

KERALA COURT OF WARDS ACT, 1967 (PRESIDENT'S ACT NO.3 OF 1967)

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CHAPTER X Repeal. 115 THE KERALA COURT OF WARDS ACT, 1967* (No. 3 of 1967) ENACTED BY THE PRESIDENT IN THE EIGHTEENTH YEAR OF THE REPUBLIC OF INDIA, An Act to consolidate and amend the law relating to Court of Wards, In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (2 of 1965), the President is pleased to enact as follows:— CHAPTER 1 Preliminary Short title, extent and commencement. —(1) This Act may be called the Kerala Court of Wards Act, 1967. (2) It extends to the whole of the State of Kerala. (3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint

2. Act not to affect power of High Court over infants, idiots and lunatics.—Nothing in this Act shall be construed to affect or in any way to derogate from any power possessed by the High Court of Kerala over the persons and estates of infants, idiots and lunatics

3. Definitions.—In this Act, unless the context otherwise requires,— (a) " Collector " means the chief officer in charge of the revenue administration of a district and includes an acting or officiating Collector and also any officer appointed by the Government to exercise the functions of a Collector under this Act; ' court " means the Court of Wards; (c) " minor " means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875), has not attained majority ; (d) " proprietor " means a persons who owns or has a life- interest in land either solely or as a co-sbarer ; ward " means a person who has been made a ward of the court under section 18. * Published In the Kerala Gazette Extraordinary No. 23, dated 14th February, 1967. 3121—8a 116 CHAPTER 11 The Court of Wards 4. Court of Wards.—The Board of Revenue shall be the Court of Wards for the entire State of Kerala and, for the purposes of this Act, Collectors shall be subject to the control of the court

5. Control of Government, —The court shall be subject to the control of the Government and the Government may, If they think fit, revise, modify or reverse any order passed or proceedings taken under this Act, whether a petition is presented against such order or proceedings or not

6. Power of court to regulate procedure.—(1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, it shall be lawful for the Board of Revenue, subject to the approval of the Government, to declare what portion of the business of the court may be disposed of by a single member of the Board and what portion shall be reserved for the decision of the full Board. Every such declaration shall, after approval by the Government, be notified in the Gazette (2) All orders made and decisions passed by one member of the Board or by the full Board in accordance with a declaration made under sub-section (1) shall be held to be the orders and decisions of the court, and the same shall not be deemed to be invalid by reason that subsequent thereto the said declaration was disapproved by the Government. Where there is a difference of opinion between the Government, members of the Board sitting as the court on any point, the decision of the majority shall prevail and, when there is no majority, the point in difference shall be referred to the Government whose decision thereon shall be deemed to be the decision of the court on the point. (3) It shall be lawful for the officer appointed by the Government as Secretary to the court to sign on behalf of the court. 7, Power of court how exercised.—The court may exercise all or any of the powers conferred on it by this Act through the Collectors in whose districts any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose ; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred

CHAPTER 11 Assumption of Superintendence of Persons and Property 8. Disqualification.—The following proprietors shall be deemed to be disqualified for the management of their property:— (a) minors ; -4 117 (b) proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property ; (c) proprietors declared by the Government to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property

9. Immediate Protection of disqualified persons.—Whenever a Collector receives information that a proprietor of land situated in his district has died, and he has reason to believe that the heir of such proprietor is, or should be declared to be, disqualified under section (a) he may take such steps and make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to the heir; (b) if the heir be a minor, he may direct that the person, if any, having custody of the minor, shall produce him or cause him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor as he thinks proper : Provided that female minors, who ought not to be compelled to appear in public, shall be produced in accordance with the manners and customs applicable to them. 10. Recovery of expenditure.—All expenses incurred by a Collector, acting under section 9, shall, whether the property is afterwards taken under the superintendence of the court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as arrears of land revenue

11. Report by Collector.—Whenever any Collector, after making such inquiry as he deems necessary, has reason to believe that any proprietor in his district is, or should be declared to be, disqualified under section 8, he shall submit a report to the court setting forth all the circumstances of the case: Provided that the said property is of such value that its economic management by the court is practicable: Provided further that the court or the Government may call for a report on any case if in its or their opinion it is necessary to do so

12. Proprietor to be given opportunity to be heard and to adduce —(1) Before reporting to the court under section 11 that a proprietor ought to be declared to be disqualified under clause (c) of section 8, the Collector shall give notice to such proprietor and afford him a reasonable opportunity to be heard and to adduce evidence. (2) All questions as to whether the provisions of this section have been complied with shall be decided finally by the Government, 118 shall consider the Collector's 13. Report by court.—The court report and, except in the case of female proprietors, not being minors, whom it decides to have in charge of their property, shall report the case to the Government With its recommendation and pending the receipt of orders, shall have power to take such steps, as it may deem necessary, for the protection of the person and property of the proprietor in question

14. Government may declare Proprietor disqualified and direct court to assume superintendence.—If the Government, on receipt of the court's recommendation, may, in any case falling under clause (c) of section 8, declare the proprietor to be disqualified, and, in every case falling under section 8, may order the court to assume the superintendence of the person or property of the proprietor or of both

15. Proprietor not to be declared disqualified under section 8 (c) unless on ground of public interest.—The Government shall not declare any proprietor to be disqualified under clause (c) of section 8, unless satisfied that it is expedient in the public interest that the property should be managed by the court, and a statement to that effect shall be inserted in the declaration made by the Government under section 14

16. Provision to meet cases of undivided Hindu family, Marumakkathayam tarwad, etc.—(1) The Government shall not, except under section 17, order the court to take the property of any undivided Hindu family, Marumakkathayam tarwad, Aliasantana family or Nambudiri family under its superintendence, unless all the coparceners, members of the tarwad or members of the family, as the case may be, are, or are declared to be, disqualified under section 8. (2) When two or more proprietors are co-sharers, otherwise than as coparceners in an undivided Hindu family or as members of a Marumakkathayam tarwad, Aliasantana family or Nambudiri family, as the case may be, and one of such co-sharers is, or is declared to be, disqualified under section 8, the Government may order the court to institute a suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition

17. Application by Proprietor himself A proprietor may apply to the Government to have his property placed under the superintendence of the court, and the Government may, on being satisfied that it is expedient in the public interest that such property should be managed by the court, and that the said property is of such value that its economic management by the court is practicable, make a declaration to that effect and order the court to assume the superintendence of such property, (2) In the case of any undivided Hindu family, Marumakkathayam tarwad, Aliasantana family or Nambudiri family, an application signed by a majority of the coparceners or a majority of the members of such tarwad or family, as the case may be, shall, for the purposes of sub-section (1), be deemed to be an application by a proprietor in respect of the whole of the property of the family or tarwad. Explanation.—Nothing in this section shall be deemed to prevent any coparcener or member of such tarwad or family not signing such application from obtaining partition of his share, whether by suit or otherwise

18. Notification of assumption of Whenever under section 14 or section 17 the Government order the court to take under its superintendence the person or property of a proprietor or both, such order of the Government, together with any declaration made under section 14 or section 17, as the case may be, shall be notified in the Gazette. The notification shall specify the Collector who shall discharge the duties imposed upon a Collector by this Act in respect of such person or property or both, as

the case may be. '(2) Such proprietor shall be deemed to have become a ward under the court from the date of the said order of the Government; and the superintendence of his person or property or of both shall take effect from the said date, and, as to property, shall extend to all movable and immovable property belonging to him at the date of the order, and to which he shall afterwards become in any way entitled while he continues under such superintendence: Provided that it shall be in the discretion of the court to assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of the order of the Government under section 14 or section 17, CHAPTER IV Management and guardianship 19. Collector to take charge of ward's Property.—When the court has assumed the superintendence of the property of ward, the Collector specified in the notification. under section 18 or, if so directed by the court, the Collector of the district in which any part of the property is situated, shall take possession and custody of such property on behalf of the court. —It shall be lawful for the Collector referred to in section 19— (a) to order any person in possession of any movable property to the possession of which the ward is entitled or of any accounts or papers relating to the property of such ward, to deliver up such movable property, accounts or papers; (b) In case there is reason to believe that any movable property to the possession of which the ward is entitled or any accounts or papers relating to the property of the ward are to be found in any room, box or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorise the same to be broken open for the purpose of searching for such property, accounts or papers; (c) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title, to attend before him for examination and to defray the necessary expenses of any person so attending out of the assets of the estate; (d) to order all holders of tenures and under-tenures on the ward's property to produce their titles before him

21. Allowances for ward and family.—The court may determine what sums shall be allowed for the expenses of the ward and of his family and dependants and of those who are entitled to be maintained out of the property taken possession of on behalf of the court, 22. Custody, residence, education and marriage of ward or minor relatives.— The court may make such orders and arrangements as it may deem fit, in respect of the custody, residence, education and marriage— (a) of any ward whose person is for the time being under its superintendence; (b) of any minor child, minor brother or minor sister of such ward, or such other minor or incapacitated person who, in the opinion of the court, is entitled to maintenance at the charge of the ward's estate of the court,

23. Appointment, etc., of managers and guardians. The court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed : Provided that the court shall not appoint a guardian for any person who has become a ward in pursuance of an order under section 17. (2) Any appointment made under this section shall terminate when the court ceases to exercise superintendence over the person for whom a guardian, or over property for which a manager, has been appointed

24. Collector to act if there are no managers or guardians.—If no manager of the property or guardian of the person of a ward is appointed by the court, or the office is temporarily vacant, the Collector specified in the notification under section 18, or any other Collector whom the court may appoint in this behalf, shall be competent, under control of the court, to do anything that might be done by such manager or guardian, 25. Who may and may not be appointed guardian of a ward, or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed guardian of such ward: Provided that the mother of a ward, or any person appointed guardian by the will of a person authorised to make such appointment, may be appointed guardian by the court at its discretion. (2) A female guardian shall be appointed for a ward, and a male guardian for a male ward above seven years of age, unless, in any case, the court, for special reasons, shall direct otherwise: Provided that no guardian shall ordinarily be appointed for a female ward, if she has an adult husband

26. Duties of guardians.—A guardian appointed under section 23 shall be charged with the custody of the ward, and, subject to the control of the court, shall make suitable provision for his maintenance and health, and if he be a minor, for his education, and for such other matters as are required by the personal law to which the ward is subject, and shall— (a) give such security (if any), as the court thinks fit, for the due

performance of his duty, (b) submit such accounts as the court may direct; (c) pay the balance due from him thereon; (d) continue liable to account to the court after he has ceased to be guardian for his receipts and disbursements during the period of his guardianship; (e) apply for the sanction of the court to any act which may involve expense, not previously sanctioned by the court, (f) be paid such allowance out of the property of the ward as the court thinks fit, 27. Powers of manager.—Every manager appointed by the court shall have power, subject to the control of the court, to collect the rents of land placed under his charge, as well as all other moneys due to the ward, and to grant receipts therefor, and may, under the orders of the court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as he may be generally or specially authorised by the court to do for the good management of the property

28. Duties of manager.—(1) Every manager appointed by the court shall manage the property placed under his charge diligently and faithfully and shall— (a) give such security, with such sureties, if any, as the court thinks fit, for the due discharge of the trusts of his office and for the due account of all property and moneys which come into his control or possession by reason of his office; (b) keep such accounts in such form and submit them at such times as the court may direct; (c) deal with all moneys received by him in such manner as the court may direct; (d) obtain the sanction of the court to any act which may involve the property in expense not previously sanctioned by the court; (e) be responsible for any loss occasioned to the property under his management by his negligence or wilful default; and every such loss shall be recoverable from him and from his sureties, if any, as an arrear of land revenue; (f) continue liable to account to the court after he has ceased to be manager for his receipts and disbursements during the period of his managership. (2) The manager shall be paid such allowance out of the property of the ward as the court thinks fit

29. Employees of court deemed to be public servants.—Every guardian, manager, or other servant of the court shall be deemed to be a public servant within the meaning of sections 161, 162, 163, 164, 165 and 165A of the Indian Penal Code (45 of 1860); and in the definition of 'remuneration' contained in the said section 161, the word 'Governor' shall, for the purposes of this section, be deemed to include the court. 30. Manager and other servants to be deemed to be public accountants.— Every manager or other servant of the court entrusted with the receipt, custody or control of moneys or securities for money on behalf of the court or with the management of any property under its superintendence shall be deemed to be a public accountant within the meaning of the Kerala Public Accountants Act, 1963 (Kerala Act 37 of 1963)

31. Regulation of expenditure.—Unless the court otherwise directs, all moneys received by, or on behalf of, the court on account of the property of any ward shall be employed in meeting the charges included in Class I hereinafter specified, before such moneys are employed in meeting the charges in Classes II and III hereinafter specified and in meeting the charges in Class II before they are employed in meeting those in Class III. CLASS I Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family and of those in respect of whom such charges have to be paid out of the property of the ward. Charges necessary for the management and supervision of the property of the ward, 123 Charges on account of Government revenue and or all cesses and other public demands due in respect of such property, or any part of such property. CLASS II Charges on account of rent, cesses or demands due to any superior land holder in respect of any land held on behalf of the ward. The liquidation of debts payable by the ward out of the property taken charge of by the court. Expenses necessary to protect the interests of the ward in the civil courts or otherwise. The maintenance in efficient condition of the estates, buildings and other immovable property and the suitable upkeep of the furniture, equipage, livestock and other movable property belonging to the ward, CLASS III The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances and of such donations befitting the position of the ward's family, as the court may authorise to be paid. The prevention and relief of distress among the ward's tenants. The improvement of the land and property of the ward and the benefit of the ward and his property generally

32. Surplus how to be dealt with.—Any surplus which remains after providing, so far as the court deems fit, for the objects mentioned in section 31, shall be applied in the purchase of other landed property, or

invested at Interest on the security of— (a) promissory notes, debentures, stock and other securities of the Government of India or of the Government of Kerala ; (b) stock, or debentures of, or shares in, companies, the Interest whereon has been guaranteed by the Government of India ; (c) debentures or other securities for Income Issued by, or on behalf of, any local authority under the authority of any Act of the Legislature of any State ; (d) such other securities, stock or shares guaranteed by the Government of Kerala or the Government of India as the court shall deem fit ; or (e) first mortgages of immovable property situate in the State of Kerala, provided that the property is not a leasehold for a term of years and that the value of the property exceeds by one-third, if consisting of buildings, exceeds by one-half, the mortgage money

33. Disabilities A ward shall not be competent—(a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the court, or (2) to enter into any contract or to make any acknowledgment involving him in pecuniary liability personally or in respect of such property; but nothing in this clause or in section 22 shall be deemed to affect the capacity of a ward to enter into a contract of marriage : Provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances the court may, in writing, declare to be reasonable ; (b) to grant valid receipts for the rents and profits arising or accruing from such property or for debts or other moneys due to the estate ; (c) to adopt or to give a written or verbal permission to adopt without, the consent of the court ; (d) to dispose of his property by will without the consent of the court : Provided first that the court shall not withhold its consent under clause (c) or clause (d) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation: Provided secondly that the court may confirm a Will or an adoption made, or a permission to adopt given, without its previous consent : Provided thirdly that the provisions of clauses (c) and (d) shall not apply to any proprietor in regard to whose property a declaration has been made under section 17. (2) No claim under section 68 of the Indian Contract Act, 1872 (9 of 1872), shall be enforceable against the property of a ward which is under the superintendence of the court; but the court may, in its discretion, satisfy in whole or in part, any such claim

34. Powers of court as to Property under its superintendence.—The court may mortgage or sell the whole or any part of any property under its superintendence and may give leases of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act for the time being in force as it may judge to be for the advantage of the ward or for the benefit of the property

35. Establishments and distribution of charges.—The court may order such establishments to be employed and charges to be incurred as it shall consider requisite for the care and management of the persons and properties under its superintendence and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed amongst the said properties in such proportions as it deems fit, (2) CHAPTER V Ascertainment and settlement of debts 36. Notice calling upon claimants to notify On the publication of a notification under section 18, the Collector may, in specified manner, at any time, with the previous sanction of the Government, publish in the Gazette a notice in English and in Malayalam or in such regional language as he may consider necessary calling upon all persons having pecuniary claims, whether immediately enforceable or not against the ward or his property, to notify the same in writing to the Collector within six months from the date of such notification. (2) The notice shall also be published at such places and in such other manner as the court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed, (3) The Government may at any stage of the proceedings under this section and sections 37 and 39 invest any person either by name or by virtue of his office with the powers of a Collector for any or all of the purposes of these sections. Explanation.—A claim shall be deemed to be pecuniary for the purposes of this section and sections 37 and notwithstanding that a suit for its enforcement or a recognition of such claim to arbitration is pending or that a decree or award has been passed establishing the same

37. Claimants to furnish full Particulars and Every such claimant shall, within the period prescribed by section 36, notify to the Collector in writing his claim 'With full particulars thereof': Provided that any claim presented after the expiration of such period and within a further period of SIX months may be admitted if the claimant satisfies the Collector that he had sufficient cause for not notifying the claim at an earlier date.(2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he found his claim shall be produced before the Collector with the statement of claim or within such time after the filing of the claim as may be allowed by the Collector in that behalf: Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and a certificate from the court which passed or is executing the same declaring the amount recoverable thereunder or a true copy of the award and a statement of the sum recoverable thereunder, as the case may be; and if the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration, as the case may be. (3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to his claim, other than the documents, if any, produced under sub-section (2), as the Collector may consider necessary. (4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompanied by a true copy thereof. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant

38. Pecuniary claim of Government, not affected.—Nothing etc., contained in sections 36 and 37 shall apply to any pecuniary claim of the Government or any local authority, or to claims for maintenance or for wages or salaries due to servants

39. Claims admitted and disallowed .—The Collector shall, after making such inquiry as he may deem fit, decide which claims notified or admitted under section 37 are to be allowed in whole or in part, and which are to be disallowed, and, on his decision being confirmed by the court, shall give written notice of the same to the claimants: Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim, whether such claim be allowed or disallowed by the Court of Wards in whole or in part

40. Claims not notified cease to carry interest, etc.—Every pecuniary claim against the ward or his property which has not been duly notified to, or admitted by, the Collector under section 37 shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by section 36, and shall not be paid until after the discharge or satisfaction of the claims notified or admitted under section 37. Inadmissibility in evidence of documents not produced.—No document in the possession or under the control of the claimant which should have been but has not been produced in accordance with the requirements of section 37, shall be admissible in evidence against the ward or his representative in any suit brought by or against the claimant, or any person claiming under him, unless it be proved to the satisfaction of the Civil court that it was not within his power to produce such document before the Collector

42. When mortgagee in Possession may be dispossessed.—(1) When any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the Government may, on being satisfied that it is expedient in the public interest that the estate should be preserved and such encumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the court to take possession thereof; the court shall thereupon, by an order in writing, require such encumbrancer to deliver up possession of the same to the manager at the end of the then current financial year. (2) If such encumbrancer refuses or neglects to obey such order, the Collector may, without resorting to a civil court, enter upon the property, and summarily evict therefrom the said encumbrancer and any other person obstructing or resisting on his behalf. (3) The dispossession of the encumbrancer under sub-sections (1) and (2) shall not deprive him of any right for the recovery of arrears of rent due to him at the date of his dispossession. (4) If in the instrument of mortgage under which the encumbrancer is in possession of the property, no rate of interest is specified, the Collector shall, in cases where the mortgage debt has been notified to or admitted by him, offer to the encumbrancer the rate of

interest which appears to him to be reasonable; and pass an order fixing the rate accordingly. Copy of the order shall be served upon the encumbrancer in the manner prescribed in the Code of Civil Procedure, 1908 (5 of 1908), for service of summons upon a defendant. If the encumbrancer is dissatisfied with the rate of interest so fixed, he may, within three months from the date of service upon him of such order, institute a suit against the ward in the District Court within whose jurisdiction the property mortgaged or any portion thereof is situate, and the said rate of interest if the mortgage debt has been notified or admitted as correct shall, aforesaid, pass a declaratory decree fixing such rate of interest as it may deem reasonable. If no such suit be instituted within the said period, the encumbrancer shall be deemed to have agreed to the rate fixed by the Collector. (5) If an encumbrancer is dispossessed of property under this section, he shall be entitled to recover the amount due to him under the instrument of mortgage on the date of such dispossession together with— (a) interest as from that date, on the principal money outstanding on such date at the rate stipulated in the instrument of mortgage or, if there is no such stipulation, at the rate fixed under sub-section (4), and (b) any amount to which he may, in case of dispossession, be entitled under the instrument of mortgage or under any law for the time being in force, in the same manner as if— (i) he were a simple mortgagee of such property under the said instrument, and (ii) the entire money as computed above advanced by way of loan under the said instrument: Provided that the rights of the encumbrancer under this sub-section shall be subject to— (a) the provisions of section 40, and 128 (b) the charges specified in Classes I and II in section 31, except those relating to the liquidation of debts payable by the ward and to the upkeep of the furniture, equipage, livestock and other movable property belonging to the ward. (6) The Collector shall, as soon as conveniently may be after the expiration of the financial year commencing with the date of such dispossession and of every successive financial year, declare, subject to the approval of the court, the gross annual rents and profits realised from such property, the several heads of expenditure and the balance, and such declaration shall be conclusive evidence of the statements therein contained. A copy of such declaration shall be furnished to the dispossessed encumbrancer free of charge.

CHAPTER VI Suits 43. Protection of action taken in good faith.—No suit shall be brought in any civil court against the Government, the Court of Wards or any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or intended to be done under the provisions thereof or the rules made thereunder.

44. Suit not to be instituted until after notice to No suit relating to the person or property of any ward shall be instituted in any civil court until the expiration of two months after notice in writing has been delivered to or left at the office of the Collector specified in the notification under section 18. (2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims; and the plaintiff shall contain a statement that such notice has been so delivered or left: Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 18.

45. Suit or Proceeding-by or against ward.—In all suits or proceedings in any civil or revenue court the ward shall sue and be sued in his own name and the manager of his property appointed under section 23 or, if there is no such manager, the officer competent to act as manager under section 24 shall represent him as next friend or guardian ad litem, as the case may be.

46. Costs against manager how paid.—If in any such suit or proceeding in any Civil or revenue court shall decree any costs against the manager or other officer competent to act as manager under section 24, the Court of Wards shall cause such costs to be paid out of any property of the ward, which, for the time being, may be in its hands. 47. Suits must be authorised by court.—No suit shall be brought on behalf of any ward by the manager or other officer competent to act as manager under section 24, unless authorised by some particular or general order of the court: Provided that a manager or other officer as aforesaid may file a plaint in order to prevent the suit from being barred by the law of limitation, but such suit shall not be further proceeded with, until the consent of the court has been obtained.

48. Adjudication of civil disputes between two or more wards.When any question arises as between two or more wards of such a nature that an adjudication upon it by a civil court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the civil court with regard to such matter under rule I of Order XXXVI in the First

Schedule to the Code of Civil Procedure, 1908 (5 of 1908), to file in the civil court having jurisdiction a statement containing the point or points for determination. (2) When such statement has been filed, the civil court shall appoint a guardian ad litem for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards. (3) The civil court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Order XXXVI in the First Schedule to the Code of Procedure, 1908 (5 of 1908), for the hearing and disposal of cases stated for opinion under that Order. CHAPTER Release of persons and property from superintendence 49. Release from superintendence.—The court may, with the previous sanction of the Government, in all cases where superintendence has been assumed in pursuance of orders under section 14, at any time release from its superintendence the person or property of a ward or both and shall, save as provided in section 52, release from superintendence— (a) the person and property of a ward disqualified under clause (a) of section 8, as soon as he ceases to be a minor ; (b) the person and property of a ward disqualified under clause b) of section 8, as soon as it is found by a competent civil court that the disability has ceased ; (c) the person and property of a proprietor declared to be disqualified under clause (c) of section 8, as soon as the Government revoke their declaration that such proprietor is disqualified ; 130 (d) the property of an undivided Hindu family, Marumakkathayam tarwad, Aliyasantana family or Nambudiri family, and the person of every coparcener or member therein who is not possessed of separate estate, as soon as any coparcener or member, as the case may be, ceases to be disqualified under section 8

50. Release of estate taken under management under section 17 when debts cannot be liquidated within reasonable time. The court may, with the previous sanction of the Government, at any time within two years from the date of the notification published under section 18, release from its superintendence, on a day to be notified, the property of a person who has been made a ward of the court in pursuance of an order under section 17, without liquidating any of his debts and liabilities, or after liquidating some of the debts and liabilities, when the court is satisfied that it is impracticable to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated, and in either case the legal incapacity of such ward shall cease on the date so notified : Provided that with the previous sanction of the Government, the court may at any time release such property on application made to it by the proprietor, or in the case of an undivided Hindu family, a Marumakkathayam tarwad, an Aliyasantana family or a Nambudiri family on such application made by a majority of the coparceners who have attained majority or of the major members of such tarwad or family, as the case may be. (2) Whenever an incumbrancer is dispossessed under section 42, and his debt remains unliquidated at the time the court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the Incumbrancer in possession. (3) Whenever the property of a person is released under sub-section (1) from the superintendence of the court, the provisions of sections 40 and 41 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his properties are so released. (4) In computing the period of limitation applicable to a suit brought or application made against such person or his legal representative after the court has released his property under sub-section (1), the time during which the superintendence of the court continued shall be excluded

51. When estate taken under management under section 17 may be made over to proprietor.—The court may, with the previous sanction of the Government, replace any proprietor who has been made a ward of the court in pursuance of an order under section 17, in the management of his estate on a day to be notified, if the debts and liabilities binding on his estate have been discharged and the court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs, and his legal incapacity shall cease on such date, 52. Option to retain superintendence in certain cases.—When a ward dies or ceases to be disqualified before the debts and liabilities binding on his estate have been discharged, the court may, with the previous sanction of the Government, retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the court shall not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid : Provided that, after the death of the ward, the court shall not retain charge on account of

any debt or liability which has been declared by a civil court not to be binding on the representatives of the deceased ward

53. Disabilities of Proprietor in such cases.—If the court retains the superintendence under section 52, the person who has succeeded to the property, or the person who has ceased to be disqualified, 8ball, in so far as the property in question is concerned, be deemed to be a ward of the court for the purposes of clauses (a) and (b) of (1) and sub-section 12) of section 33, 54. Appointment of guardian before release When the court decides to release from its superintendence the person and property of a minor, it may: before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor. (2) Such appointment shall take effect from the date of such release. (3) In appointing a guardian under this section, the court shall be guided by the provisions of section 17 Of the Guardiangu and Wards Act, 1890 (8 of 1890). (4) Every such guardian shall have, and be subject to, the same rights, duties and liabilities, as If he had been appointed under the Guardians and Wards Act, 1890 (8 of 1890)

55. Recovery of expenses after release.—Any expense incurred by the court on account of any property under its charge, and not defrayed from such propety ty during the court's superintendence may, after the release of such property, be recovered as if it were an arrear of land revenue from any person into whose possession such property or any part thereof may have passed : Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person, 3/21—9a 132 56. Procedure when succession to ward's Property is disputed.— When• ever, on the death of any ward, the succession to his property or any part thereof is disputed, the court may either direct that such property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until a claimant has established his title to the same in a competent civil court, or institute a suit of inter-pleader against all the claimants

57. Notification of release from superintendence.—Whenever the court releases any person or property from its superintendence, the fact of such release shall be notified in the Gazette, CHAPTER VIII Miscellaneous 58. Powe? of court in regard to religious endowment of which ward is hereditary trustee or manager.—If a ward is the hereditary trustee or manager of a temple, mosque or other religious institution, establish- ment or endowment, the court may make such arrangements as it thinks fit for the discharge, during the wardship, of the ward's duties as trustee or manager, provided that for the direct and personal management of the religious affairs of any such institution, establish- ment or endowment, the court shall appoint suitable persons other than servants of the Government and that the court shall as far as possible restrict its superintendence to the preservation of the property belonging to the institution, establishment or endowment, 59. Powers of Persons holing holding any inquiry under this Act, the Collector or other person authorised to hold such inquiry shall have all the powers conferred on revenue officers by the Kerala Enquiries and Summonses Act, 1960 (Kerala Act 24 of 1960)

60. Property under charge of court not liable to sale for arrears.—No immovable property under the superintendence of the court shall be liable to sale on account of arrears of land revenue accruing while such estate is under the superintendence of the court : Provided that all such arrears of land revenue shall be the first charge upon the sale proceeds of any such property which may be sold for any other cause than for arrears of land revenue, 61. Power to make rules.—The court may, With the previous sanc- tion of the Government, make rules consistent With this Act— (a) regulating the management of property under the superin• tendence of the court, and (b) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act. 133 CHAPTER Penalties 62. Abetting tnsanctioned marriage of wards, etc.—Whoever, without the previous consent of the court, abets the marriage of any of the persons specified in clauses (a) and (b) of section 22 shall be liable, on conviction before a court of session, to a fine not exceeding two thou- sand rupees, or to imprisonment for a tenn not exceeding six months, or to both

CHAPTER X Repeal 63. Repeal.—The Madras Court of Wards Act, 1902 (Madras Act I of 1902)• (except in so far as it relates to estates of Rulexs of Indian States), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), the Cochin Court of Wards Act, XIII of 1097 and the Travancore Court of Wards Act, 1110 (Travancore Act V of 1110) are hereby repealed.