

**Fifteenth Kerala Legislative Assembly**  
**Bill No. 65**

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**THE KERALA SHOPS AND COMMERCIAL  
ESTABLISHMENTS (AMENDMENT) BILL, 2021**

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**THE KERALA SHOPS AND COMMERCIAL  
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**Fifteenth Kerala Legislative Assembly**  
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THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS  
(AMENDMENT) BILL, 2021

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*BILL*

*further to amend the Kerala Shops and Commercial Establishments Act, 1960.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) 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 Shops and Commercial Establishments (Amendment) Act, 2021.

(2) It shall be deemed to have come into force on the 9<sup>th</sup> day of November, 2020.

2. *Amendment of section 2.*—In section 2 of the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) (hereinafter referred to as the principal Act) after clause (9), the following clauses shall be inserted, namely:—

“(9A) “Labour Administrator” means officers of the Labour department of the State notified as Inspectors under this Act;

(9B) "Labour Commissionerate Automation System" means a software owned and operated by the Labour department to cater end to end solutions to the employers, employees and Labour Administrators;"

3. *Amendment of section 5A.*—In section 5A of the principal Act,—

(1) in sub-section (1), after the words “make an application”, the words “through Labour Commissionerate Automation System” shall be inserted;

(2) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) An application for the renewal of a registration certificate granted under this Act shall be made at least thirty days before the expiry of the period thereof and on payment of such fees, as may be prescribed through Labour Commissionerate Automation System, the registration certificate shall be renewed automatically.”;

(3) sub-section (7) shall be omitted;

(4) in sub-section (8), after the words “granted or renewed”, the words “through Labour Commissionerate Automation System” shall be inserted.

4. *Repeal and saving.*—(1) The Kerala Shops and Commercial Establishments (Amendment) Ordinance, 2021 (123 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

Sub-section (1) of section 5A of the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) provides that the employer of every establishments shall make an application to such authority as the Government may, by notification in the Gazette, specify in this behalf in such form and on payment of such fees as may be prescribed, for a registration certificate in respect of that establishment.

2. Sub-section (6) of section 5A provides that an application for the renewal of a registration certificate granted under this Act shall be made atleast thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed, and where such an application has been made, the registration certificate shall be deemed to continue notwithstanding the expiry of the period thereof, until the renewal of the registration certificate or, as the case may be, rejection of the application for the renewal thereof. Sub-section (7) of section 5A

provides that the competent authority shall not grant or renew a registration certificate unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with. Sub-section (8) of section 5A provides that the competent authority may, after giving the holder of a registration certificate granted or renewed under this Act, an opportunity of being heard, by order cancel or suspend the registration certificate if it appears to it that such registration certificate has been obtained by mis-representation or fraud or that the employer has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder.

3. As part of the State Level Reforms in connection with the Ease of doing business it has been decided to introduce auto-renewal of registration in the Kerala Shops and Commercial Establishments Act, 1960, on payment of prescribed fee and it was also decided to introduce online registration of establishments.

4. For the above purpose, the Government have decided to amend section 2, sub-sections (1), (6) and (8) of section 5A and also decided to omit sub-section (7) of section 5A of the Kerala Shops and Commercial Establishments Act, 1960.

5. As the Legislative Assembly of the State of Kerala was not in session and the above said proposal had to be given effect to immediately, the Kerala Shops and Commercial Establishments (Amendment) Ordinance, 2020 was promulgated by the Governor of Kerala on the 6<sup>th</sup> day of November, 2020 and the same was published as Ordinance No. 75 of 2020 in the Kerala Gazette Extraordinary No. 2717 dated 9<sup>th</sup> day of November, 2020.

6. 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, in its session which convened on 31<sup>st</sup> day of December, 2020 and 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.

7. 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 Shops and Commercial Establishments (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 9<sup>th</sup> day of February, 2021 and the same was published as Ordinance No. 6 of 2021 in the Kerala Gazette Extraordinary No. 655 dated 10<sup>th</sup> day of February, 2021.

8. 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 the 24<sup>th</sup> day of May, 2021 and ended on the 10<sup>th</sup> day of June, 2021;

9. 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 Shops and Commercial Establishments (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 1<sup>st</sup> day of July, 2021 and the same was published as Ordinance No. 89 of 2021 in the Kerala Gazette Extraordinary No. 1939 dated 3<sup>rd</sup> day of July, 2021.

10. 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 the 22<sup>nd</sup> day of July, 2021 and ended on the 13<sup>th</sup> day of August, 2021.

11. 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 Shops and Commercial Establishments (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 23<sup>rd</sup> day of August, 2021 and the same was published as Ordinance No. 123 of 2021 in the Kerala Gazette Extraordinary No. 2487 dated 25<sup>th</sup> day of August, 2021.

12. The Bill seeks to replace Ordinance No. 123 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 (9A) of section 2 of the principal Act proposed to be inserted by Clause 2 of the Bill seeks to empower the Government to notify the officers of the Labour department as Inspectors under this Act.

2. Sub-section (6) of section (5A) proposed to be inserted in the principal Act by Clause 3 of the Bill, seeks to empower the Government to prescribe the fee for the renewal of registration certificate.

3. The matters in respect of which rules may be made or notifications 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 power is thus, of a normal character.

V. SIVANKUTTY.





(8) The competent authority may, after giving the holder of a registration certificate granted or renewed under this Act, an opportunity of being heard, by order cancel or suspend the registration certificate if it appears to it that such registration certificate has been obtained by mis-representation or fraud or that the employer has contravened or failed to comply with any of the provisions of this Act or the rules made there under.

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