



GOVERNMENT OF KERALA

No:WM1/37/2023/LSGD
Local Self Government (WM) Department
Thiruvananthapuram,
Dated:06-06-2023

CIRCULAR

- Sub: Compliance of order dated 23.05.2023 of Hon'ble High Court in WP(C) 7844/2023 - Reg
- Ref: (1) Order dated 23.05.2023 of Hon'ble High Court in WP(C) No. 7844 of 2023(S).
- (2) GO(Rt) No. 108/2023/LSGD dated 22.05.2023
- (3) GO(Rt) No. 1147/2023/LSGD dated 02.06.2023

The Hon'ble High Court in its Order dated 23.05.2023 in WP(C) No. 7844 of 2023(S) cited as reference 1st above, has directed the 7th respondent (ie; Additional Chief Secretary, LSGD) to issue directions strengthening the hands of the district administration in every possible way, drawing attention to the power of the Government under the Municipality Act and Panchayat Raj Act.

(2) In compliance to these directions, a consolidation of the various legal and enforcement powers relevant for waste management under the Environment Protection Act, 1986, the Kerala Municipality Act, 1994 and Kerala Panchayat Raj Act, 1994, the Kerala Police Act, 2011 and the Indian Penal Code has been made and enclosed as annexure to this circular for strict compliance by all concerned.

(3) As per GO cited as 3rd paper above, senior officers of the State have been assigned to districts to coordinate and monitor the solid waste

management effort including regulatory action by Local Self Governments, as well as the responsibilities indicated in respect of other departments and entities in order cited as 2nd paper above.

(4) Training of the officers of Local Self Governments entrusted with responsibility for ensuring these provisions on the procedural aspects and operational modalities of prosecution is to be undertaken by the Principal Director, based on training needs assessment done by KILA.

PREETHA K S
ADDITIONAL SECRETARY

To:

The Principal Director, Local Self Government Department.

The Director, Local Self Government (Urban) Department.

The Director, Local Self Government (Rural) Department.

The District Collector, Thiruvananthapuram / Kollam /
Pathanamthitta / Kottayam / Idukki / Alappuzha / Ernakulam /
Thrissur / Palakkad / Malappuram / Kozhikode / Wayanad /
Kannur / Kasaragod.

All Joint Directors, Local Self Government Department.

The Executive Director, Information Kerala Mission.

The I&PR (Web & New Media) Department.

Stock File / Office Copy

Forwarded / By order,

Signed by

Suja M

Date: 06-06-2023 18:10:37
Section Officer.

Annexure

Enforcement under the Solid Waste Management Laws applicable in Kerala

There are various enforcement powers under the waste management laws, namely the Rules under the Environment Protection Act, 1986, the Kerala Municipality Act, 1994, the Kerala Panchayat Raj Act, 1994 and the Indian Penal Code. Some of the penal provisions are directly linked to the responsibilities of the authorities with regard to waste management, but for the sake of clarity those are not mentioned in this note.

I. Action under the Environment Protection Act, 1986 read with the Solid Waste Management Rules, 2016.¹

Under Section 15 of the Act read with Section 19 of the Act², whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. If the failure or contravention referred to above continues beyond a period of one year after the date of conviction, the offender shall also be punishable with imprisonment for a term which may extend to seven years.

For initiating prosecution under this provision, the respective District Officers of the Kerala State Pollution Control Board are the authorized officers. They are authorized to file a complaint in accordance with the CrPC in case there is any violation of provisions under the Solid Waste Management Rules, 2016³ based on which the Magistrate may take cognizance of the offence.⁴ The District Officer has the power of entry and inspection in the premises including the power for seizure if he has reason to believe that it may furnish evidence of the commission of an

¹ Section 15, Environment Protection Act, 1986

² Section 19, Environment Protection Act, 1986.

³ S.O. 394(E) dated 16th April, 1987

⁴ Section 29, CrPC

offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.⁵

Private Individuals cannot directly approach the Court, but can instead give notice to the authorized officer directly in the manner prescribed under Rule 11,⁶ or can give it through the local self-government Secretary. Action against violations of provisions under the Municipal Solid Waste Rules, 2016 needs to be proceeded in this manner.

The following actions can be prosecuted under the provisions of the Environment Protection Act, 1986.

Under the Solid Waste Management Rules, 2016.

At the household level:

1. Not segregating the waste generated by them in three separate streams, bio-degradable, non bio-degradable and domestic hazardous wastes and handing them over to local government authorized waste pickers or collectors.
2. Not safely wrapping used sanitary waste like diapers, sanitary pads etc in pouches provided by manufacturers or brand owners and placing them in allocated bins
3. Not disposing construction and demolition waste, as and when generated in own premises and dispose as per the Construction and Demolition Waste Management Rules, 2016
4. Not handling safely, the horticulture waste and garden waste generated from premises.⁷

In public spaces

5. The careless disposal including throwing, burning or burying of solid waste in public spaces including in drains and water bodies.

Regarding user fee payment

6. Failure to pay user- fee as specified in the bye-laws of the local self-governments.

Large events and bulk generators

⁵ Section 10, Environment Protection Act, 1986.

⁶ Rule 11, Environment Protection Rules, 1986.

⁷ Rule 4 (1), Solid Waste Management Rules, 2016.

7. Failure to take steps to ensure segregation of waste at large events hosting more than 100 persons. The local self-government needs to be intimated at least three working days in advance.
8. Failure of bulk waste generators (gated communities and institutions more than 5000 sq.m area or which generate more than 100 kg of waste per day) to arrange for proper segregation at the institutional level
9. Failure of hotels and restaurants to segregate waste at source, treat biodegradable waste at source as much as possible and handover recyclable material to the authorized waste pickers or the authorized recyclers.⁸

II. Action under the Kerala Municipality Act, 1994

Under the Kerala Municipality Act, 1994 the Secretary or any person authorized in this behalf by the council or the Secretary may within 12 months of the commission of the offence file a complaint before the appropriate court in accordance with the CrPC based on which prosecution may be initiated.⁹

Where any rubbish, offensive matter, trade refuse, special waste, hazardous waste or excrementitious and polluted matter accumulation on any premise is deposited in any place in contravention of the provisions of this Act, it shall be presumed, unless the contrary is proved, that such contravention has been committed by the occupier of such premises.¹⁰ The Secretary or any officer authorised by him may, at any time, inspect any premises for the purpose of ascertaining compliance with the provisions of the Act.¹¹

Many of the offences relating to waste management in the Kerala Municipality Act, 1994 are similar to those under the Solid Waste Management Rules. In such case there is no bar against initiating action against the violator under both laws.

1. Failure to remove solid waste, rubbish and solid waste accumulated on non-residential premises

⁸ Rule 4 (1), Solid Waste Management Rules, 2016

⁹ Section 541, The Kerala Municipality Act, 1994

¹⁰ Section 342, The Kerala Municipality Act, 1994

¹¹ Section 344, The Kerala Municipality Act, 1994

If such accumulated solid waste cannot be removed to a place or to a depot, as is required by the Secretary on reasons related to health the Secretary may, by notice require such owner or occupier, to dispose of such things by themselves within the time as specified in the notice and if such person makes default in such disposal, he shall on conviction be punished with a fine extending upto ten thousand rupees and after such conviction if reluctant to comply with that direction he may be punished with a further fine at the rate of one hundred rupees for each day during which the offence is continued.

Where the owner or occupier fails to remove the accumulated waste, the Secretary may, after giving a notice, cause all rubbish including building rubbish, offensive matter, trade refuse, special wastes, hazardous wastes or excrementitious and polluted matter accumulated in such premises to be removed and charge the said owner or occupier the cost for such removal at such rate as determined by the Council which and specified in the notice issued under this sub-section for such removal.¹²

2. Failure to segregate at source

There is a responsibility upon the owner or the person having the lawful management or control of trade centres, hospitals, markets, slaughterhouses, chicken stalls, fish stalls, marriage halls, flats, hotels, catering service establishments, houses having a plinth area of more than 400 square meters and such establishments to segregate waste into biodegradable and non-biodegradable. Any person who violates this provision shall, on conviction be punished with imprisonment for a term not less than six months but which may exceed to one year and with fine which shall not be less than ten thousand but which may extend to fifty thousand rupees, or both. In case of conviction, for every day of continuing violation there shall be a further fine of not less than one thousand rupees.¹³

3. Failure to treat biodegradable waste at source, unless with the written permission of the Secretary

There is a responsibility upon the owner or the person having the lawful management or control of trade centres, hospitals, markets, slaughterhouses, chicken stalls, fish stalls, marriage halls, flats, hotels, catering service establishments, houses having a plinth area of more than 400 square

¹² Section 334, The Kerala Municipality Act, 1994

¹³ Section 334 A, The Kerala Municipality Act, 1994

meters and such establishments to treat biodegradable waste at source. Any person who violates this provision shall, on conviction be punished with imprisonment for a term not less than six months but which may exceed to one year and with fine which shall not be less than ten thousand but which may extend to fifty thousand rupees, or both. In case of conviction, for every day of continuing violation there shall be a further fine of not less than one thousand rupees.¹⁴

4. No institution or person to sell plastic carry bags and plastic covers at a price lower than the price fixed by the Municipality¹⁵

Punishment will be as per Section 15 of the Environment Protection Act, 1986 read with Section 19 of the Act.

5. Improper disposal of carcasses, rubbish and filth in any public or private land without the previous permission of the Municipality¹⁶

If any person without the previous permission of the Municipality and without payment of prescribed fee commits improper disposal of carcasses, rubbish, and filth,¹⁷ on conviction, he or she be punished with fine which may extend to Rs. 500.¹⁸

6. Throwing rubbish or filth into public places¹⁹

Spot fine amounting not exceeding two hundred and fifty rupees can be imposed if the above offence is committed and the Secretary shall initiate prosecution against the person if he fails to pay the spot fine, in which case he shall, on conviction, be punished with fine which may extend to Rs 2000.²⁰

7. Depositing rubbish, filth or excreta or allowing its inflow into water bodies and water sources vested in the Municipality

14 Section 334 A, The Kerala Municipality Act, 1994

15 Section 334 B, The Kerala Municipality Act, 1994

16 Section 335, The Kerala Municipality Act, 1994

17 Section 335, The Kerala Municipality Act, 1994

18 Section 511, The Kerala Municipality Act, 1994 read with the Fourth Schedule

19 Section 340, The Kerala Municipality Act, 1994

20 Section 511, The Kerala Municipality Act, 1994 read with the Fourth Schedule

On conviction be punishable with fine which shall not be less than ten thousand rupees but not exceeding twenty-five thousand rupees and with imprisonment for a term which shall not be less than six months but not exceeding one year.²¹

8. Depositing or throwing any rubbish, solid waste, filth or carcasses into any public place other than water body vested in the Municipality

On conviction the be punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees.²²

III. Action under the Kerala Panchayat Raj Act, 1994

Under the Kerala Panchayat Raj Act, 1994 the Secretary or any person authorized in this behalf by the council or the Secretary may within 12 months of the commission of an offence file a complaint before the appropriate Magistrate's court in accordance with the CrPC based on which prosecution may be initiated.²³

9. Failure to segregate at source

There is a responsibility upon the owner or the person having the lawful management or control of trade centres, hospitals, markets, slaughterhouses, chicken stalls, fish stalls, marriage halls, flats, hotels, catering service establishments, houses having a plinth area of more than 100 square meters and such establishments as notified by the Gram Panchayat to segregate waste into biodegradable and non-biodegradable.

Any person who violates this provision shall, on conviction be punished with imprisonment for a term not less than six months but which may exceed to one year and with fine which shall not be less than ten thousand but which may extend to fifty thousand rupees, or both. In case of conviction, for every day of continuing violation there shall be a further fine of not less than one thousand rupees.²⁴

21 Section 340A, The Kerala Municipality Act, 1994

22 Section 345, The Kerala Municipality Act, 1994

23 Section 245, The Kerala Panchayat Raj Act, 1994

24 Section 219 V, The Kerala Panchayat Raj Act, 1994

10. Failure to treat biodegradable waste at source, unless with the written permission of the Secretary

There is a responsibility upon the owner or the person having the lawful management or control of trade centres, hospitals, markets, slaughterhouses, chicken stalls, fish stalls, marriage halls, flats, hotels, catering service establishments, houses having a plinth area of more than 100 square meters and such establishments as notified by the Gram Panchayat to treat biodegradable waste at source. Any person who violates this provision shall, on conviction be punished with imprisonment for a term not less than six months but which may exceed to one year and with fine which shall not be less than ten thousand but which may extend to fifty thousand rupees, or both. In case of conviction, for every day of continuing violation there shall be a further fine of not less than one thousand rupees.²⁵

11. No institution or person to sell plastic carry bags and plastic covers at a price lower than the price fixed by the Gram Panchayat²⁶

Punishment will be as per Section 15 of the Environment Protection Act, 1986 read with Section 19 of the Act.

12. Improper disposal of carcasses, rubbish and filth in any public or private land without the previous permission of the Gram Panchayat when the Gram Panchayat has made adequate provision²⁷

If any person without the previous permission of the Gram Panchayat and without payment of prescribed fee commits improper disposal of carcasses, rubbish, and filth, on conviction, he or she be punished with fine which shall not be less than Rs. 500 but may extend to Rs 2000.²⁸

13. Depositing rubbish into water bodies and water sources vested in the Gram Panchayat

Any person who deposits rubbish in water bodies vested with the Gram Panchayat shall on conviction be punishable with fine which shall not be less than ten thousand rupees but not

25 Section 219 V, The Kerala Panchayat Raj Act, 1994

26 Section 219 W, The Kerala Panchayat Raj Act, 1994

27 Section 219 I, The Kerala Panchayat Raj Act, 1994

28 Section 219T, The Kerala Panchayat Raj Act, 1994

exceeding twenty-five thousand rupees and with imprisonment for a term which shall not be less than six months but not exceeding one year.²⁹

IV. Actions under the Indian Penal Code

1. Creating Public Nuisance by improper waste management

Any person who by throwing waste which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.³⁰ Punishment shall be by fine and not excessive in nature.³¹

The offence is non-cognizable and any police officer not below the rank of a sub-inspector is empowered to start investigation against the offender only after getting an order from the Magistrate having power to try such case or commit the case for trial.³² Complaint may be given by any person directly or through the Secretary of the local self-government.

2. Doing a negligent act such as waste littering, burning, burying, polluting waterbodies etc which is likely to spread infection of disease dangerous to life

Whoever unlawfully or negligently does any act including waste littering, burning, or burying, polluting waterbodies etc which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.³³

The offence is cognizable and any police officer not below the rank of a sub-inspector is empowered to start investigation against the offender. Complaint may be given by any person directly or through the Secretary of the local self-government.

²⁹ Section 219S, The Kerala Panchayat Raj Act ,1994

³⁰ Section 268, IPC

³¹ Section 63, IPC.

³² Section 155 (2), CrPC

³³ Section 269, IPC

3. Committing a malignant act which is likely to spread infection of disease dangerous to life

Any person with malignant intention who does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.³⁴

The offence is cognizable and any police officer not below the rank of a sub-inspector is empowered to start investigation against the offender. Complaint may be given by any person directly or through the Secretary of the local self-government.

4. Doing an act which makes the atmosphere noxious

Whoever voluntarily vitiates the atmosphere in any place by doing activities including burning of plastic, bio-medical waste, other types of waste in a manner so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighborhood or passing along a public way, shall be punished with a fine which may extend to five hundred rupees.³⁵

The offence is non-cognizable and any police officer not below the rank of a sub-inspector is empowered to start investigation against the offender only after getting an order from the Magistrate having power to try such case or commit the case for trial. Complaint may be given by any person directly or through the Secretary of the local self-government.

V. Action under the Kerala Police Act, 2011

1. Causing nuisance and violation of public order

³⁴ Section 270, IPC

³⁵ Section 278, IPC

If any person, defiles water sources or water supply or cause hindrance to public sanitation activities or make public place dirty or causes serious damage to environment unlawfully; shall, on conviction, be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both.³⁶ The offence is non-cognizable.

VI. Action under the Water (Prevention and Control of Pollution) Act, 1974

1. Using stream or well for disposal of polluting matter, etc.

Any person who knowingly causes or permits any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or any person who knowingly causes or permits to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences³⁷ shall be punishable with imprisonment for a term which shall not be less than 1 [one year and six months] but which may extend to six years and with fine.³⁸

The Chairman of the Pollution Control Board is the authority which may give complaint to the Magistrate's Court.³⁹ The

ANNEXURE

Environment Protection Act, 1986

1. Section 15, Environment Protection Act, 1986

³⁶ Section 120 (e), The Kerala Police Act, 2011

³⁷ Section 26, The Water (Prevention and Control of Pollution) Act, 1974

³⁸ Section 43, The Water (Prevention and Control of Pollution) Act, 1974

³⁹ Section 49, The Water (Prevention and Control of Pollution) Act, 1974

PENALTY FOR CONTRAVENTION OF THE PROVISIONS OF THE ACT AND THE RULES, ORDERS AND DIRECTIONS.-

(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

2. Section 19, Environment Protection Act, 1986

COGNIZANCE OF OFFENCES.-

No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) the Central Government or any authority or officer authorised in this behalf by that Government¹, or (b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

3. Section 10, Environment Protection Act, 1986

POWERS OF ENTRY AND INSPECTION.-

(1) Subject to the provisions of this section, any person empowered by the Central Government in this behalf² shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place—

(a) for the purpose of performing any of the functions of the Central Government entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.

.....

(4) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, or an area in which that Code is not in force, the provisions of any corresponding law in force in that State or area shall, so far as may be, apply to any search or seizures under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or as the case may be, under the corresponding provision of the said law.

4. Rule 11, Environment Protection Rules, 1986

MANNER OF GIVING NOTICE

The manner of giving notice under clause (b) of section 19 shall be as follows, namely:-

(1) The notice shall be in writing in Form IV.

(2) The person giving notice may send notice to- (a) if the alleged offence has taken place in a Union territory (A) the Central Board and (B) Ministry of Environment and Forests (represented by the Secretary to Government of India); (b) if the alleged offence has taken place in a State: (A) the State Board; and (B) the Government of the State (represented by the Secretary to the State Government in-charge of environment); and (C)

the Ministry of Environment and Forests (represented by the Secretary to the Government of India);

(3) The notice shall be sent by registered post acknowledgement due; and

(4) The period Of sixty days mentioned in clause (b) of section 19 of the Environment (Protection) Act, 1986 shall be reckoned from the date it is first received by one of the authorities mentioned above.

5. Rule 4, Solid Waste Management Rules

DUTIES OF WASTE GENERATORS.-

(1) Every waste generator shall,- (a) segregate and store the waste generated by them in three separate streams namely bio-degradable, non biodegradable and domestic hazardous wastes in suitable bins and handover segregated wastes to authorised waste pickers or waste collectors as per the direction or notification by the local authorities from time to time; (b) wrap securely the used sanitary waste like diapers, sanitary pads etc., in the pouches provided by the manufacturers or brand owners of these products or in a suitable wrapping material as instructed by the local authorities and shall place the same in the bin meant for dry waste or non- bio-degradable waste; (c) store separately construction and demolition waste, as and when generated, in his own premises and shall dispose off as per the Construction and Demolition Waste Management Rules, 2016; and (d) store horticulture waste and garden waste generated from his premises separately in his own premises and dispose of as per the directions of the local body from time to time.

(2) No waste generator shall throw, burn or burry the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.

(3) All waste generators shall pay such user fee for solid waste management, as specified in the bye-laws of the local bodies.

(4) No person shall organise an event or gathering of more than one hundred persons at any unlicensed place without intimating the local body, at least three working days in advance and such person or the organiser of such event shall ensure segregation of waste at source and handing over of segregated waste to waste collector or agency as specified by the local body.

(5) Every street vendor shall keep suitable containers for storage of waste generated during the course of his activity such as food waste, disposable plates, cups, cans, wrappers, coconut shells, leftover food, vegetables, fruits, etc., and shall deposit such waste at waste storage depot or container or vehicle as notified by the local body.

(6) All resident welfare and market associations shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(7) All gated communities and institutions with more than 5,000 sqm area shall, within one year from the date of notification of these rules and in partnership with the local body, ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorized recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(8) All hotels and restaurants shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

The Kerala Municipality Act, 1994

1. Section 334, The Kerala Municipality Act, 1994

REMOVAL OF SOLID WASTE, RUBBISH AND SOLID WASTE ACCUMULATED ON NON RESIDENTIAL PREMISES.—

(1) The Secretary may, if he thinks fit, by notice in writing , require the owner or the occupier of any premises used as- (i) a factory, workshop or a place for carrying on any manufacturing process, or (ii) a market or trade premises, or (iii) a slaughter house, or (iv) a hotel, eating house, or restaurant, or (v) a hospital or a nursing home, or (vi) a warehouse or godown, or (vii) a place to which large number of persons resort, where rubbish, offensive matter, filth, trade refuse, special wastes, hazardous wastes or excrementitious and polluted matters are accumulated in large quantities, to collect such matters accumulating thereon and to remove the same to a depot or place provided or directed by the Secretary at such time and in such manner and by such routes as may be specified in the notice.

2 [Provided that if such solid waste cannot be removed to a place or to a depot, as is required by the Secretary on reasons removed to health the Secretary may, by notice require such owner or occupier, to dispose of such things by themselves within the time as specified in the notice and if such person make default in such disposal, he shall on conviction be punished with a fine extending upto ten thousand rupees and after such conviction if reluctant to comply with that direction he may be punished with a further fine at the rate of one hundred rupees for each day during which the offence is continued.]

(2) Where the owner or occupier fails to carry out the instructions under sub-section(1), the Secretary may, after giving a notice, cause all rubbish including building rubbish, offensive matter, trade refuse, special wastes, hazardous wastes or excrementitious and polluted matter accumulated in such premises to be removed and charge the said owner or occupier the cost for such removal at such rate as determined by the Council which and specified in the notice issued under this sub-section for such removal:

Provided that such cost shall not be at a rate less than the unit cost for the removal of such solid wastes (including the cost for servicing, depreciation and other charges, if any, for vehicles or vessels or means for removal) as the Council may determine from time to time.

2. Section 334A, The Kerala Municipality Act, 1994

MANAGEMENT OF WASTE AT SOURCE:

- (1) Notwithstanding anything contained in Section 326 to 334 and in Sections 335 and 336 of this Act, the owner or the person having the lawful management or control of trade centres, hospitals, markets, slaughterhouses, chicken stalls, fish stalls, marriage halls, flats, hotels, catering service establishments, houses having a plinth area of more than 400 square metres and such other establishments as may be notified by the Municipality, shall-
- (a) Keep the waste originated in such buildings, establishment or places, segregated as bio-degradable and non biodegradable waste at the source itself, in the manner as may be prescribed and as provided for in the bye-laws of the Municipality and set up sufficient systems in this behalf;
 - (b) Process and dispose of in appropriate manner the biodegradable waste segregated as per clause (a) at the source itself or with the written permission of the Secretary, at the neighbouring place in the ownership of such person, subject to the provisions of the Environment Protection Act 1986 (Central Act 29 of 1986) and the Rules made thereunder and without pollution to water, air and sound and if there is space restriction for this purpose, in order to ensure the processing of such waste through the Municipality or through waste processing agencies recognized by the Government, pay such fees, in such manner as may be prescribed in accordance with the quantity and type of waste;
 - (c) In order to deal with the non biodegradable waste segregated under clause (a), enter into agreement with the person, or with the establishment which produces or distributes the goods which causes such wastes, to take back the wastes relating to such goods and on the other hand to remit the fees to the Municipality during such period in such manner and at such rates, as may be prescribed; and
 - (d) Process the waste water originated in such buildings or establishments or places scientifically at its source and where it cannot be processed scientifically, enter into an agreement with an agency recognized by the Government, which processes waste water scientifically and shall not allow the waste water to flow into water bodies, drainages or public way or public places.
- (2) The buildings, establishments and places specified in sub-section (1) shall have the systems for processing the waste as stated in the said sub-section at the time of their

construction itself and the Municipality shall not grant working permit, license or building number in respect of those which do not have such systems and in the case of such existing buildings, establishments and places, the Secretary may allow a period not exceeding one year for making such systems or for rectifying the deficiencies in such systems and cancel the license, building number or working permit of those institutions which do not make sufficient system, after giving the party concerned an opportunity of being heard.

- (3) Whoever violates any of the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees or with both.
- (4) Any person convicted under sub-section (3) shall be punished with a fine of not less than one thousand rupees for each day of continuing violation of the provisions of sub-section (1).

3. Section 334B, The Kerala Municipality Act, 1994

RESTRICTION ON PLASTIC CARRY BAGS AND COVERS AND MANAGEMENT OF PLASTIC WASTES.-

- (1) Subject to the provisions of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) and the Rules made thereunder,-
 - (a) The Municipality shall, by notification, fix the minimum price of various kinds of plastic carry bags and plastic covers and no institution or person shall sell such bags or covers at a price lower than the price so fixed or give them free of cost and the Municipality shall take steps to ensure that no institution or person does so;
 - (b) Where an applicant who applies for license under Section 447 intends to sell plastic bags or plastic covers through his establishment, such information shall be recorded in the application and the Municipality may, in addition to the usual license fee, realise a fixed amount as additional fee in this behalf for the period as may be prescribed in accordance with the approximate number or quantity of plastic bags and plastic covers intended to be sold;
 - (c) Every consumer shall keep the waste plastic bags and plastic covers segregated from other wastes and shall be managed as provided for in the bye-laws that may be made by the Council.

(2) The Secretary shall, lodge complaint any person who violates the provisions of clause (a) of sub-section (1) in accordance with the provisions of the Central Act and the Rules made thereunder.

4. Section 335, The Kerala Municipality Act, 1994

PROHIBITION OF IMPROPER DISPOSAL OF CARCASSES, RUBBISH AND FILTH.—

(1) No person shall, after due provision has been made under section 326 by the Municipality for the deposit and removal of rubbish, solid waste, carcasses or filth deposit the same,-
(a) in any street or on the verandah of any building or on any unoccupied ground alongside any street or on any public quay, jetty or landing place, or on the bank of a water course or tank; or (b) in any dustbin or in any vehicle not intended for the removal of the same; or (c) in any vehicle or vessel intended for such removal save for the purpose of deodourising or disinfecting the same. (2) Without prejudice to the generality of the provisions in sub-section(1) no person shall deposit or cause or permit to be deposited any building rubbish on or along any street, public or private land without the previous permission of the Municipality:
Provided that no permission shall be granted until a fee as may be determined by the Council is paid:
Provided further that the Secretary may, for reasons to be recorded in writing, refuse to give such permission.

5. Section 340, The Kerala Municipality Act, 1994

PROHIBITION OF THROWING RUBBISH OR FILTH INTO PUBLIC PLACES.—

2A[(1)] No person shall put or cause to be put any rubbish or filth or debris into any public place not intended for deposit of rubbish or filth or debris.

2A[(2) Notwithstanding anything contained in this Act, the Secretary or an Officer specifically authorised for the purpose shall, on being satisfied that any person deposits or causes to deposit any rubbish, or filth or other debris in any public place not intended for the same, impose on the person so depositing or causing such deposit, a fine, on the spot, which may not exceed two hundred and fifty rupees and the fine so imposed shall be paid to the

municipal fund within fifteen days and the Secretary shall initiate prosecution against the person if he fails to do so]

6. Section 340A, The Kerala Municipality Act, 1994

PROHIBITION OF DEPOSIT OF RUBBISH, FILTH OR EXCRETA IN WATER BODIES AND WATER SOURCES:-

- (1) No person shall deposit rubbish, filth or excreta in a public watercourse or water body or any such water source vested in the Municipality under sub-section (1) of section 208A or allow to flow waste water into it or pollute the water in any other way engage or depute or compel or instigate any person to do such activity.
- (2) An offence under sub-section (1) shall be cognizable and non-bailable.
- (3) Whoever commits an offence referred to in sub-section (1) shall, on conviction be punishable with fine which shall not be less than ten thousand rupees but not exceeding twenty five thousand rupees and with imprisonment for a term which shall not be less than six months but not exceeding one year.

7. Section 345, The Kerala Municipality Act, 1994

PUNISHMENT FOR DEPOSITING OR THROWING ANY RUBBISH OR SOLID WASTE IN CONTRAVENTION OF THE PROVISIONS OF THIS ACT.—

Whosoever deposits or throws any rubbish, solid waste, filth or carcasses in contravention of the provisions in this Chapter and which does not fall under the purview of section 340A, shall, on conviction, be punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees.

The Kerala Panchayat Raj Act, 1994

1. Section 219V, The Kerala Panchayat Raj Act, 1994

MANAGEMENT OF WASTE AT SOURCE

- (1) Notwithstanding anything contained in Section 219A to 219U of this Act, the owner or the person having the lawful management or control of trade centres, hospitals, markets, slaughterhouses, chicken stalls, fish stalls, marriage halls, flats, multi stories buildings,

hotels, catering service establishments houses having a plinth area of more than 100 square metres and such other establishments as may be notified by the Village Panchayat, shall-

- (a) Keep the waste originated in such buildings, establishment or places, segregated as bio-degradable and non-biodegradable waste at the source itself, in the manner as may be prescribed and as provided for in the bye-laws of the Village Panchayat and set up sufficient facilities in this behalf;
 - (b) Process and dispose of in appropriate manner the biodegradable waste segregated as per clause (a) at the source itself or with the written permission of the Secretary, at the neighbouring place in the ownership of such person, subject to the provisions of the Environment Protection Act 1986 (Central Act 29 of 1986) and the Rules made thereunder and without causing pollution to water, air and sound and if there is space restriction for this purpose, in order to ensure the processing of such waste through the Village Panchayat or through waste processing agencies recognized by the Government, pay such fees to the Village Panchayat, in such manner as may be prescribed in accordance with the quantity and type of waste;
 - (c) In order to deal with the non biodegradable waste segregated under clause (a), enter into agreement with the person, or with the establishment which produces or distributes the goods which causes such wastes, to take back the wastes relating to such goods and on the other hand to remit the fees to the Village Panchayat during such period in such manner and at such rates, as may be prescribed; and
 - (d) Process the sewage originated in such buildings or establishments or places scientifically at its source and where it cannot be processed scientifically, enter into an agreement with an agency recognized by the Government, which processes waste water scientifically and shall not allow the waste water to flow into water bodies, drainages or public way or public places.
- (2) The buildings, establishments and places specified in sub-section (1) shall have the systems for processing the waste as stated in the said sub-section at the time of their construction itself and the Village Panchayat shall not grant working permit, license or building number in respect of those which do not have such systems and in the case of such existing buildings, establishments and places, the Secretary may allow a period not exceeding one year for making such systems or for rectifying the deficiencies in such systems and cancel the license, building number or working permit of those institutions

which do not make sufficient system, after giving the party concerned an opportunity of being heard.

- (3) Whoever violates any of the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees or with both.
- (4) Any person convicted under sub-section (3) shall be punished with a fine of not less than one thousand rupees for each day of continuing violation of the provisions of sub-section (1).

2. 219W, The Kerala Panchayat Raj Act, 1994

RESTRICTION ON PLASTIC CARRY BAGS AND MANAGEMENT OF PLASTIC WASTES

- (3) Subject to the provisions of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) and the Rules made thereunder,-
 - (d) The Village Panchayat shall, by notification, fix the minimum price of various kinds of plastic carry bags and plastic covers and no institution or person shall sell such bags or covers at a price lower than the price so fixed or give them free of cost and the Municipality shall take steps to ensure that no institution or person does so;
 - (e) Where an applicant who applies for license under Section 232 intends to sell plastic bags or plastic covers through his establishment, such information shall be recorded in the application and the Village Panchayat may, in addition to the usual license fee, realise a fixed amount as additional fee in this behalf for the period as may be prescribed in accordance with the approximate number or quantity of plastic bags and plastic covers intended to be sold;
 - (f) Every consumer shall keep the waste plastic bags and plastic covers segregated from other wastes and shall be managed as provided for in the bye-laws that may be made by the Village Panchayat.
- (4) The Secretary shall, lodge complaint any person who violates the provisions of clause (a) of sub-section (1) in accordance with the provisions of the Central Act and the Rules made thereunder.

3. Section 219 I, The Kerala Panchayat Raj Act, 1994

PROHIBITION OF IMPROPER DISPOSAL OF CARCASSES, RUBBISH AND FILTH.—

(2) No person shall, after due provision has been made under section 219a by the Village Panchayat for the deposit and removal of rubbish, solid waste, carcasses or filth deposit the same,-

(a) in any street or on the verandah of any building or on any unoccupied ground alongside any street or on any public quay, jetty or landing place, or on the bank of a water course or tank; or

(b) in any dustbin or in any vehicle not intended for the removal of the same; or

(c) in any vehicle or vessel intended for such removal save for the purpose of deodourising or disinfecting the same.

(2) Without prejudice to the generality of the provisions in sub-section(1) no person shall deposit or cause or permit to be deposited any building rubbish on or along any street, public or private land without the previous permission of the Village Panchayat:

Provided that no permission shall be granted without paying the fee as determined by the Village Panchayat:

Provided further that the Secretary may, for reasons to be recorded in writing, refuse to give such permission.

4. Section 219T, The Kerala Panchayat Raj Act ,1994

PUNISHMENT FOR DEPOSITING OR THROWING ANY RUBBISH OR SOLID WASTE IN CONTRAVENTION OF THE PROVISIONS OF THIS ACT.—

Whosoever deposits or throws any rubbish, solid waste, filth or carcasses in contravention of the provisions in this Chapter, if not falling under the purview of Section 219S, shall on conviction be punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees.

5. Section 219S, The Kerala Panchayat Raj Act ,1994

PROHIBITION OF DEPOSIT OF RUBBISH, FILTH OR EXCRETA IN WATER BODIES AND WATER SOURCES:-

- (4) No person shall deposit rubbish, filth or excreta in a public watercourse or water body or any such water source vested in the Village Panchayat under sub-section (1) of section 218 or allow to flow waste water into it or pollute the water in any other way engage or depute or compel or instigate any person to do such activity.
- (5) An offence under sub-section (1) shall be cognizable and non-bailable.
- (6) Whoever commits an offence referred to in sub-section (1) shall, on conviction be punishable with fine which shall not be less than ten thousand rupees but not exceeding twenty five thousand rupees and with imprisonment for a term which shall not be less than six months but not exceeding one year.

The Indian Penal Code

1. Section 268, Indian Penal Code

PUBLIC NUISANCE.—

A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

2. Section 269, Indian Penal Code

NEGLIGENT ACT LIKELY TO SPREAD INFECTION OF DISEASE DANGEROUS TO LIFE.—

Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

3. Section 270, Indian Penal Code

MALIGNANT ACT LIKELY TO SPREAD INFECTION OF DISEASE DANGEROUS TO LIFE.—

Whoever malignantly does any act which is, and which he knows or has reason the believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

4. Section 278, Indian Penal Code

MAKING THE ATMOSPHERE NOXIOUS TO HEALTH.—

Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighborhood or passing along a public way, shall be punished with a fine which may extend to five hundred rupees.

The Kerala Police Act, 2011

1. Section 120 (e), The Kerala Police Act, 2011

PENALTY FOR CAUSING NUISANCE AND VIOLATION OF PUBLIC ORDER.—

If any person, defiles water sources or water supply or cause hindrance to public sanitation activities or make public place dirty or causes serious damage to environment

unlawfully; shall, on conviction, be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both.

The Water (Prevention and Control of Pollution) Act, 1974

1. Section 24, The Water (Prevention and Control of Pollution) Act, 1974

PROHIBITION ON USE OF STREAM OR WELL FOR DISPOSAL OF POLLUTING MATTER, ETC.

(1) Subject to the provisions of this section, - (a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any 1 [stream or well or sewer or on land]; or (b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely;- (a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain; (b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream; (c) putting into an stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream; (d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of

sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification and be altered, varied or amended.