

Act Info:

THE KERALA INDUSTRIAL SINGLE WINDOW CLEARANCE BOARDS & INDUSTRIAL TOWNSHIP AREA DEVELOPMENT ACT, 1999

**THE KERALA INDUSTRIAL SINGLE WINDOW CLEARANCE BOARDS
& INDUSTRIAL TOWNSHIP AREA DEVELOPMENT ACT, 1999**

[Pub. in K. G. Ex. No. 770 dated 27-04-2000.]

[Act No. 5 of 2000]

PREAMBLE

An Act to provide special provision for speedy issue of various licenses, clearances and certificates required for setting up of industrial undertakings in the State of Kerala and for the Constitution of Industrial Township Area Development Authorities and for matter connected therewith.

Whereas it is necessary to make special provision to promote and assist the orderly establishment, and rapid growth and development of industries in the State;

AND WHEREAS for the speedy issue of various licenses, clearances and certificates required for setting up of industrial undertakings in the State it is necessary to establish Single Window Clearance Boards at the State, District and Industrial area level;

AND WHEREAS clause (i) of Article 243 Q of the Constitution provides for the constitution of an industrial Township in the manner provided therein;

AND WHEREAS for the purpose of administering the affairs of an Industrial Township and to promote the industrial growth, it is necessary to constitute Industrial Area Development Authorities;

AND WHEREAS it is expedient to provide for all these and other matters connected therewith;

Be it enacted in the Fiftieth Year of Republic of India as follows:-

Section 1 - Short title, extent and commencement

(1) This Act may be called the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999.

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

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

Section 2 - Definitions

In this Act, unless the context otherwise requires, -

- (a) "Authority" means any Department of Government or Government agencies or Grama Panchayat or Municipality which are required to issue clearances or licenses or certificates or permits for setting up an industrial undertaking in the State;
- (b) "Bye-laws" means bye-laws made by the State Board under this Act;
- (c) "District Board" means the District Single Window Clearance Board constituted under sub-section (1) of section 4 of this Act;
- (d) "designated Authority of Industrial Area" means the Managing Director of the Industrial Area or any other Officer appointed by the Government for purposes of promoting and maintaining the industrial area concerned;
- (e) "Government" means the Government of Kerala;
- (f) "Industrial Area" means any area in the State declared to be an industrial area by the Government by notification in the Gazette from time to time and includes industrial estates; development area, development plots, mini industrial estates, industrial parks and growth centres;
- (g) "Industrial Area Board" means the Industrial Area Single Window Clearance Board constituted under sub-section (1) of section 5 of the Act;
- (h) "Industrial Township Area" means an industrial area referred to in section 14 of this Act;
- (i) "Industrial Township Authority" means an Industrial Township Authority constituted for an industrial township area under section 15 and the Scheme;
- (j) "Industrial undertaking" means a factory, workshop or work place where steam power, water power, mechanical power or electrical power is used or any premises where any machinery or manufacturing plant driven by any power as aforesaid is installed, or any industrial under taking where ten or more workers are employed with or without the aid of power;
- (k) "Prescribed" means prescribed by rules made under this Act;
- (l) "Scheme" means the Scheme framed under this Act;
- (m) "Small Scale Industrial undertaking" means an industrial undertaking which in accordance with the requirements specified under sub-section (1) of section 11B of Industries (Development and Regulation) Act, 1951 is entitled to be regarded as a Small Scale Industrial undertaking for the purpose of that Act;

(n) "State Board" means the "Kerala State Single Window Clearance Board" constituted under sub-section (1) of section 3 of the Act;

(o) "State enactment" means a Proclamation or Act of Travancore or Cochin, an Act or Ordinance of Travancore-Cochin, an Act passed by the Legislature of the State of Kerala, or an Ordinance promulgated by the Governor and in force in the State and includes a rule, order, bye-law or regulation made in exercise of a power conferred by any such Act or Ordinance by the Government or an authority subordinate to Government.

Section 3 - State Board

(1) For the purpose of speedy issue of various licenses, clearances, certificates required under various State enactments for setting up of industrial undertakings in the State, the Government may, by notification, constitute Single Window Clearance Board for the State to be called the Kerala State Single Window clearance Board.

(2) The Kerala State Single Window Clearance Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal.

(3) The State Board shall consist of the following members, namely:-

(a) Chief Secretary to Government;

(b) The Secretaries to Government in charge of Industries, Finance, Labor, Local Administration, Revenue, Taxes, Irrigation, Power and Forests departments;

(c) Executive Director, Bureau of Industrial Promotion, Kerala;

(d) Managing Director, Kerala State Industrial Development Corporation;

(e) Director of Industries and Commerce;

(f) Managing Director; Kerala State Industrial infrastructure Development Corporation;

(g) Chairman, Kerala State Electricity Board;

(h) Managing Director, Kerala Financial Corporation;

(i) Chief Town Planner;

(j) Chairman, Kerala State Pollution Control Board;

(k) Chief Electrical Inspector;

(l) Director of Factories and Boilers;

(m) Director of Mining and Geology;

(n) Director of Health Services.

(4) The Chief Secretary to Government shall be the Chairman and the Managing Director, Kerala State Industrial Development Corporation shall be the Convener of the State Board.

(5) The State Board shall meet at such times and places to be fixed by the Chairman of the State Board and shall observe such procedure in regard to its transaction of business as may be made in the bye-laws.

(6) The State Board may associate itself, in such manner and for such purposes as may be prescribed with any person whose assistance or advice it may desire to have in the performance of any of its functions under the Act, and the person so associated shall have the right to take part in the meetings of the State Board relating to that purpose as a special invitee and shall not be considered as a member of the State Board.

Section 4 - District Boards

(1) For the purpose of speedy issue of various licenses, clearances of certificates required under the various State enactments for setting up of small scale industrial undertakings having capital investment of more than two lakhs rupees in each district of the State, the Government may, by notification, constitute a District Single Window Clearance Board for each district in the State.

(2) Every District Single Window Clearance Board shall be a body corporate by the name of the District for which it is constituted, having perpetual succession and a common seal.

(3) Every District Single Window Clearance Board shall consist of the following members, namely.--

(a) Collector of the District;

(b) General manager, District Industries Centre of the district concerned;

(c) The President of the Grama Panchayat concerned or chairperson of the Municipality concerned in cases where license is required from the local bodies.

(d) The District Officer of the Kerala Pollution Control Board or any other officer of the Board nominated by the Chairman, Kerala State Pollution Control Board;

(e) The District Officer of the Electrical Inspectorate or any other officer nominated by the Chief Electrical Inspector;

(f) The District Officer of the Town Planning Department or any other officer nominated by the Chief Town Planner ;

(g) District Medical Officer;

- (h) An Officer of the Kerala State Electricity Board not below the rank of Executive Engineer nominated by the Chairman, Kerala State Electricity Board;
 - (i) District Officer, Factories and Boilers Inspectorate;
 - (j) Divisional Fire Force Officer;
 - (k) Divisional Forest Officer;
 - (l) District Labor Officer;
 - (m) Secretary, Urban Development Authority or Secretary, District Panchayat;
 - (n) Deputy Commissioner, Sales Tax and Agricultural Income Tax;
 - (o) An Officer of the Kerala Water Authority not below the rank of Executive Engineer nominated by the Managing Director, Kerala Water Authority.
- (4) The Collector of the District shall be the Chairman and the General Manager, District Industries Centre shall be the Convener of the District Board.
- (5) The District Board shall meet at such time and place to be fixed by the Chairman of the District Board and shall observe such procedure in regard to its transaction of business as may be made in the by-laws;
- (6) The District Board may associate itself, in such manner and for such purposes as may be prescribed with any person whose assistance or advice it may desire to have in the performance of any of its functions under the Act, and the person so associated shall have the right to take part in the meetings of the District Board relating to that purpose as a special Invitee and shall not be considered as a member of the District Board.

Section 5 - Industrial Area Boards

- (1) For the purpose of speedy issue of various licenses, clearances or certificates required under the various State enactments for setting up of small scale industrial undertakings or industrial undertakings in the Various Industrial areas of the State, the Government may, by notification constitute Single Window Clearance Boards for every industrial areas in the State to be called Industrial Area Single Window Clearance Board.
- (2) Every Industrial area Single Window Clearance Board shall be a body corporate by name of the Industrial Area for which it is constituted, having perpetual succession and a common seal.
- (3) Every Industrial Area Single Window Clearance Board shall consist of the following members, namely:-
- (a) Principal Secretary to Government, Industries Department or his nominee;
 - (b) Collector of the District;

- (c) Chief Executive of the Agency owning or managing the industrial area;
 - (d) Designated Authority of industrial area concerned;
 - (e) District Officer of the State Pollution Control Board;
 - (f) District Officer of the Electrical Inspectorate;
 - (g) District Officer of the Town Planning Department;
 - (h) District Medical Officer;
 - (i) Executive Engineer of the Kerala State Electricity Board;
 - (j) District Officer, Factories and Boilers Inspectorate;
 - (k) Divisional Fire Force Officer;
 - (l) Divisional Forest Officer;
 - (m) District Labor Officer;
 - (n) Deputy Commissioner, Sales Tax and Agricultural Income Tax;
 - (o) Executive Engineer, Kerala Water Authority;
- (4) The Government may appoint one of the members of an Industrial Area Board not below the rank of District Collector to be its chairman and the Designated Authority of the Industrial Area shall be the Convener of the Industrial Area Board.
- (5) The Industrial Area Board shall meet at such time and place to be fixed by the chairman of the industrial Area Board and shall observe such procedure in regard to its trisection of business as may be made in the bye-laws.
- (6) The Industrial Area Board may associate itself, in such manner and for such purposes as may be prescribed, with any person whose assistance or advice it may desire to have in the performance of any of its functions under the Act, and the person so associated shall have the right to take part in the meetings of the Industrial Area Board relating to that purpose as a special invitee and shall not be considered as a member of the Industrial Area Board.

Section 6 - Exemption from licenses etc

Notwithstanding anything contained in any law for the time being in force all industrial undertakings being established or proposed to be established in industrial area shall be exempted from obtaining permits from Municipalities or Grama Panchayats Town Planning Department or Development Authorities for construction of buildings for starting an industrial undertaking.

Section 7 - Powers and functions of Industrial Area Boards

(1) Notwithstanding anything contained in any law for the time being in force, every person intending to establish an industrial undertaking or a small scale

industrial undertaking in any of the notified industrial areas shall submit the application in the prescribed form to the designated authority of that industrial area for clearances or licenses or certificates required under various State enactments together with the fee if any to be paid, under the respective enactment. The application shall also contain such details as may be prescribed.

(2) The Industrial Area Board shall after complying the procedure prescribed in this behalf and within thirty days from the date of receipt of the application take a decision as, -

(a) to recommend to the authority concerned, the issue of the license or permission applied for without any modifications or with such modifications as it thinks to fit to make; or

(b) to refuse clearance if it is of the opinion that the proposed construction, establishment or installation is objectionable.

(3) The decision taken by the Industrial Areas Board shall be communicated to the applicant and the authority concerned by the designated authority of the Industrial Area Board.

Section 8 - Powers and functions of District Board

(1) Notwithstanding anything contained in any law for the time being in force, every person intending to establish any small scale industrial undertaking having capital investment of more than two lakh rupees shall submit the application in the prescribed form to the Convener of the District Board for clearances or licenses or certificates required under various State enactments along with the required fee under the respective enactment. The application shall contain such details as may be prescribed.

(2) The District Board shall, after complying the procedure prescribed in this behalf and within sixty days from the date of receipt of the application take a decision as,

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(a) to recommend to the authority concerned the issue of the license or permission applied without any modifications or with such modifications as it thinks fit to make; or

(b) refuse clearance if it is of the opinion that the proposed construction, establishment or installation is objectionable.

(3) The decision taken by the District Board shall be communicated to the applicant and the authority concerned by the Convener of the District Board.

(4) Notwithstanding anything contained in any law for the time being in force, if the application for clearance, license or certificate submitted before the Authority concerned for establishing a Small Scale industrial undertaking having capital investment of less than rupees two lakhs is rejected or recommended with modification the person aggrieved may file an appeal before the District Board against such order of refusal or recommendation within thirty days from the date of receipt of order from the authority concerned in the manner prescribed and such an appeal shall be disposed of within thirty days from the date of submission of the appeal.

Section 9 - Powers and functions of the State Board

(1) Notwithstanding anything contained in any law for the time being in force every person intending to establish any industrial undertaking other than a small scale industrial undertaking in the State, shall submit the application, for clearances or licenses or certificates required under various State enactments to the Convener of the State Board in the prescribed form along with the required fee under the respective enactment. The application shall contain; such details as may be prescribed.

(2) The State Board shall after complying the procedure prescribed in this behalf and within forty five days from the date of receipt of the application take a decision as, -

(a) to recommend to the concerned authority the issue of license or permission applied for without any modification or with such modification as it thinks fit to make; or

(b) to refuse clearance if it is of the opinion that the proposed construction, establishment or installation is objectionable.

(3) The decision taken by the State Board shall be communicated to the applicant and the authority concerned by the Convener of the State Board.

Section 10 - Issuing of clearances licenses, certificates based on the recommendations

Notwithstanding anything contained in any other law for the time being in force the authority concerned shall, on receipt of the recommendation of the State Board, District board or Industrial Area Board, issue the clearances, licenses or certificates applied for in accordance with the recommendations of the State Board, District Board or Industrial Area Board as the case may be within ten working days from

the date of receipt of the recommendations, if no clearance, license or certificate, as the case may be, is issued within the said time limit the clearance, license or certificate, as the case may be, recommended for by the respective Board shall be deemed to have been issued after the expiry of the said period of ten working days.

Section 11 - Appellate Jurisdiction of the State Board

(1) If the clearance or license or certificate applied for before the District Board or Industrial Area Board has been refused or recommended with modification, the aggrieved person may, within thirty days from the date of receipt of such refusal or recommendation from the District Board or Industrial Area Board, file an appeal to the state board against such order, in the manner prescribed.

(2) The State Board may, if it is considered necessary call for additional details and on production of such details and after giving an opportunity of being heard to the aggrieved person and the authority concerned, shall dispose of such appeal within a period of thirty days from the date of filing the appeal. The decision of the State Board on such appeal shall be final.

(3) The State Board may, with the previous approval of the Government delegate to any Sub Committee constituted by it such of its powers and functions under this section subject to such restrictions and conditions, if any, as it may specify.

(4) The composition of the Sub Committee shall be such as may be prescribed.

(5) Notwithstanding anything contained in any law for the time being in force any license, clearance or certificate-granted on the basis of a decision under this section by the State Board or a Sub Committee of the State Board shall be deemed to be issued under the respective statute.

Section 12 - Appellate Jurisdiction of the Government

Any person aggrieved by the decision of the State Board other than on matters decided by it on appeal under section 11 over the decision of the District Board or Industrial Area Board, as the case may be, may appeal to the Government within thirty days from the date of such decision by the State Board and the decision of the Government on such appeal shall be final.

Section 13 - Power of the State Board to revoke the licenses

(1) If the State Board may suo motu at any time examine the record of a District Board or an industrial Area board in respect of any proceedings under this Act and if the State board is satisfied that the clearance or certificate of license under this

Act has been obtained by misrepresentation as the essential facts, the State Board may, by order direct the authority concerned to revoke the license or certificate or clearance issued by them:

Provided that the State Board shall not pass any order affecting any party unless such party has had an opportunity of making a representation.

(2) If the State Board is satisfied either on a reference made to it in this behalf or otherwise, that any person or authority to whom or to which the clearance or license or certificate has been issued under this Act failed to establish or to take effective steps to establish the industrial undertaking in respect of which the clearance or license or certificate has been issued within the time specified therein or within such extended time as the State Board may think fit to grant in any case, it may direct the authority concerned to revoke the license or clearance or certificate already granted.

(3) The provisions contained in the proviso to sub-section (1) shall apply in respect of any proceedings under sub-section (2) as they apply to a proceeding under sub-section (1).

Section 14 - Establishment of Industrial Township

(1) The Governor may, having regard to the size of an Industrial Area and the municipal services being provided or proposed to be provided by an agency in that area and such other factors as he may deem fit, by public notification under the proviso to clause (1) of article 243 Q of the Constitution of India, specify that area to be an Industrial Township Area.

Explanation.--In this section the expression an industrial area means an area benefited by an industrial area.

(2) Upon any area being specified an industrial township in the manner stated in sub-section (1), such area, if included in a Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or, as the case may be, in a municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994), shall, with effect from the date of such notification be deemed to be excluded from such Panchayat or Municipality, as the case may be.

(3) The authority shall have all the powers of a Municipality in an industrial township area.

(4) The Industrial Township Authority shall have the power to collect the taxes and fees and to realise the fine that can be collected or realized under the Kerala

Municipality Act, 1994 (20 of 1994) from the area within the jurisdiction of the Industrial Township Area.

Section 15 - Constitution of the Industrial Township Authority

(1) The Government may for the purposes of administering the affairs of an Industrial Township Area and for carrying out the provisions of this Act by notification constitute an industrial Township Authority for each Industrial Township Area.

(2) The Industrial Township Authority shall consist of such number of Directors as may be appointed by the Government and they shall be chosen in such manner as may be provided for in the Scheme.

(3) The functions of the Industrial Township Authority shall be to administer the affairs and secure the planned development and maintenance of the Industrial Township Area.

(4) The Industrial Township Authority shall administer the Industrial Township Area in such manner as may be specified in this Act and the Scheme.

(5) Subject to the provisions of this Act the Scheme may provide for all or any of the following matters, namely:-

(a) The manner in which the Directors of the industrial Township Authority shall be chosen and appointed;

(b) the manner in which the meeting of the Industrial Township Authority may be conducted;

(c) the constitution of any committee for assisting the Industrial Township Authority;

(d) the manner in which the preparation of the budget maintenance of accounts and the audit of accounts of the industrial Township Authority may be made;

(e) the registers and records to be maintained by the Industrial Township Authority;

(f) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

(6) Every Scheme framed under this section shall be laid, as soon as may be after it is issued before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or into 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 Scheme or decides that the Scheme should not be issued, the Scheme 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 the Scheme.

Section 16 - Extension of provision of the Municipal Act or the rules made there under

(1) The Government may, by notification, in the Gazette declare that any of the provisions of the law relating to the Municipalities in force for the time being or of any rules made thereunder, shall be extended to, and be in force in, an Industrial Township Area.

(2) The provisions so notified shall be construed with such alterations not affecting the substance as may be necessary or proper for the purpose of adopting them to an Industrial Township Area.

(3) Without prejudice to the generality of the foregoing provision, all reference to a Municipal Council or the Chairman or the Secretary thereof shall be construed as references to the Industrial Township Authority or the Chairman or the Chief Officer of the Industrial Township Authority thereof, all references to any officer or employee of a municipal council as references to the corresponding Officer or employee of the authority and all reference to the local limits of the municipality as reference to the limits of the Industrial Township Area, as the case may be.

Section 17 - Applicability of the Kerala Buildings (Lease and Rent control) Act, 1965 (2 of 1965)

The Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965) shall not apply to any premises belonging to the Industrial Township Authority under section 15.

Section 18 - Overriding effect of the Act

Upon any area being declared an industrial area under the provisions of this Act, such area, as included in the master plan or the zonal development plan under the Town Planning Act (IV of 1108) or the Madras Town Planning Act, 1920 (Madras Act VII of 1920) or any other Act enacted by the Kerala State Legislature, shall, with effect from the date of such declaration be deemed to be excluded from any such plan.

Section 19 - Direction by Government

The Government may from time to time issue to the State Board or a District Board or an industrial Area Board or an industrial Township Authority such general or special directions of policy as they may deem necessary or expedient for the purpose of carrying out the objects of this Act and the State Board or the District Board or the industrial area board, or the Industrial Township authority, as the case may be, shall be bound to follow and act upon such directions.

Section 20 - Returns and Inspection

(1) The industrial township authority shall furnish to the government such reports, returns and other information as the Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1) the Government or any officer authorized by the Government in that behalf, may call for reports, returns and other Information from the industrial township authority in regard to the implementation of any Scheme.

(3) Any person authorized by the Government or the officer referred to in sub-section (2) may enter into or upon any land with or without assistance of workman for ascertaining whether the provisions of the schemes are being or having been Implemented, or whether the development is being or has been carried out in accordance with such scheme.

(4) No such entry shall be made except between the hours of sun rise and sun set and without giving reasonable notice to the occupier or if there is no occupier, by the owner of the land or building.

Section 21 - Members and Officers to be Public Servants

Every member and every officer and other employee of the Industrial Township Authority or the State Board, the District board or the Industrial Area Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Section 22 - Protection of Action taken in Good Faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any Rule or regulation by law made thereunder.

Section 23 - Act not to be Invalidated by irregularity, Vacancy etc

No Act done or proceeding taken under this Act, by the State Board, the District Board or the Industrial Area Board or a Sub-Committee appointed by the State Board shall be invalidated merely on the ground of;-

- (a) any vacancy in, or defect in the constitution of the State Board, the District Board or the Industrial Area Board or any Sub Committee of the State Board; or
- (b) any defect or irregularity in the appointment of a person acting as a member of any such Board or Sub Committee; or
- (c) any defect or irregularity in such Act or proceeding not affecting the merits of the case.

Section 24 - Powers of the State Board to make bye-laws

(1) The State Board may, subject to the provisions of this Act and with the previous approval of the Government, by notification in the Gazette, make bye-laws generally to carry out the purposes of this Act.

(2) Such bye-laws may provide for, -

- (a) the procedure to be followed by the State Board, District Boards and industrial Area Board for transaction of their business;
- (b) all matters connected with granting of licenses, clearances or certificates by the State Board, district boards and Industrial Area Boards.

Section 25 - Powers of the State Board, District Boards and Industrial Area Boards to Collect Fees

The State Board, District Board and Industrial Area Board may with the previous approval of the Government fix, and collect fees from the beneficiaries.

Section 26 - Power to make Rule

(1) The government may, by notification in the Gazette, make Rules for carrying out the purposes 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 decides that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or have 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.

Section 27 - Power of the Industrial Township Authority to make Regulations

(1) Subject to the provisions of this Act and the Rules made thereunder an industrial Township Authority may, with the approval of the Government make regulations for carrying out any of the purposes for which it is constituted.

(2) The Government shall have power to make rule regarding the procedure for the making of regulations, the publication thereof, and the date on which they shall come into effect.

Section 28 - Removal of Difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act the Government may, as occasion may require, by order to anything not inconsistent with this Act, which appear to them necessary for the purpose of removing the difficulty.

Provided that no such, order shall be passed after two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the first meeting of the Legislative Assembly, after making the order.

Kerala State Acts