

THE KERALA CASHEW FACTORIES (ACQUISITION) ACT, 1974 [\[1\]](#)

(ACT 29 of 1974)

Act to provide for the acquisition, in the public interest, of certain cashew factories.

Preamble.- WHEREAS it is expedient, in the public interest to acquire certain cashew factories to prevent large scale unemployment among the workers in the cashew industry and to provide employment to the workers who have been rendered unemployed and to secure to them just conditions of service ;

BE it enacted in the Twenty-Fifth Year of the Republic of India as follows:-

I. *Short title, extent and commencement* .-(1) This Act may be called the Kerala Cashew Factories (Acquisition) Act, 1974.

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

(3) It shall come into force at once.

2 . *Definitions* .-In this Act. Unless the context otherwise requires,-

(a) "appointed day" means the date of publication of the declaration under Sub-section (1) of section 3 [\[2\]](#) (or under sub-section (1) of section 3A)

(b) "Cashew factory" means a factory as defined in the Factories Act, wherein processing of cashewnuts is being carried on and includes the factory building, the site thereof, and the buildings and lands appurtenant thereto used or necessary for, or in connection with, the working of the factory ;

(c) "Corporation" means the Kerala State Cashew Development Corporation Limited, incorporated under the Companies Act. 1956 (Central Act 1 of 1956) ;

(d) "Factories Act" means the factories Act, 1948 (Central Act 63 of 1948) ;

(dd) [\[3\]](#) "Federation" means the Kerala State Co-operative Marketing Federation ;)

(e) "occupier" means an occupier as defined in the Factories Act;

(f) "prescribed" means prescribed by rules made under this Act ;

(g) "Processing", with reference to cashewnuts, includes extraction of cashewnut oil and roasting, shelling, peeling, grading and treating of cashewnuts.

(h) [4] "Workers' Co-operative society" or Society" means a co-operative society registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) and formed with the object of managing a cashew factory which has been closed down or vested under this Act in the Government and of which at least ninety percent of the members are workmen within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) who have been immediately before the appointed day, in the employment of the cashew factory.

3. *Order of acquisition* .- (1) The Government may, if they are satisfied-

(a) that the occupier of a cashew factory does not conform to the provisions of law relating to safety, conditions of service or fixation and payment of wages to the workers of the factory; or

(b) that raw cashewnuts allotted to a cashew factory by the cashew Corporation of India are not being processed in the factory to which allotment has been made or that such nuts are being transferred to any other cashew factory; or

(c) that there has been large scale unemployment, other than by way of lay off or retrenchment, of the workers of a cashew factory, by order published in the Gazette, declare that that cashew factory shall stand transferred to, and vest in, the Government:

Provided that before making a declaration under this sub-section in respect of a cashew factory, the Government shall give the occupier of the factory and the owner of the factory, where he is not the occupier, a notice of their intention to take action under this sub-section and the grounds therefor and consider the objections that may be preferred in pursuance of such notice.

Explanation .-For the purposes of this sub-section, the expressions "lay off" and "retrenchment" shall have the meanings respectively assigned to them in the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

(2) The notice referred to in the proviso to sub-section (1) shall also be published in two newspapers published in the State of Kerala , and such publication shall be deemed to be sufficient notice to the occupier, to the owner where he is not the occupier and to all other persons interested in the cashew factory.

(3) On the making of a declaration under sub-section (1) the cashew factory to which the declaration relates, together with all machinery, other accessories and other movable properties as where immediately before the appointed day in the ownership, possession, power or control of the occupier in relation to the factory and all books of accounts, registers and other documents relating thereto shall stand transferred to, and vest in the Government.

[5] (3A. *Power to acquire any cashew factory in public interest* .- (1) Notwithstanding anything contained in section 3, if the Government are satisfied, in

relation to a cashew factory, that it has been closed for a period of not less than three months and such closure has prejudicially affected the interest of the majority of the workers engaged in that factory and that immediate action is necessary to restart the cashew factory and such restarting is necessary in the public interest, they may by order published in the Gazette, declare, that the cashew factory shall stand transferred to, and vest in, the Government:

Provided that no order under this sub-section shall be published unless the proposal for such acquisition is supported by a resolution of the Legislative Assembly.

(2) The provisions of sub-section (3) of section 3 and section 4 shall, as far as may be, apply to a declaration made under sub-section (1), as they apply to a declaration made under sub-section (1) of section 3.

(3) The provisions of section 7 to 16 (both inclusive) shall, as far as may be apply to, or in relation to, the cashew factory, in respect of which a declaration has been made under sub-section (1), its occupier or Government, as the case may be, as they apply to a cashew factory in relation to which a declaration has been made under sub section (1) of section 3.)

4. *General effect to vesting under section 3.*-All property vesting in the Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations mortgages, charges, lien and other encumbrances affecting it, and any attachment, injunction or any decree or order of court restricting the use of such property in any manner shall be deemed to have been withdrawn.

5. *Inventory of properties* .-(1) An officer authorised by the Government in this behalf shall, after the service of the notice under the proviso to sub section (1) of section 3 of the publication of that notice under sub-section (2) of that section [\[6\]](#) (or after a resolution is passed by the Legislative Assembly under sub-section (1) of section 3A) and before the publication of the declaration under the said sub-section (1) prepare a complete inventory of all the properties of the cashew factory to which the notice relates. as on the date of service of the said notice or the date of publication of that notice, as the case may be..

(2) The offer referred to in sub-section (1) shall, for the purpose of preparing the inventory, have the power to enter the premises of the cashew factory and to require the occupier or any person employed therein to furnish such information as he deems necessary.

(3) Any person who is required to furnish any information under sub-section (2) shall be bound to furnish such information as is within his knowledge.

6. *Property and assets not to be damaged or removed after service of notice* .- After the service of the notice under the proviso to sub-section (1) of section 3, or the publication of that notice under sub section (2) of that section [\[7\]](#)(or after a resolution is

passed by the legislative Assembly under sub-section (1) of section 3A.) the occupier or any other persons shall not commit any act which will diminished the value of the properties and asset of the cashew factory to which the notice relates or remove any such property or assets from the premises of the factory.

7. Duty to deliver possession of property acquired and documents relating thereto .- (1) Where any property has vested in the Government under this Act, every person in whose possession or custody or under whose control and property may be, shall deliver the property to the Government forthwith.

(2) The Government may take or cause to be taken all necessary steps for securing possession of the properties which have vested in the Government under this Act, and, for this purpose, the Government may use such force as they deem necessary.

8. Power of Government to direct vesting of cashew factory in the Corporation . Notwithstanding [8]anything contained in section 3, the Government may, by order in writing;-

(a) direct that a cashew factory vested in this under this Act shall, instead of continuing to vest in the Government, vest in the Corporation with effect from such date (not being a date earlier than the appointed day) as may be specified in the order; or

(b) entrust a cashew factory vested in them under this Act to the Federation or to a workers co-operative society or to any other institution approved by the Government in this behalf for management for such period and on such terms and conditions as may be specified in the order.

(2) Where an order vesting a cashew factory in the Corporation is made under sub-section (i), all the rights liabilities and obligations of the Government in relation to such factory shall, on and from the date of such vesting, be deemed to have become the rights, liabilities and obligations respectively of the Corporation.

9. Payment of amount .-(1) The occupier of every cashew factory which is acquired under this Act shall be paid by the government an amount which shall be determined in accordance with the principles specified in the Schedule:

Provided that where the occupier is not, the owner of the cashew factory, such owner shall be entitled to such portion of the amount as may be determined by the District Court under sub section (5).

(2) The amount payable under sub-section (1) shall be determined by the District Collector within a period of three months from the appointed day.

(3) Where there is dispute as to the amount determined by the District Collector, or where there are more persons than one claiming to be entitled to the amount, the

District Collector shall refer the matter for the determination of the District Court within whose jurisdiction the cashew factory is situate.

(4) A reference under sub-section (3) shall be in such form, shall contain such particulars and shall be accompanied by such documents, as may be prescribed.

(5) On receipt of a reference under sub-section (3), the District Court shall, after such inquiry as it deems necessary, pass an order determining the amount payable under sub-section (1) or apportioning the amount among the persons entitled thereto.

(6) Every secured debt due from the owner or occupier of a cashew factory vested in the Government or the Corporation under this Act shall have priority over all other debts and shall be paid in accordance with the rights and interests of the secured creditors.

(7) The amount determined in accordance with the foregoing provisions shall be paid to the person or persons entitled thereto in cash within a period of six months from the date of such determination:

Provided that if the amount is not paid within the period aforesaid, the Government shall pay interest on the amount at the rate of four per cent per annum from the date of expiry of the said period.

10. *Employment of certain employees to continue* .-(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and has been, immediately before the appointed day, in the employment of a cashew factory vested under this Act in the Government or the Corporation, as the case may be, shall become, on and from the appointed day, an employee of the Government, or as the case may be, of the Corporation and shall hold office or service in the cashew factory on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if such cashew factory had not been transferred to, and vested in, the Government or the Corporation, as the case may be and continue to do so unless and until his employment in such cashew factory is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Government or the Corporation, as the case may be.

(2) The Government or the Corporation, as the case may be, in which a cashew factory has vested under this Act, may employ on mutually acceptable terms and conditions, any person who is not a workman within the meaning of the Industrial Disputes Act 1947 (Central Act 14 of 1947) and who has been immediately before the appointed day, in the employment of such cashew factory and on such employment and said person shall become an employee of the Government or the Corporation, as the case may be.

(3) Save as otherwise provided in sub-sections (1) and (2) the services of every person who is on the appointed day, an employee of a cashew factory vested in the

Government or the Corporation under this Act shall stand terminated on and from such date as may be specified by the Government.

(4) Where, under the terms of any contract of service or otherwise any person whose service becomes terminated or whose service becomes transferred to the Government or the Corporation by reason of the provisions of this Act, is entitled to any payment by way of gratuity or retirement benefits or for any leave not availed of, or any other benefits, such person may enforce his claim against the occupier of the cashew factory but not against the Government or the Corporation.

[10A] . *Continuance of Employees where cashew factory is entrusted to the Federation or to a workers' co-operative society or to an institution for management .-*
(1) Where a cashew factory vested under this Act in the Government has been entrusted to the Federation or to any other institution approved by the Government in this behalf under sub-section (1) of section 8 for management, every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and has been immediately before the appointed day in the employment of the cashew factory, shall become, on and from the date on which the cashew factory, is so entrusted for management, an employee of the Federation or, as the case may be, of the institution and shall hold office or service in the cashew factory on the same terms and conditions and with the same rights as to pension, gratuity and other matters as would have been admissible to him if such cashew factory had not been transferred to, and vested in, the Government and continue to do so unless and until his employment in such cashew factory is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Federation or the institution, as the case may be.

(2) Notwithstanding anything contained in section 10 or in any other law for the time being in force, where a cashew factory vested under this Act in the Government has been entrusted to a workers co-operative society under sub-section (1) of section 8 for management, only such of those persons who are workmen within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and have been, immediately before the appointed day, in the employment of the cashew factory and who become members of the worker's co-operative society to which the management has been so entrusted shall be eligible for employment in the cashew factory.

(3) Every person who is eligible for employment under sub-section (2) in a cashew factory vested under this Act in the Government and is entrusted to a workers' co-operative society for management, shall become, on and from the date on which the cashew factory is so entrusted to the society for management or the date on which he becomes a member of such society, whichever is later, an employee of the society and shall, hold office or service in the cashew factory on such remuneration, terms and conditions of employment as may be determined by the society.

(4) The federation or a workers' co-operative society or any institution to which the management of a cashew factory vested under this Act in the Government is entrusted under sub-section (1) of section 8, may employ on mutually acceptable terms and

conditions any person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) and who has been, immediately before the appointed day, in the employment of such cashew factory and on such employment the said person shall become an employee of the Federation or the society or the institution, as the case may be.

(5) Where the management of a cashew factory vested under this Act in the Government is entrusted to the Federation or to a workers' co-operative society or to any other institution for management under sub-section (1) of section 8, any person whose service becomes terminated or who becomes an employee of the Federation or the society or the institution by reason of the provisions of this section, is entitled to any payment by way of gratuity or retirement benefits or for any leave not availed of, or any other benefits, prior to the appointed day, such person may enforce his claim against the occupier of the cashew factory immediately before the appointed day but not against the Government or the Federation or the society or the institution.

(6) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, any person whose service becomes terminated or whose terms and conditions of employment have been altered in pursuance of the provisions of this section, shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court tribunal or other authority.)

11. *Provident fund.* -(1) Where a cashew factory has established a provident fund for the benefit of its employees, the moneys relating to the employees, whose services have become transferred, by or under this Act, [\[10\]](#) (to the Government or the Corporation or the Federation or a workers' co-operative society or an institution, shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, stand transferred to, and vest in, the Government or the Corporation or the Federation or the workers' co-operative society or the institution, as the case may be.)

[\[11\]](#) (2) The moneys which stand transferred, under sub-section (1), to the Government or the Corporation or the Federation or a workers' co-operative society or an institution shall be dealt with by the Government or the Corporation or the Federation or the workers' co-operative society or the institution, as the case may be in such manner as may be prescribed.)

12. *Superannuation, welfare and other funds.* -Where a superannuation, welfare or other fund has been established for the benefit of the employees whose services stand transferred to the Government or the Corporation [\[12\]](#) (or the Federation or a workers co-operative society) under this Act, the cashew factory, by which such employees were employed, shall distribute the amount due to each employee as if the employee had superannuated, or his services with the cashew factory had terminated, on the day immediately preceding such date as may be specified by the Government in this behalf.

13. *Penalties.* - (1) Any person who -

(a) fails to furnish any information which he is bound to furnish under sub-section (3) of section 5 or furnishes any such information which he knows or has reason to believe to be false; or

(b) contravenes the provisions of section 6; or

(c) having in his possession, custody or control any property forming part of a cashew factory in respect of which a declaration under section 3 has been made, wrongfully withholds such property from the Government; or

(d) wrongfully obtains possession of any property forming part of a cashew factory which has vested in the Government under this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both: Provided that the court trying any offence under clause (c) or clause (d) may, at the time of convicting the accused person, order him to deliver up within a time to be fixed by the court any property wrongfully withheld or obtained.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or an officer authorised by the Government in this behalf.

14. *Offences by companies* .-(1) Where an offence under this Act has been committed by a company, every person who at the time the offence 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 offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been 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 be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation .-For the purposes of this section,-

(a) "company" means any 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.

[\[13\]](#) (the Federation or a workers co-operative Society of an institution)

15. *Protection of action taken in good faith* .-(1) No suit prosecution or other legal proceeding shall lie against the Government or the Corporation or any officer or other employee of the Government or the Corporation [\[14\]](#) (the Federation or a Worker's CO-operative society or an institution) for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Government or the Corporation or [\[15\]](#) (the Federation or a workers co-operative society or an institution) any officer or other employee of the Government or the Corporation [\[16\]](#) (the Federation or a workers co-operative society or an institution) for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

16. *Power to make rules* .-(1) The Government may, by notification in the Gazette, make rules to carry out 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.

17. *Repeal and saving* .-(1) The Kerala Cashew Factories (Acquisition) Ordinance, 1974 (8 of 1974), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act has commenced on the 28th day of June, 1974.

THE SCHEDULE

(See Section 9)

Principles for determining amount payable for acquisition of cashew factories

Paragraph I

The amount to be paid by the Government for the acquisition of a cashew factory shall be the sum total of the value of the properties and assets of the factory existing on the appointed day, calculated in accordance with the provisions of Paragraph II.

Paragraph II

(a) (i) In respect of any land which was part of the factory at the time of establishment of the factory, the value of such land at the time of establishment of the factory ;

(ii) In respect of any land acquired by the owner or occupier for the purposes of the factory subsequent to the establishment of the factory, the value of such land at the time of such acquisition;

(b) The cost of any buildings at the time of construction *minus* depreciation at the rate of 5 per cent per annum subject to a maximum of 50 per cent depreciation;

(c) The actual cost of acquiring any plant, machinery or other equipment which has not been worked or used and the written down value (determined in accordance with the provisions of the Income Tax Act, 1961) of any other plant, machinery or other equipment, provided that such written down value shall not be less than 25 per cent of the actual cost of acquiring such plant, machinery or other equipment.

THE KERALA CASHEW FACTORIES (REQUISITIONING) ACT, 1979¹

(Act 6 of 1979)

An Act to provide for the requisitioning of cashew factories leased out to the Kerala State Cashew Development Corporation.

Preamble.-WHEREAS certain cashew factories had been leased out by the owners thereof to the Kerala State Cashew Development Corporation Limited, which is a company owned by the Government of Kerala;

AND WHEREAS such cashew factories were at the time of the lease either closed down or run by person other than the owners thereof:

AND WHEREAS the term of the lease in respect of some of such cashew factories has expired and the owners of some of such factories are not willing to extend the term of the lease;

AND WHEREAS suits have been filed in the courts by the owners of some of such cashew factories for delivery of possession thereof;

AND WHEREAS in the interests of the workers of the cashew factories it is considered necessary to enable the said Corporation to continue in possession and management of such of those cashew factories which if given back to the owners thereof could not be run properly and in accordance with law and would either be sold or leased out to private individuals;

BE it enacted in the Thirtieth Year of the Republic of India as follows-

1. *Short title, extent and commencement.*-(1) This Act may be called the Kerala Cashew Factories (Requisitioning) Act, 1979.

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

(3) It shall be deemed to have come into force on the 13th day of November 1978.

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

(a) "cashew factory" means a factory as defined in the Factories Act, 1948 (Central Act 63 of 1948), wherein processing of cashewnuts is being carried on and includes the factory building, the site thereof and the buildings and lands appurtenant thereto used or necessary for, or in connection with, the working of the factory;

(b) "Corporation" means the Kerala State Cashew Development Corporation Limited, incorporated under the Companies Act, 1956 (Central Act 1 of 1956);

(c) the expression "Person interested", in relation to any cashew factory, includes all persons claiming or entitled to claim an interest in the amount payable on account of the requisitioning of that factory under this Act;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "processing", with reference to cashew nuts, includes extraction of cashew nut oil, roasting, shelling, peeling, grading and treating of cashew nuts;

(f) "Tribunal" means the Tribunal appointed under section 6.

3. *Power to requisition cashew factories.*- (1) Where the Government are satisfied that if the owner of a cashew factory which is in the possession of the Corporation under a lease, whether current or time expired, is put in possession thereof, such owner could not run that factory properly and in accordance with law and would either sell it or lease it out to any private individual and there would be large scale unemployment of the workers of that factory or their conditions of service would be adversely affected the Government may, notwithstanding any judgment, decree or order of any court, 2[by order published in the Gazette-

- (a) requisition that cashew factory for such period not exceeding five years as may be specified in the order;
- (b) Extend the period of requisition by five years at a time;
- (c) make such further orders as appear to them to be necessary or expedient in connection with the requisition];

Provided that before making an order under this sub-section in respect of a cashew factory, the Government shall give the owner of that factory and every person interested in that factory a notice of their intention to take action under this sub-section and the grounds therefor and consider the objections that may be preferred in pursuance of such notice.

- (2) Where a cashew factory is requisitioned under sub-section (1), such cashew factory together with all machinery other accessories and other movable properties as were immediately before the date of publication of the order under sub-section (1) in the possession of the Corporation and all books of account, registers and other documents relating thereto shall vest in the Government with effect from the said date.
- (3) The Government may, by order in writing, direct that a cashew factory vested in them under sub-section (2) shall, instead of

continuing to vest in them, vest in the Corporation with effect from such date, not being a date earlier than the date of publication of the order under sub-section (1), as may be specified in the order.

- (4) Where an order vesting a cashew factory in the Corporation is made under sub-section (3), all rights, liabilities and obligations of the Government in relation to such factory shall, on and from the date of such vesting, be deemed to have become the rights, liabilities and obligations respectively of the Corporation.

4. Release from requisition.-(1) The Government may at any time release from requisition any cashew factory requisitioned under section (3) and thereupon the Government or the Corporation, as the case may be, shall as far as possible restore the factory in as good a condition as it was when possession thereof was taken by virtue of the lease executed by it with the owner of cashew factory, subject to the provisions contained in such lease and to the changes caused by reasonable wear and tear and irresistible force.

(2) Where any cashew factory is to be released from requisition under sub-section (1), the Government may, after such inquiry, if any, as they may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of such cashew factory is to be given.

(3) The delivery of possession of a cashew factory to the person specified in an order under sub-section (2) shall be a full discharge of the Government and, in the case of a cashew factory vested in the Corporation, also of the Corporation from all liabilities in respect of such cashew factory, but shall not prejudice any right in respect of that cashew factory which any other person may be entitled by due process of law to enforce against the person to whom possession of the cashew factory is given.

(4) Where any person to whom possession of a cashew factory is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the cashew factory is released from requisition to be affixed on some conspicuous part of the premises of the cashew factory and shall also publish the notice in the Gazette.

(5) Where a notice referred to in sub-section (4) is published in the Gazette, the cashew factory specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be, deemed to have been delivered to the person entitled to possession thereof, and the Government or the Corporation shall not be liable for any compensation or other claim in respect of such cashew factory for any period after the said date.

(6) Where any cashew factory requisitioned under section 3 or any material part thereof is wholly destroyed or rendered sub-stantially and permanently unfit for carrying on processing of raw cashew nuts by reason of fire, earthquake, tempest, flood or violence of any mob or other irresistible force, the requisition shall, at the option of the Government, be void:

Provided that the benefit of this sub-section shall not be available to the Government where the inquiry to such cashew factory is caused by any wrongful act or default of the Government or the Corporation.

5. Payment of amount.-(1) Where any cashew factory is requisitioned under this Act there shall be paid rent for the cashew factory, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,-

- (a) where the amount of rent can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached the Government shall by order.
 - (i) determine the rent at a rate which shall be in excess of the amount of rent which was being paid by the Corporation for that cashew factory immediately before the date of publication of the order under sub-section (1) of section 3 by twenty-five per cent of such amount and

- (ii) specify the person or persons to whom such rent shall be paid.

(2) Any person aggrieved by an order of the Government under sub-section (1) may, within thirty days from the date of such determination, apply to the Tribunal for modification of such order:

Provided that the Tribunal may entertain the application after the expiry of the said period of thirty days if it is satisfied that the applicant was prevented by sufficient cause from presenting the application in time.

- (3) In determining the amount of rent payable for a cashew factory requisitioned under this Act, the Tribunal shall have regard to-
 - (a) the nature and plinth area of the buildings and other structures and the value of the accessories and fixtures minus depreciation at the rate of five per cent per annum subject to a maximum of fifty per cent depreciation;
 - (b) the capacity of the cashew factory for processing raw cashew nuts;
 - (c) rate of rent of other cashew factories in the locality at the commencement of this Act; and
 - (d) express on account of re-occupying the premises upon release from requisition.

6. *Tribunal.*-(1) The Government shall, by notification in the Gazette, appoint a Tribunal to exercise the powers conferred on the Tribunal under this Act.

(2) The Tribunal shall consist of a person who is a District Judge.

7. *Appeals from decision of Tribunal.*-Any person aggrieved by any decision of the Tribunal may, within thirty days from the date of such decision, prefer an appeal to the High Court against such decision:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

8. *Mode of payment of rent.*-The amount of rent payable under this Act shall, subject to any rules made thereunder, be paid by the Government to the person or persons entitled thereto by means of cheque:

Provided that the amount of rent payable under this Act in respect of a cashew factory vested in the Corporation in pursuance of an order made under sub-section (3) of section 3 shall be paid by the Corporation.

9. *Service of notice or order.*-(1) Every notice or order issued or made under this Act shall,-

(a) in the case of any notice or order affecting a corporation or firm be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of

Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(b) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person-

(i) by delivery or tendering it to that person; or

(ii) if it cannot be so delivered or tendered by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain, or failing service by these means;

(iii) by registered post.

(2) Where the ownership of the cashew factory is in dispute, or where the persons interested in the cashew factory are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in Gazette and where possible, by affixing a copy thereof on any conspicuous part of the premises of the cashew factory to which it relates.

10. *Protection of action taken in good faith.*-(1) 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 in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or the Corporation 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 this Act or any rule or order made thereunder.

11. *Bar of jurisdiction of civil courts.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or the Corporation or the Tribunal are or is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

12. *Power to make rules.*—(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 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.

13. *Repeal and saving.*—(1) The Kerala Cashew Factories (Requisitioning) Ordinance, 1978 (26 of 1978), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

THE KERALA CASHEW FACTORIES (ACQUISITION)

AMENDMENT ACT, 1995 [\[1\]](#)

(ACT 14 OF 1995)

An Act further to amend the Kerala Cashew Factories (Acquisition) Act, 1974.

Preamble.—WHEREAS it is expedient to amend the Kerala Cashew Factories (Acquisition) Act, 1974 (29 of 1974) for the purposes hereinafter appearing;

BE it enacted in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Cashew Factories (Acquisition) Amendment Act, 1995.

(2) It shall be deemed to have come into force on the 1st day of May, 1984.

2. *Amendment of section 2.*—In section 2 of the Kerala Cashew Factories (Acquisition) Act, 1974 (29 of 1974) (hereinafter referred to as the principal Act), in clause (a), the words, figures and brackets “or under sub-section (1) of section 3A” shall be added at the end.

3. *Insertion of new section 3A.*—In the principal Act, after section 3, the following section shall be inserted, namely:—

“3A, *Power to acquire any cashew factory in public interest.*—(1) Notwithstanding anything contained in section 3, if the Government are satisfied, in relation to a cashew factory, that it has been closed for a period of not less than three months and such closure has prejudicially affected the interest of the majority of the workers engaged in that factory and that immediate action is necessary to restart the cashew factory and such restarting is necessary in the public interest, they may, by order published in the Gazette, declare, that the cashew factory shall stand transferred to, and vest in, the Government:

Provided that no order under this sub-section shall be published unless the proposal for such acquisition is supported by a resolution of the Legislative Assembly.

(2) The provisions of sub-section (3) of section 3 and section 4 shall, as far as may be, apply to a declaration made under sub-section (1), as they apply to a declaration made under sub-section (1) of section 3.

(3) The provisions of section 7 to 16 (both inclusive) shall, as far as may be, apply to, or in relation to, the cashew factory, in respect of which a declaration has been made under sub-section (1), its occupier or Government, as the case may be, as they

apply to a cashew factory in relation to which a declaration has been made under sub-section (1) of section 3."

4. *Amendment of section 5.*—In sub-section (1) of section 5 of the principal Act, for the words, figure and brackets "or the publication of that notice under sub-section (2) of that section", the words, figures and brackets "or the publication of that notice under sub-section (2) of that section or after a resolution is passed by the Legislative Assembly under sub-section (1) of section 3A, as the case may be" shall be substituted.

5. *Amendment of section 6.*—In section 6 of the principal Act, for the words, figures and brackets "or the publication of that notice under subsection (2) of that section", the words, figures and brackets "or the publication of that notice under sub-section (2) of that section or after a resolution is passed by the Legislative Assembly under sub-section (1) of section 3A, as the case may be," shall be substituted.

6. *Declaration as to acquisition of certain cashew factories.*—(1) It is hereby declared that it is expedient in the public interest that the cashew factories specified in the Schedule to this Act shall, notwithstanding any thing contained in any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other law, agreement or other instrument for the time being in force, stand transferred to, and vest in, the Government with effect from the date noted against each.

(2) The provisions of section 4, section 7 to 16 (both inclusive) of the principal Act shall, as far as may be, apply to, or in relation to, the cashew factory in respect of which sub-section (1) apply, as they apply to a cashew factory in relation to which a declaration has been made under sub-section (1) of section 3A.

(3) For removal of doubt it is hereby declared that the dates mentioned in the Schedule against each factory shall be the 'appointed day' in respect of that factory for the purposes of the principal Act.

(4) All acts, proceedings or things done or taken by the Government or any officer or authority in respect of cashew factories mentioned in the Schedule including all the orders issued under sub section (1) of section 8, during the periods commencing on and from the dates noted against each and ending with the date of publication of this Act in the Gazette, shall, for all purposes, be, and shall be deemed always to have been, as valid and effective as if the amendments made to the principal Act by this Act had been in force at all material times

SCHEDULE

(See Section 6)

<i>Sl.No.</i>	<i>Reg. No. of the Factory</i>	<i>Name, description and details of factories</i>	<i>Date from which it is vested in</i>
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Government

1. K.U. 28 M/s Grand Gashed Corporation, Chengamanad, located at Melila Village, Kottarakkara Taluk, Kollam District 11-5-1984
2. K.U. 96 M/s K. A. Karim and Sons, Kilikolloor, located at Kilikolloor Village, Kollam Taluk, Kollam District 11-5-1984
3. Q. 38 M/s P.K Damodar Cashew Company, Eravipuram, located at Eravipuram Village, Kollam Taluk, Kollam District 27-7-1984
4. Q. 97 M/s Quilon Exports, Chathannoor, located at Chathannoor Village, Kollam Taluk, Kollam District 27-7-1984
5. Q. 150 M/s. Dhanalekshmi Exports, Navaikulam, located at Navaikulam Village, Chirayinkil Taluk, Thiruvananthapuram District 27-7-1984
6. K.U. 59 M/s Rajasree Exports Enterprises, Perinadu, located at Perinadu Village, Kollam Taluk, Kollam District 27-7-1984
7. K.U. 207 M/s Viswanath Cashew Factory, Chathinakulam, located at Kilikolloor Village, Kollam Taluk, Kollam District 8-2-1985
8. K.U. 185 M/s Dalmia International, Perumpuzha, located at Kottamkara Village, Kollam Taluk, Kollam District 8-2-1985
9. A.P. 9 M/s Standard Cashew Industries, Pathiyoor, located at Pathiyoor Village, Karthikappally Taluk, Alappuzha District 25-4-1985
10. A.P. 11 Rajmohan, Cashew Limited, Eruva, located at Eruva, Kayamkulam in Karthikappally Taluk, Alappuzha District 11-6-1986

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കേരള സർക്കാർ
2010



Reg. No. രജി. നമ്പർ
KL/TV(N)/12/2009-2011

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 15562/Leg.C2/2009/Law.

Dated, Thiruvananthapuram, 3rd September 2010
12th Bhadra, 1932.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 17th day of August, 2010.

By order of the Governor,

K. MADHUSUDANAN NAIR,
Special Secretary (Law).

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33/3533/2010/DTP.

ACT No. 14 OF 2010

**THE KERALA CASHEW FACTORIES (ACQUISITION)
AMENDMENT ACT, 2009**

An Act further to amend the Kerala Cashew Factories (Acquisition) Act, 1974.

Preamble. — WHEREAS, it is expedient further to amend the Kerala Cashew Factories (Acquisition) Act, 1974 for the purposes hereinafter appearing;

BE it enacted in the Sixtieth Year of the Republic of India as follows:

1. *Short title and commencement.*-(1) This Act may be called the Kerala Cashew Factories (Acquisition) Amendment Act, 2009.

(2) It shall be deemed to have come into force on the 1st day of August, 2009.

2. *Amendment of Section 2.*—In section 2 of the Kerala Cashew Factories (Acquisition) Act, 1974 (29 of 1974), (hereinafter referred to as principal Act) in clause (a), the following shall be added at the end, namely: —

"or under section 3B"

3. *Amendment of section 3.*- In section 3 of the principal Act, in sub-section (1), for clause (c) except the proviso and the Explanation, the following clauses shall be inserted, namely:—

"(c) that there has been large scale unemployment other than by way of lay off or retrenchment of the workers of a cashew factory; or

(d) that the cashew factories possessed by the Kerala State Cashew Development Corporation either under a lease existing or expired or under requisition current or expired and returned to their owners pursuant to any judgment, order or decree of any court, tribunal or other authority or on the expiry of any contract or agreement, the employees/workers therein may be rendered unemployed,

by order published in the Gazette, declare that those cashew factories shall stand transferred to, and vest in, the Government:";

3 4. *Insertion of new section 3B.*—After section 3A of the principal Act, the following section shall be inserted, namely:—

"3B. *Acquisition of Cashew Factories, which are in the possession of the Kerala State Cashew Development Corporation (KSCDC) either under a lease existing or expired or under requisition current or expired.*—Notwithstanding anything contained in section 3 or in any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other law, agreement or other instrument for the time being in force, if the Government are of opinion that the cashew factories specified in schedule II of this Act now in the possession of Kerala State Cashew Development Corporation either under a lease existing or expired or under requisition current or expired, if returned to their respective owners, they may not provide employment to the entire/any of the employees/workers and such employees/workers may be rendered unemployed and in order to continue to provide employment to such employees/workers the Government, may in public interest by order published in the Gazette, declare that those factories shall stand transferred to, and vest in, the Government."

5. *Amendment of section 5.*—After sub-section (3) of section 5 of the principal Act, the following sub-section shall be inserted, namely:—

"(4) In the case of the Cashew Factories which are originally leased or requisitioned and now in the possession of Kerala State Cashew Development Corporation, the inventory prepared originally shall be the inventory for all purposes."

6. *Amendment to the Schedule.*— The existing Schedule of the principal Act shall be numbered as "Schedule I" and after the Schedule I as so numbered, the following Schedule shall be added, namely:—

"SCHEDULE II

(See section 3B)

<i>Sl. No.</i>	<i>Reg. No. of the cashew factory</i>	<i>Name, description and details of cashew factory</i>	<i>Name and address of the owner</i>
(1)	(2)	(3)	(4)
1	Reg. No. AP. 10	Fy. No. 4, Krishnapuram, Kayamkulam, located at Krishnapuram Village, Karthikapally Taluk, Alleppey Dist., taken over on lease on 1-3-1971	Shri S. Ramachandra Naik, 23-2002 Kadri Temple Road, Mangalore.
2	Reg. No. K.U. 2	Fy. No. 5, Mynagappally, Karunagappally located at Mynagappally Village, Karunagappally Taluk, Kollam Dist., taken over on lease on 15-3-1971	Smt. K. Devayani Amma, Jupiter Cashew Co., Kochupilammoodu, Kollam.
3	Reg. No. K.T. 72	Fy. No. 7, Nooranadu, Kayamkulam located at Nooranadu Palamel Village, Mavelikkara Taluk, Alleppey Dist., taken over on lease on 11-5-1971	T. G Walter, Mammikunnu Bunglow, Mundakkal, Kollam.
4	Reg. No. KU. 78	Fy. No. 8, Puthoor, Kollam Located at Pavithreswaram Village, Kollam Taluk, Kollam District., taken over on lease on 12-5-1971	S. Ramachandra Naik; 23-2002 Kadri Temple Road, Mangalore.
5	Reg. No. Q. 1	Fy. No. 9, Kilimanoor, Trivandrum located at Pazhayakunnummel Village, Chirayinkeezh Taluk, Trivandrum Dist., taken over on lease on 3-6-1971	Smt. Devayani Amma, Jupiter Cashew Co., Kochupilammoodu, Kollam.

(1)	(2)	(3)	(4)
6	Reg. No. KU. 64	Fy. No. 11, Edamulakkal, Edamulakkal Village, Pathanapuram Taluk, Kollam Dist., taken over on lease on 14-4-1971	M/s Ramsons & Co., Kollam-4.
7	Reg. No. Q. 55	Fy. No. 12, Chathanoor, Meenadu Village, Kollam Taluk, Kollam Dist., taken over on lease on 16-8-1971	Badarudeen Musaliar, Kandannachalil House, Kilikolloor, Kollam-4.
8	Reg. No. KU. 36	Fy. No. 14, - Bharanikkavu, Sasthamcottah Village, Kunnathoor Taluk, Kollam Dist., taken over on lease on 9-2-1972	Smt. Umaiban Beevi, Kambikettle Veedu, Kilikolloor, Kollam.
9	Reg. No. KU. 41	Fy. No. 16, Adinadu, Kulasekharapuram Village, Karunagappally Taluk, Kollam Dist., taken over on lease on 7-2-1972	Smt. B. Leela, Padmalayam, Uliyacovil, Kollam.
10	Reg. No. KU. 53	Fy. No. 20, Elampalloor, Elampalloor Village, Kollam Taluk, Kollam Dist., taken over on lease on 14-2-1972	K. Mydeen Kunju & Sons, Kuthirapanthiyil Bunglow, Thevally, Kollam.
11	Reg. No. KU. 70	Fy. No. 22, Nedumpaikulam, Ezhukone Village, Kollam Taluk, Kollam Dist., taken over on lease on 28-2-1972	K. Suresh, Managing Partner, Shanmughavilas, Kilikolloor, Kollam.
12	Reg. No. KT. 71	Fy. No. 24, Karimulakkal, Chunakkara Village, Mavelikkara Taluk, Alleppey Dist., taken over on lease on 18-5-1972	T. G Walter, Mammikunnu Bunglow, Kochupilammoodu, Kollam.
13	Reg. No. KU. 88	Fy. No. 26, Thettikuzhy, Thazhuthala Village, Kollam Taluk, Kollam District, taken over on lease on 11-3-1974	Smt. Ummasalummal, Kuruttazhikathu Veedu, Umayanalloor, Kollam.

(1)	(2)	(3)	(4)
14	Reg. No. Q. 95	Fy. No. 27, Eravipuram, Eravipuram Village, Kollam Taluk, Kollam Dist., taken over on lease on 13-3-1974	M/s Ramsons & Co., Kollam-4.
15	Reg. No. Q. 96	Fy. No. 28, Parippally, Parippally Village, Kollam Taluk, Kollam Dist., taken over on lease on 13-3-1974	M/s Ramsons & Co., Kollam-4.
16	Reg. No. KU. 86	Fy. No. 29, Paruthumpara, Mulavana and Ezhukone Village, Kollam Taluk, Kollam Dist., taken over on lease on 11-3-1974	M/s M. P. Govindan & Sons, Kollam-4.
17	Reg. No. KU. 158	Fy. No. 30, Kunnathoor, Kunnathoor Village, Kunnathoor Taluk, Kollam Dist., taken over on lease on 21-3-1974	G. Bhanu Asan, Vishnu Nivas, Pattathanam, Kollam. <i>Present:</i> Sushamma, Sitaram, Acharandil House, Pattathanam, Kollam.
18	Reg. No. Q. 31	Fy. No. 32, Kanjamkadu, Kollam Corporation, Kollam Taluk, Kollam Dist., taken over on lease on 23-3-1974	Smt. Rajeswari, W/o Govindaraja Reddiyar, Raji Nivas, N.A.N.R. Compound, Main Road, Kollam.
19	Reg. No. Q. 243	Fy. No. 33, Kadakkal, Kadakkal Village, Kottarakkara Taluk, Kollam Dist., taken over on lease on 29-4-1974	Smt. B. Jalaja Kumari, Bhaskara, Temple Lane, Medical College P. O., Ulloor, Trivandrum.
20	Reg. No. KU. 9	Fy. No. 34, Chengamanadu, Melila Village, Kottarakkara Taluk, Kollam Dist., taken over on lease on 13-6-1974	Smt. Rajeswari, W/o Govindaraja Reddiyar, Raji Nivas, N.A.N.R. Compound, Main Road, Kollam."