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Government of Kerala
കേരള സർക്കാർ
2005



Reg. No. രജി. നമ്പർ
KL/TV(NY)12/2003-2005

KERALA GAZETTE
കേരള ഗസറ്റ്
EXTRAORDINARY
അസാധാരണ

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GOVERNMENT OF KERALA
Law (Legislation) Department
NOTIFICATION

No. 13285/Leg. C/05/Law. Dated, Thiruvananthapuram, 15th August, 2005.
21st Sravana, 1927.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 12th day of August, 2005.

By order of the Governor,

S. SAINUDEEN,
Law Secretary.



THE KERALA MOTOR TRANSPORT WORKERS' WELFARE FUND
(AMENDMENT) ACT, 2005

An Act further to amend the Kerala Motor Transport Workers' Welfare and Act, 1983.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Motor Transport Workers' Welfare Fund Act, 1985 for the purposes hereinafter appearing;

Be it enacted in the Fifty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Motor Transport Workers' Welfare Fund (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on the 7th day of

2. *Amendment of section 2.*—In the Kerala Motor Transport Workers' Welfare Fund Act, 1985 (21 of 1985) (hereinafter referred to as the principal Act), in section 2,—

(2) in clause (e) for the words "in relation to any motor transport undertaking, the person" the words "in relation to any motor transport undertaking, the registered owner or the person," shall be substituted;

(b) after clause (i), the following clause shall be inserted, namely:—

"(ia) "quantum" means a fixed amount of welfare fund contribution payable to the fund by the employer, employee and self employed person as may be specified in the Scheme;"

(c) after clause (j), the following clause shall be inserted, namely:—

"(ja) "self-employed person" means a person other than an employee who is engaged in the profession of a motor transport undertaking by actually operating the vehicle and depending mainly on such a motor transport undertaking for his livelihood."

(d) clause (k) shall be omitted.

"4. *Contribution to the Fund*—(1) The contribution payable by the employee to the fund shall be such quantum for each type of motor transport undertaking as may be specified in the Scheme.

(2) The contribution payable by the employer and self-employed person shall be such quantum as may be specified in the Scheme.

(3). The quantum under sub-sections (1) and (2) shall be fixed taking into account the average number of manpower required for operating the motor transport undertaking.

(4) The contribution payable by the employer, employee or self-employed person shall be subject to revision from time to time.

Provided that nothing in this section shall apply to a motor transport undertaking to which the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952) or the Payment of Gratuity Act, 1972 (Central Act 39 of 1972) apply."

4. *Substitution of section 8.*—For section 8 of the principal Act, the following section shall be substituted, namely:—

18. *Determination of amount due.*—(1) The Chief Executive Officer or any other officer appointed under sub-section (1) of section 7 and authorised by him in this behalf may, by order, determine the amount due under the provisions of this Act or of the Scheme from the employer, employee and self-employed person and if the amount due is not paid on or before the due date, he shall issue a demand notice to the defaulter showing the amount of arrears.

(2) Any person aggrieved by the determination of arrears under sub-section (1) may file a review petition before the authority who had so ordered the arrears, showing detailed facts and reasons for reviewing the original determination within fifteen days of receipt of demand notice.

(3) A review petition filed under sub-section (2) shall be disposed of by the authority within a period of thirty days from the date of its receipt.

(4) Any person aggrieved by an order under sub-section (3) may prefer an appeal before the District Labour Officer of the concerned district and it shall be disposed of by him within a period of sixty days from the date of its receipt.

(2) If the amount of arrears in dispute exceeds rupees one lakh, any person aggrieved by an order under sub-section (4) may prefer a second appeal before the Board and it shall be disposed of within a period of sixty days from the date of its receipt.

(6) Every order passed under sub-section (4) or sub-section (5), as the case may be, shall be final.

(7) No appeal under this section shall be entertained unless fifty per cent of the amount in accordance with the order against which the appeal has been preferred is paid.

(8) If the appellate authority in an appeal decides that the amount paid is in excess of what is due from the appellant, it may, by order, direct for the refund of the excess amount.

(9) An officer or authority exercising the power of appeal under sub-section (5) of section 8 of the Kerala Motor Transport Workers' Welfare Fund Act, 1985, immediately before the commencement of the Kerala Motor Transport Workers' Welfare Fund (Amendment) Act, 2005, shall continue to exercise such powers, in respect of the cases pending before such officer or authority.

5. *Insertion of new section 8A.*—After section 8 of the principal Act, the following section shall be inserted, namely:—

"8A. *Production of receipt of remittance of welfare fund contribution.*—Notwithstanding anything contained in any other law for the time being in force, every registered owner or person having possession or control of a motor vehicle in respect of a motor transport undertaking liable to pay contribution (other than autorickshaws covered under the provisions of the Kerala Autorickshaw Workers' Welfare Fund Scheme, 1991) shall, at the time of making payment of the tax under the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), produce before the Taxation Officer the receipt of remittance of the contribution to the fund due upto the preceding month."

6. *Substitution of section 9.*—For section 9 of the principal Act, the following section shall be substituted, namely:—

"9. *Remittance of monthly contribution.*—(1) Every employer, employee and self-employed person shall, pay the contribution due from him every month as provided for in the Scheme.

(2) The monthly contribution shall become payable on or before the 7th day of the succeeding month."

7. *Substitution of section 10.*—For section 10 of the principal Act, the following section shall be substituted, namely:—

"10. *Mode of recovery of moneys due from the employer, employee and self-employed person.*—(1) The amount of arrears for which demand notice has been issued under sub-section (1) of section 8, shall be recovered together with interest thereon at the rate of 9 per cent per annum in the same manner as an arrear of public revenue due on land.

(2) Notwithstanding anything contained in any other law for the time being in force, where an employee transfers his vehicle before paying any amount due under this Act in respect of the vehicle, the liability whereof accrued before the date of the transfer, shall be a charge on the vehicle so transferred."

8. *Insertion of new section 12A.*—After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A. *Registration and membership.*—Every employee or self-employed person shall, register himself with the Board as a member of the fund within six months of commencement of his service in a motor transport undertaking and obtain identity card in such manner as may be provided for in the Scheme."

Provided that every employee or self-employed person who has been already registered as a member of the fund as on the date of commencement of the Kerala Motor Transport Workers' Welfare Fund (Amendment) Act, 2005 shall be himself re-registered with the Board as specified in the Scheme."

9. *Amendment of section 15.*—In section 15 of the principal Act:—

(a) in sub-section (1), for the words "one thousand rupees" the words "five thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "five hundred rupees" the words "two thousand five hundred rupees" shall be substituted.

10. *Amendment of section 25.*—In section 25 of the principal Act, in sub-section (1), after the words "by notification in the Gazette of India" the words "or by notification in the Gazette of Kerala" shall be inserted.

11. *Amendment of the Schedule.*—In the Schedule to the principal Act, item 16, the following item shall be substituted, namely:—

"16. The rate of welfare fund payable to member as provided for in the Scheme for such payment."

12. *Repeal and saving.*—(1) The Kerala Motor Transport Workers' Welfare Fund (Amendment) Ordinance, 2005 (8 of 2005) except section 4 thereof, is hereby repealed.

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