

The Travancore-Cochin Prohibition (Amendment) Act, 1960

Act 25 of 1960

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ACT 25 OF 1960

THE TRAVANCORE-COCHIN PROHIBITION (AMENDMENT) ACT, 1960 [\[1\]](#)

An Act to amend the Travancore-Cochin Prohibition Act 1950

Preamble. — Whereas it is expedient to amend the Travancore–Cochin Prohibition Act, 1950 for the purpose of extending the provisions thereof to the whole of the State of Kerala and for certain other purposes hereinafter appearing;

Be it enacted in the Eleventh Year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act may be called the Travancore-Cochin Prohibition (Amendment) Act, 1960.

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

2 *Amendment of Preamble.* — For the first paragraph of the Preamble to the Travancore-Cochin Prohibition Act, 1950 (Act XIII of 1950), (hereinafter referred to as the principal Act), the following shall be substituted, namely: —

“Whereas it is necessary to unify and amend the law relating to prohibition in the state of Kerala”;

3. *Amendment of section 1.* — (1) The expression “State” as adapted by the Kerala Adaptation of Laws Order, 1956 shall, in section 1 of the principal Act, and wherever else it occurs in that Act, have effect as if the words “State of Kerala” were substituted therefor.

(2) In section 1 of the Principal Act —

(i) in sub-section (1), for the words “Travancore –Cochin Prohibition Act”, the words “Prohibition Act” shall be substituted ;

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

“(2) It extends to the whole of the State of Kerala;”

(iii) in clause (b) of sub-section (3) for sub-clause (i) the following sub-clause shall be substituted, namely: —

“(i) in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and in the areas in which all the

provisions of the Travancore-Cochin Prohibition Act, 1950 (Act XIII of 1950) were in force immediately before the commencement of the Travancore-Cochin Prohibition (Amendment) Act, 1960, at once; and”

4. Amendment of Section 2 —Section 2 of the principal Act shall be renumbered as sub-section (1) of that section and, —

(i) in sub-section (1) so renumbered, after the figures and brackets "in sub-section (3) of section 1," the figures and brackets "but subject to the provisions of sub-section (2)" shall be inserted.

(ii) after sub-section (1) as so renumbered, the following shall be added as sub-section (2), namely: —

" (2) A draft of any notification proposed to be issued under sub-section (1) of this section or under section 4 or section 6 shall be laid on the table of the Legislative Assembly and the notification shall not be issued unless the Assembly approves the draft either with or without modification or addition; and upon such approval being given the notification may be issued in the form in which it has been approved, and such notification shall be published in the Gazette, and shall thereupon have effect as from the date as is specified in the notification".

5. Amendment of Section 5.—In section 5 of the principal Act for the words and figures "The Travancore Abkari Act, IV of 1073 or the Cochin Abkari Act. 1 of 1077 as amended, as the case may be," the words "the Abkari Act for the time being in force" shall be substituted.

6. Amendment of section 7. —In section 7 of the principal Act —

(1) in clause (5), for sub-clause (b), the following sub-clause shall be substituted, namely: —

" (b) to take out of the State otherwise than across a customer frontier as defined by the Central Government";

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

"(b) to bring into the State otherwise than across a customs frontier as defined by the Central Government";

(3) in clause (7), in sub-clause (iv), the following shall be added at the end, namely: —

“as defined in section 2 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930)".

(4) for clause (9), the following clause shall be substituted namely: —

"(9) 'Local authority' means the Corporation of Trivandrum, any other municipal corporation which may hereafter be constituted, any municipality constituted under the Travancore District Municipalities Act, 1116 or the Cochin Municipal Act, XVIII of 1113, or the Madras District Municipalities Act, 1920, the Malabar District Board constituted under the Madras District Boards Act, 1920, any village panchayat constituted under the Travancore Village Panchayat Act, 1100, or the Cochin Village Panchayat Act, 1089 or the Madras Village Panchayats Act, 1950, or any village union constituted under the Travancore Village Unions Act, 1115";

(5) clause (11) shall be omitted;

(6) for clause (19), the following clause shall be substituted, namely: —

"(19) 'State' means the State of Kerala;"

7. *Amendment of section 8.* —In section 8 of the principal Act in sub-section (1), after the words "shall be punished" occurring after clause (k), for the clauses (i), (ii) and the proviso after it, the following shall be substituted, namely: —

"(i) in the case of an offence falling under clause (f) or an offence falling under clause (k) in so far as it relates to an act specified in the clause aforesaid, with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(A) such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees for a first offence;

(B) such imprisonment shall be rigorous and shall not be less than one year and such fine shall not be less than two thousand rupees for a second and subsequent offences;

(ii) in the case of an offence falling under clause (b), clause (h) or clause (i) or an offence falling under clause (k) in so far as it relates to an act specified in any of the clauses aforesaid, with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(A) such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees for a first offence;

(B) such imprisonment shall be rigorous and shall not be less than one year and such fine shall not be less than two thousand rupees for a second and subsequent offences;

(iii) in any other case, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(A) such imprisonment shall not be *less* than three months and such fine shall not be less than five hundred rupees for a first offence;

(B) such imprisonment shall be rigorous and shall not be less than six months and such fine shall not be less than one thousand rupees for a second and subsequent offences;

Provided that nothing contained in this sub-section apply—

(i) to any act done under, and in accordance with provisions of this Act or the terms of any rule, notification, order, licence or permit issued thereunder, or

(ii) to the possession, sale, purchase, use or consumption of duty-paid medicinal or toilet preparations for bona fide medicinal or toilet purposes.”

8. Substitution of new section for section 10.—For section 10 of the principal Act, the following section shall be substituted namely: —

"10. Punishment for *rendering* or attempting to render denatured spirits fit for *human* consumption.—Whoever renders or attempts to render fit for human consumption any spirits or preparation containing spirit, whether manufactured in the state or not, which has been denatured or any preparation containing such spirit or has in his possession, any spirit or preparation containing spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court—

(i) such imprisonment shall not be less than six months and such fine shall not be less than seven hundred and fifty rupees for a first offence;

(ii) such imprisonment shall not be less than nine months and such fine shall not be less than one thousand rupee second offence; and

(iii) such imprisonment shall not be less than. one year and such fine shall not be less than one thousand five hundred rupees for a third and subsequent offences.

For the purpose of this section it shall be presumed until the contrary is proved, that any spirit or preparation containing spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit."

9. *Amendment of section 11* .—In section 11 of the principal Act,—

(i) for the words "with fine which may extent to one thousand rupees", the following shall be substituted, namely: —

"with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.";

(ii) clause (d) of the proviso shall be omitted.

10. *Amendment of section 16*. —In section 16 of the principal Act, for the words "with fine which may extend to two hundred rupees", the following shall be substituted, namely: —

"with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both".

11. *Insertion of new section 20A*.— After section 20 of the principal Act, the following section shall be inserted in Chapter II namely: —

"20A. *Enhanced Jurisdiction of Magistrates and special Magistrates* — Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), it shall be lawful for the Magistrates specific (in column (1) of the Table below to exercise the power specified in the corresponding entry in column (2) thereof, in respect of offences punishable under this Act.

TABLE

(1)	(2)
Magistrates of the first class or Special Magistrates appointed under section 14 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), upon whom the powers conferred by section 32 of the said Code on a Magistrate of the first class have been conferred.	Fine exceeding two thousand rupees but not exceeding five thousand rupees
Magistrates of the second class or Special Magistrates appointed under section 14 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) upon whom the powers conferred by section 32 of the said Code on a Magistrate of the second class have been conferred.	Imprisonment for a term not exceeding one year; fine not exceeding one thousand rupees

12. *Amendment of section 24*. — In section 24 of the principal Act, for sub section (1) the following sub-section shall be substituted, namely: —

“(1) The Government may, by notification and subject to such conditions as they think fit, exempt members of the armed forces of the Union or of any other armed forces raised or maintained by the Union or attached to or operating with any of its armed forces and the members of the medical or other staff attached to any of the forces aforesaid or any foreign tourists from all or any of the provisions of this Act.”

Explanation. —For the purposes of this sub-section `foreign tourist' means any person who is not a citizen of India and who stays in India for more than twenty-four hours and less than six months for any non-immigrant purpose."

13. *Amendment of section 28.* —In section 28 of the principal Act, for clause (d), the following clause shall be substituted, namely: —

"(d) licences to any person to possess liquor and issue it to persons or institutions who hold permits or licences under this Act or who have been exempted under this Act from so much of the provisions of clause (a) or (j) of sub-section(1) of section 8 as relates to the possession, consumption or buying of liquor.”

14. *Amendment of section 31.*— In section 31 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely: —

“(2) The Government may cancel or suspend any such licence or permit on any of the aforesaid grounds or on other grounds which may be prescribed.

(3) Before any licence or permit is cancelled or suspended under sub-section (1) or sub-section (2), the holder of the licence or permit shall be given an opportunity to state his objections within a reasonable time not ordinarily exceeding fourteen days and any representation made by him in this behalf shall be duly taken into consideration before final orders are passed."

15. *Amendment of section 33.* — In section 33 of the principal Act, for clause (b), the following clause shall be substituted, namely: —

"(b) appoint any person other than the District Collector to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or to the exclusion of the District Collector subject to such control as the Government may, from time to time, direct;".

16. *Amendment of section 34.* — In section 34 of the principal Act—

(i) in sub-section (1), for the words "in every Taluk thereof to assist him in carrying out the objects of this Act in the District or area", the words "in such District or area to assist him in carrying out the objects of this Act" shall be substituted;

(ii) in sub-section (2), for the words "taluk", the "District or area" shall be substituted;

(iii) in sub-section (3), for the word 'taluk' in both places where it occurs, the words "District or area" shall be substituted .

17. *Amendment of section 37.*— In section 37 of the principal Act, for the words "or any other paid or honorary officer authorised by Government" the words "or any officer authorised by Government" shall be substituted.

18. *Substitution of new section for section 38.*— For section 38 of the principal Act, the following section shall be substituted, namely:—

"38 . *Powers of entry and inspection .*—The Collector, any prohibition officer not below such rank as the Government may determine, or any police or any officer authorised by the Government in this behalf, may enter and inspect, at any time by day or by night, any place in which it is reasonably suspected—

(a) that any toddy is drawn or the manufacture of any other liquor or of any intoxicating drug is carried on, or

(b) that any liquor or intoxicating drug is kept for sale or stored, or

(c) that an offence under section 10 has been, or is being committed;

and may examine, test, measure or weigh any material, still, vessel, implement, apparatus, liquor or intoxicating drug found in such place."

19. *Amendment of section 40.* —In section 40 of the principal Act, in clause (a), the words and figures "or section 10" shall be added at the end.

20. *Insertion of new section 49A.*— After section 49 of the principal Act, the following section shall be inserted, namely: —

"49 A. *Obtaining of medical certificates in the case of persons found in a state of intoxication.* —(1) Any officer authorised to arrest a person for an offence punishable under clause (j) of sub-section (1) of section 8 in so far as it relates to consumption of liquor or any intoxicating drug, who has reason to believe that any person has consumed liquor or any intoxicating drug, may produce such person for examination, before any medical officer authorised by the Government and request the medical officer to furnish a certificate on his finding whether such person has consumed any liquor or intoxicating drug.

(2) Any such medical officer before whom such person is produced shall be bound to examine such person and furnish to the officer by whom such person has been produced a certificate as to the state of such person, and if any form has been prescribed for the purpose, in such form.

(3) If the person produced is a woman, the examination shall be carried out by a women medical officer authorised by the Government

(4) Any person who has been produced before a medical officer in pursuance of this section shall allow himself to be examined by the medical officer.

(5) If any person who under this section is required to undergo medical examination resists or refuses to allow himself to be produced before or to be examined by the medical officer it shall be lawful to use all means necessary to secure the production and examination of such person.

(6) Resistance to production or refusal to allow examination under this section shall be deemed to be an offence under section 186 of the Indian Penal Code (Central Act 45 of 1860)

(7) In trials under this Act, it may be presumed, and until the contrary is proved, that the accused has committed an offence under clause (j) of sub-section (1) of section 8 if he having been produced before a medical officer under the section had resisted or had refused to allow himself to be examined by such medical officer.

(8) Any document purporting to be a certificate signed by a medical officer authorised by the Government may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of the Indian Penal code (Central Act 45 of 1860), but the court may at the instance of the accused order the attendance for cross-examination of the medical officer who issued the certificate."

21. *Substitution of new section for section 58.* —For section 58 of the principal Act, the following section shall be substituted namely: —

"58. *Procedure after arrest.* —Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of the Magistrate."

22. *Amendment of section 61.*— In section 61 of the principal Act, for the words "Nothing contained in this Act, the words "Save as expressly provided in this Act, nothing contained therein" shall be substituted.

23. *Insertion of new section 61 A.*— After section 61 of the principal Act, the following section shall be inserted in Chapter V , namely: —

"61 A. *Payment of portion of fine to Police and prohibition Officers.*— (1) The Magistrate trying any case under this Act may direct any portion not exceeding one-half of the fine which may be levied under section 8, or section X or section XII or section 17

to be paid to the Police and Prohibition Officers who may have assisted in the detection of the offence. A direction under this section may also be made by any court of appeal, reference or revision.

(2) Where a direction is made under sub-section (1), the Magistrate concerned shall send the amount to be paid under that sub-section to the District Collector, who shall distribute it among such of the officers aforesaid as may be chosen by him and in such proportion, as he thinks fit.

(3) The amount aforesaid shall not be sent to the District Collector until the expiry of three months from the date of the direction under sub-section (1), or if an appeal is presented within that period, until the appeal has been disposed of.

24. *Amendment of section 62.* —In section 62 of the principal Act—

(i) after clause (b) of sub-section (2), the following clauses shall be inserted, namely: —

"(bb) prescribing the ways in which the duty under section 26 may be levied."

(ii) after clause (1) of sub-section (2), the following clause shall be added, namely: —

"(m) for the prevention of the. use of medicinal or toilet preparations for any purpose other than medicinal or toilet;"

"(n) for all matters expressly required or allowed by this Act to be prescribed."

(iii) after sub-section (2), the following sub-section shall be added, namely: —

" (3) All rules made under this section shall be laid before the Legislative Assembly for not less than fourteen days, as soon as possible after they are made and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following."

25. *Amendment of First Schedule.* —In the First Schedule to the principal Act, the following entry shall be added at the end, namely: —

" 1886 1 The Madras Abkari Act do."

26. *Amendment of Second Schedule.* —In the second Schedule to the principal Act, the following entry shall be added at the end, namely: —

"1937 x The Madras Prohibition Act do."