

GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 4153/Leg. A1/2021/Law.

Dated, Thiruvananthapuram, 14th November, 2021
29th Thulam, 1197
23rd Karthika, 1943.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the Governor of Kerala is pleased to authorise the publication in the Gazette of the following translation in English Language of the Kerala Toddy Industry Development Board Act, 2021 (40 of 2021).

By order of the Governor,

V. HARI NAIR,
Law Secretary.



[Translation in English of “2021-ലെ കേരള കള്ള വ്യവസായ വികസന ബോർഡ് ആക്ട്” published under the authority of the Governor.]

ACT 40 OF 2021

THE KERALA TODDY INDUSTRY DEVELOPMENT BOARD ACT, 2021

An Act to provide for the constitution of Toddy Industry Development Board to promote and develop the traditional toddy industry in the State of Kerala and matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the constitution of Toddy Industry Development Board to promote and develop the traditional toddy industry in the State of Kerala and matters connected therewith or incidental thereto;

BE it enacted in the Seventy-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Kerala Toddy Industry Development Board Act, 2021.

(2) It shall be deemed to have come into force on the 25th day of February, 2021.

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

(a) “Board” means the Kerala Toddy Industry Development Board constituted under section 3;

(b) “Chairperson” means Chairperson of the Board;

(c) “Chief Executive Officer” means the Chief Executive Officer of the Board appointed under section 13;

(d) “Excise Commissioner” means an officer appointed by the Government under clause (a) of section 4 of the Abkari Act, 1077 (1 of 1077);

(e) “Government” means the Government of Kerala;



- (f) “member” means member of the Board;
- (g) “prescribed” means prescribed by rules made under this Act;
- (h) “regulation” means regulations made by the Board under this Act;
- (i) “State” means the State of Kerala ;
- (j) “toddy” means toddy as defined under clause (n) of rule 2 of the Kerala Abkari Shops Disposal Rules, 2002;
- (k) “toddy shop” means toddy shop as defined under clause (c) of rule 2 of the Kerala Abkari Shops Disposal Rules, 2002.

CHAPTER II

CONSTITUTION OF THE BOARD

3. *Constitution of the Board.*—(1) The Government shall, as soon as may be, after the commencement of this Act, by notification in the Gazette, constitute a Board to be known as “the Kerala Toddy Industry Development Board” to exercise the powers and to perform the functions conferred on it under this Act.

(2) The Board, shall be a body corporate having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable and to enter into contract, subject to the provisions of the Act and to do all things necessary for the purpose of this Act, and shall may by the said name sue and be sued.

(3) The Head quarters of the Board shall be at Thiruvananthapuram.

(4) The Board shall consist of the following members, appointed by the Government as hereinafter provided, namely:—

- (a) a person nominated by the Government—Chairperson;
- (b) Secretary/Principal Secretary/Additional Chief Secretary to the Government, Taxes Department;
- (c) Excise Commissioner;



(d) Secretary/Principal Secretary/Additional Chief Secretary to the Government, Finance Department;

(e) Director of Research, Kerala Agriculture University;

(f) Assistant Director (Marketing), Agriculture Department;

(g) Chairman, Kerala Toddy Industry Workers' Welfare Fund Board;

(h) one representative each from recognized trade unions in toddy sector, up to maximum five representatives;

(i) two representatives from toddy shop licensees association;

(j) two representatives of coconut farmers;

(k) Chief Executive Officer.

(5) The Chairperson and members shall be appointed, by notification in the Official Gazette.

4. *Service conditions and term of office of the Chairperson and members.*—(1) The Chairperson and the non-official members of the Board may hold office for a period of five years from the date on which they assume the office.

(2) The salary and allowances payable to the Chairperson and other members and other conditions of service shall be such as, may be prescribed.

5. *Reconstitution of the Board.*—(1) The Government, may by notification in the Gazette, and on the reasons to be specified in the said notification, reconstitute the Board in accordance with the provisions of sub-section (2) of section 3.

(2) When the Board is reconstituted under sub-section (1), members of the Board including the Chairperson, who were holding office before such reconstitution, from the date of such reconstitution, shall vacate their offices as such members, notwithstanding that their term of office has not expired, unless they are appointed as members of the Board so reconstituted.



6. *Disqualification for being appointed, or for continuing as, a member of the Board.*—A person shall be disqualified from being appointed as a member or continuing as a member of the Board, if he,—

- (a) is of unsound mind;
- (b) is an undischarged insolvent;
- (c) has been convicted for an offence involving moral turpitude or convicted for an offence of financial irregularity;
- (d) directly or indirectly holds any share or interest in any contract or work by the Board or on behalf of the Board.

7. *Removal or suspension of members from their office.*—(1) The Government may, by order, remove any Chairperson or any member from their office, if he,—

- (a) refuses to do the work or becomes incapable to do the work;
- (b) has been on conviction sentenced to imprisonment for an offence involving moral turpitude in the opinion of the Government;
- (c) is absent without the permission of the Board from three consecutive meetings of the Board;
- (d) in the opinion of the Government, so abused his official position, so as to render his continuance in the Board detrimental to the interest of the Board or interest of the public; or
- (e) is otherwise unsuitable to continue as a member:

Provided that no person shall be removed under this sub-section, unless he has been given a reasonable opportunity of being heard.

(2) The Government may suspend any member of the Board during the period of pendency of proceedings under sub-section (1).

(3) No member who has been removed from the Board under sub-section (1), shall be reappointed as a member of the Board or appointed in any other capacity under the Board.



8. *Resignation of office by a member.*—Any member of the Board may, resign his office by giving notice in writing to the Government, and on such resignation being accepted by the Government, he shall be deemed to have vacated his office.

9. *Vacancy to be filled in as early as possible.*—(1) When a member is subject to any disqualification under section 6, or removed under section 7 or resigned under section 8 he shall cease to be a member of the Board, and any such vacancy shall be filled by the Government as early as possible.

(2) The term of office of a member appointed in such casual vacancy shall be the remaining period of the term of office of the member in whose vacancy he has been appointed.

10. *Vacancies etc. not to invalidate proceedings of the Board.*—No action or proceedings of the Board shall become invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Board.

11. *Temporary association of persons with the Board for particular purposes.*—(1) The Board may associate with itself, any person whose assistance or advice it may desire for any particular purpose of this Act, in such manner, as may be provided in regulations, made under this Act .

(2) A person associated with the Board for any purpose under sub-section (1), shall have the right to take part in the discussions of the Board relating to such purpose:

Provided that he shall not have the right to vote in the meeting of the Board.

12. *Meetings of the Board.*—(1) The Board shall meet at such time and such places, as may be provided in the regulations and shall follow such rules of procedure in regard to transaction of business at its meetings:

Provided that the Board shall meet at least once in every three months.

(2) The Chairperson or, in his absence, such member as may be chosen by the members present from among themselves shall preside over the meeting of the Board.

(3) Quorum of the meeting of the Board including the chairperson shall be one third of the members.



(4) Any matter coming up before a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of equality of votes, the Chairperson or member presiding over the meeting shall have a right for a casting vote.

(5) The minutes of every meeting of the Board shall be forwarded to the Government within fifteen days after such meeting.

13. *Appointment of Chief Executive Officer and other staff of the Board.*—(1) The Government may appoint an officer not below the rank of Joint Secretary in the Government service on deputation, as the Chief Executive officer.

(2) The Chief Executive Officer shall exercise such powers and discharge such duties, as may be prescribed.

(3) The Board may appoint officers and staff as may be necessary for performing its functions in an efficient manner .

(4) The method of appointment and other conditions of service and salary and allowances of the Officers and staff shall be, such as may be prescribed.

14. *Power to make contract.*—(1) The Board may enter into contracts as it may consider necessary or expedient for carrying out the purposes of this Act.

(2) Every contract shall be made on behalf of the Board, by the Chairperson or an officer authorized by the Board.

(3) Every contract made on behalf of the Board shall be in, such form and such manner, as may be prescribed.

15. *Finance Standing Committee and other committees.*—(1) The Board may, appoint a Finance Standing Committee to exercise such powers and perform such functions relating to the financial matters of the Board, as may be laid down by regulations.

(2) The Board may, from time to time, appoint one or more committees for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of Toddy Industry.



CHAPTER III

POWERS AND FUNCTIONS OF THE BOARD

16. *Functions of the Board.*—(1) The Board shall organize, develop and encourage the Toddy Industry sector and ensure the protection of employment of the workers in the sector and perform such functions, as may be fixed by the Government from time to time.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board may perform all or any of the following duties and functions, in particular, namely:—

- (a) to ensure the availability of natural toddy to the consumers;
- (b) to collect and store toddy from places where there is large scale production and transport it to other necessary places;
- (c) to start initiatives for the production of value added products from toddy;
- (d) to make necessary arrangements to store and preserve excess toddy produced during the peak production season;
- (e) to plant high yielding toddy producing trees;
- (f) to construct permanent buildings to run toddy shops;
- (g) to conduct toddy shops as much as necessary;
- (h) to establish Toddy parlors with modern facilities in tourism centers;
- (i) to provide necessary training to the existing and new entrants in the toddy sector;
- (j) to keep statistical data on toddy industry;
- (k) to open knowledge centers for the workers and farmers and to publish journals;
- (l) to encourage the research to be required in this field.

17. *General powers of the Board.*—The Board, shall have the following powers, for the purposes of carrying out its functions under this Act, namely:-

- (1) to acquire and hold such movable and immovable property as it deems necessary and to lease, sell or otherwise transfer any such property:



Provided that in the case of immovable property, the aforesaid powers except the power to acquire shall be exercised only with the previous sanction of the Government;

(2) Subject to the provisions of this Act and the rules made thereunder, to meet the expenditure and formulate and implement such schemes as it may consider necessary for the purpose of carrying out the provisions of this Act.

CHAPTER IV

FORMULATION AND SUBMISSION OF SCHEMES

18. *Preparation and submission of annual Schemes.*—(1) The Board shall prepare annual scheme, subject to the provisions of this Act, every year, on or before such date, as may be fixed by the Government, and forward it to the Government for approval.

(2) The scheme shall contain,—

(a) such particulars of the scheme which the Board proposes to execute, whether in part or whole, during the next year;

(b) particulars of any work or undertaking of any work which the Board proposes to organize during the next year for the purposes of carrying out its functions under this Act;

(c) such other particulars, as may be prescribed.

(3) The Board shall prepare supplementary schemes, in such manner and form, as may be prescribed, and before such date and shall forward to the Government for approval.

(4) The Government may, either sanction or approve the scheme completely or with the modifications as they may deem fit.

CHAPTER V

FINANCE, ACCOUNTS, AUDIT AND DEBTS

19. *Transfer of Property.*—The Government may, for carrying out the purposes of this Act, transfer buildings, land or any other property, whether movable or immovable, to the Board on such terms and conditions as the Government may deem fit.

20. *Funds of the Board.*—(1) The Board shall have its own fund, and all receipts of the Board shall be credited thereto, and all expenditure by the Board shall be met therefrom.



(2) The Board may accept assistance or loans from the Toddy Workers Welfare Fund Board.

(3) All funds of the Board shall be deposited as directed by the Government by general or special orders.

(4) The amount levied as additional annual rental from the licensees of the toddy shop and in the case of toddy shops run by the workers committee additional annual rental levied under the Kerala Abkari Shops Disposal Rules, 2002 shall be credited to the fund after due appropriation made by law by the State Legislature.

(5) The additional permit fee of rupee one levied under the Tree Tax Rules, 1959 shall be credited to the fund after due appropriation by the State Legislature.

21. *Utilization of fund and property.*—All property, fund and other assets of the Board shall be utilized for the purpose of the Act and subject to the provisions of this Act.

22. *Subventions and loans to the Board.*—(1) The Government may, from time to time, make subventions and grants to the Board, for the purposes of this Act on such terms and conditions as the Government may determine.

(2) The Board may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and on such conditions as the Government may determine, borrow any sum required for the purposes of this Act.

23. *Preparation of Budget Estimates.*—(1) The Board shall, on or before such date as may be fixed by the Government, prepare the budget for the next financial year showing an estimated income and expenditure of the Board, in such form as the Government may specify and submit it to the Government.

(2) The Government may, sanction the budget with or without modifications.

(3) No sum shall be expended by or on behalf of the Board, unless such expenditure is included by specific provision in the budget approved by the Government under sub-section (1):

Provided that the Board may, with the previous sanction of the Government and within the limits of the budget, sanction re-appropriation, from one head of expenditure to another, or



from a provision made for one scheme to that in respect of another, subject to the condition that it shall not exceed the budget allocation.

24. *Preparation of Supplementary Budget Estimates.*—The Board may, submit a supplementary budget for the sanction of the Government, in such form and before such date, as may be prescribed, and the provisions of section 23 shall apply to such supplementary budget.

25. *Audit of Accounts.*—The accounts of the Board shall be maintained and an annual statement of accounts shall be prepared, in such manner, as may be prescribed. Such accounts shall be audited by an auditor approved by the Government.

26. *Annual report.*—The Board shall for every financial year prepare, in such manner, as may be prescribed, an annual report within three months from the end of the financial year giving a complete account of the previous financial year and forward it to the Government. Every such report together with the audit statement of accounts shall cause to be laid before the Legislative Assembly, as soon as may be, after it is received by the Government.

27. *Further report, statistics and returns.*—The Board shall before such date and at such intervals and in such manner as the Government may from, time to time, direct, submit to the Government a report of such matters and such statistics and such returns as the Government may direct.

28. *Recovery of arrears.*—If any amount due to the Board, in accordance with the provisions of this Act or rules made thereunder or the provisions of a contract or otherwise or any sum payable in connection therewith, has not been paid, such amount shall, without prejudice to any other remedy provided by law, be recoverable as arrears of land revenue under the Kerala Revenue Recovery Act, 1968 (15 of 1968).

29. *Power to write off irrecoverable amount.*—The Board may, write off any sum not exceeding ten thousand rupees in each case, subject to a limit of fifty thousand rupees annually, if in its opinion such sum is not recoverable.



CHAPTER VI
MISCELLANEOUS

30. *Power of Government to give directions.*—The Government may for the purpose of discharging its functions under this Act give directions to the Board, and the Board shall be bound to comply such directions.

31. *Chairperson, members and staff of the Board to be public servants.*—The Chairperson, members and the staff of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

32. *Protection of action taken in good faith.*—No suit, or other legal proceedings shall lie against the Government, Board or any member or staff thereof in respect of anything which is done in good faith or purported to be done under this Act, rules or regulations made thereunder.

33. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make provisions not inconsistent with the provisions of this Act and which appears to it, to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall, as soon as may be, after it is made, be laid before the Legislative Assembly.

34. *Power to make Rules.*—(1) The Government may, by notification in the Gazette, make rules either, prospectively or retrospectively, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances to be paid to the Chairperson and other members of the Board under sub-section (2) of section 4;



(b) the powers to be exercised and the duties to be discharged by, the Chief Executive Officer under sub-section (2) of section 13, and method of appointment, other conditions of service, and salary and allowances of the officers and staff under sub-section (4) of the said section;

(c) the form and manner in which contract shall be entered into under sub-section (3) of section 14;

(d) other details that may be included in the annual scheme under clause (c) of sub-section (2) of section 18, and the form in which and the time before which the Supplementary Scheme to be prepared under sub-section(3) of said section;

(e) the form for preparing the Budget under section 23;

(f) the form in which, and the date before which, the supplementary budget shall be prepared under section 24;

(g) the manner in which the accounts of the Board are to be maintained and the manner in which the annual statements are to be prepared under section 25;

(h) the manner in which the Annual Report is to be prepared under section 26;

(i) other matters which is to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

35. *Power to make regulations.*—(1) The Board may, with the previous approval of the Government, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to carry out the purposes of this Act by notification in the Gazette.



(2) In particular and without prejudice to the generality of the foregoing power, the Board may make regulations providing for,—

(a) the manner in which the persons are to be temporarily associated under sub-section (1) of section 11;

(b) the time, place and procedures of the meeting of the Board under sub-section (1) of section 12;

(c) the powers relating to the financial matters to be exercised and the duties to be discharged under sub-section (1) of section 15.

36. *Repeal and saving.*—(1) The Kerala Toddy Industry Development Board Ordinance, 2021 (103 of 2021) is hereby repealed.

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

