.

(2) No order of confiscation under sub-section (1) shall be made by the District Collector unless the owner thereof has been given an opportunity of being heard in the matter.

(3) No order of confiscation under sub-section (1) shall be invalid merely by reason of any defect or irregularity in the notice given under sub-section (2), if the provisions have been substantially complied with.

21. Appeal against confiscation.— Any person aggrieved by an order of confiscation under Section 20 may within thirty days from the date of communication to him of such order, appeal to the District Court having jurisdiction over the area in which the articles were seized and the District Judge shall, after giving the parties a reasonable opportunity of being heard issue such order either confirming, amending or annulling the order appealed against.

22. Award of confiscation not to interfere with other punishments.— The award of any confiscation under this Act by the District Collector shall not affect the infliction of any punishment to which the person affected thereby is liable under this Act.

23. Penalty.— Any person who in violation of the provisions of this Act converts or reclaims any paddy land or wetland notified under sub-section (4) of Section 5, shall on conviction be punishable with imprisonment for a term which may extend to two years but shall not be less than six months and with fine which may extend to one lakh rupees but shall not be less than fifty thousand rupees.

24. Offences by Companies.— (1) If the person contravening the provisions of this Act is a company, every person who, at the time when the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the Company, as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the contravention took place without his knowledge or that he had exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section,—
(a) ‘Company’ means a body corporate and includes a firm or other association of individuals; and
(b) Director in relation to a firm means a partner in the firm.

25. Cognizance of offence.— No Court below the rank of Chief Judicial Magistrate Court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence by an officer authorised under sub-section (1) of Section 12.

26. Grant of injunction etc., by Civil Courts.— No Civil Court shall grant an injunction or make any order for any other relief against the Government or any officer authorised under this Act, in respect of any act done or purporting to be done by the Government or such officer under this Act or the rules or notifications made thereunder, unless notice of such injunction or other relief has been given to the Government or such officer, as the case may be.

27. Sums due recoverable as arrears of land revenue to Government.— Any amount due to the Government under the provisions of this Act shall be deemed to be arrears of revenue due on land and shall, without prejudice to any other mode of recovery, be recoverable under the Revenue Recovery Act for the time being in force.

28. Revision.— The Government may either suo motu or on application from any aggrieved party call for the records of any act or proceedings of the Collector in any case under this Act, and pass such orders thereon, as it may deem fit.

29. Protection of action taken in good faith.— (1) No suit, prosecution for other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provisions of this Act.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provisions of this Act or the rules made thereunder.

30. Power to make rules.— (1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session 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 in 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, 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 modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(For Notifications see end of the book)