

GOVERNMENT OF KERALA  
**Law (Legislation-C) Department**

NOTIFICATION

No. 1771/Leg. C2/08/Law.      *Dated, Thiruvananthapuram,*  
*1<sup>st</sup> August, 2009.*  
*10<sup>th</sup> Sravana, 1931.*

In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Gazette of the following translation in the English language of the Kerala Jewellery Workers' Welfare Fund Act, 2009 (26 of 2009).

By order of the Governor,

K. JOHN BRITTO,  
*Special Secretary (Law).*

[Translation in English of "2009-ലെ കേരള ആഭരണ തൊഴിലാളി ക്ഷേമനിധി ആക്ട്" published under the authority of the Governor.]

## ACT 26 OF 2009

### THE KERALA JEWELLERY WORKERS' WELFARE FUND ACT, 2009 \*

*An Act to provide for the constitution of a Fund to grant relief to, to ensure the welfare of and to pay pension to the workers and self employed persons engaged in the processing of gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) and manufacturing jewellery or figures or other products by using it or its alloy or product and doing other connected works in the State of Kerala and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to provide for the constitution of a Fund to grant relief to, to ensure the welfare of and to pay pension to the workers and self employed persons engaged in the processing of gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) and manufacturing jewellery or figures or other products by using it or its alloy or product and doing other connected works in the State and for matters connected therewith or incidental thereto;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Jewellery Workers' Welfare Fund Act, 2009.

(2) It shall come into force on such date as the Government may, by<sup>1</sup>notification in the Gazette, appoint.

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

(a) 'Board' means the "Kerala Jewellery Workers' Welfare Fund

\* Received the assent of the Governor on the 1<sup>st</sup> day of August, 2009 and published in the Kerala Gazette Extraordinary No.1413 dated 1<sup>st</sup> August, 2009.

1 S.R.O No. 147/2010 dated 06-02-2010 published in Kerala Gazette Extraordinary No. 326 dated 10-02-2010 (w.e.f 10-02-2010).

Board" constituted under section 19;

(b) 'Chief Executive Officer' means the 'Chief Executive Officer' appointed under sub-section (1) of section 21;

(c) 'contribution' means the sum of money payable to the Fund under section 4;

(d) 'dealer' means the establishment or person or an agent who engaged in the processing of gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) or buys or sells jewellery or figures or other products made by using its alloy or product;

(e) 'employer' means the person who make use of the service of one or more workers either directly or through another person, in his own establishment or in other places for manufacturing jewellery or figures or any other product by using gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) or its alloy or product or for moulding or for processing or for connected work and includes, if an establishment, its main administrative controller, the contractor who appoints or controls the workers, the Manager and other persons known in any other name;

(f) 'family' means,—(i) Husband or wife, their minor children, major mentally retarded children, unmarried daughters including adopted children; and(ii) father, mother and widowed daughters who are solely dependent upon the worker or self-employed person;

(g) 'Fund' means the Kerala Jewellery Workers' Welfare Fund to be constituted under section 3;

(h) 'jewellery' means the ornaments, figures, articles and other forms and of modifications, products, which are made after mixing/processing for putting on or for decorating or for any other use which are made mainly by using gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) etc., or its alloy;

(i) 'member' means a member of the Fund;

(j) 'nominated person' means the person nominated and includes a

person who comes under the definition of family;

(k) 'person' includes a company or an establishment or an association of individuals or a co-operative society registered or to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) or an association which is legal or not or trust or firm or establishment which is either religious or social;

(l) 'prescribed' means prescribed by rules or schemes made under this Act;

(m) 'Schedule' means the Schedule to this Act;

(n) 'Scheme' means the "Kerala Jewellery Workers' Welfare Scheme" framed under section 3;

(o) 'self employed person' means the person who is really engaged himself for his livelihood mainly in the works and connected works of processing gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) or its alloy or of modifications or other products and manufacturing or moulding any form of jewellery or figures or other products by using it and does not include a person who is working under any employer;

(p) 'worker' means the person who is engaged under an employer directly or otherwise or through an agent or on contract basis, or otherwise mainly in the works and connected works of processing gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) or its alloy or modifications or other products and manufacturing or modifying any form of jewellery or figure or other products by using it;

(q) 'year' means a financial year from 1st April to 31 st March of the next year;

(r) 'sale proceeds' means the value of <sup>1</sup>[final sale] of gold, silver, platinum, copper, brass, bronze, bullion, gem, pearl (except artificial pearl) and jewellery or figures or other products made by using that obtained after

1 Substituted by Act 17 of 2019 (w.e.f. 1/4/2019).

processing or its alloy or products <sup>1</sup>[made by the dealer to the consumer] in the State of Kerala;

3. *Kerala Jewellery Workers' Welfare Fund Scheme*.—(1) The Government may, by notification in the Gazette, frame a scheme to be called the <sup>2</sup>"Kerala Jewellery Workers' Welfare Scheme" for the welfare of the workers and self employed persons coming under this Act and thereafter as soon as may be possible constitute a Fund in accordance with the provisions of this Act and the Scheme.

(2) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for all or any of the matters specified in sub-section (5) and in the Schedule.

(3) The following shall be credited to the Fund, namely:—

- (a) the contributions specified under section 4;
- (b) the cess amounts received under section 5;
- (c) amounts borrowed by the Board under section 22;
- (d) compensation realised under section 29;
- (e) any other amount to be credited to the Fund under the provisions of the Rules and the Scheme;
- (f) any donation from any other source.

(4) The Fund shall vest in the Board and be administered by the Board constituted under section 19.

(5) The Fund may be utilised for all or any of the following purposes and for the partial or full implementation of that, namely:—

- (a) for payment of pension to the following persons,—

<sup>1</sup> Inserted by Act 17 of 2019(w.e.f. 1/4/2019).

<sup>2</sup> S.R.O No.530/2010 dated 29-5-2010 published in the Kerala Extraordinary Gazette No.1235 dated 29-5-2010 ( G.O (P) No. 64/2010/Labour.

(i) to a member who had completed sixty years of age and had remitted contribution for a period not less than five years;

(ii) to a person, who had completed sixty years of age before the commencement of the Scheme or not eligible for membership in the Scheme but had been a worker or self employed person, for a period of ten years, subject to the provisions of the Scheme;

(iii) to a member who had remitted contribution to the Fund for at least ten years continuously and is unable to do any work, for a period of two years due to permanent physical infirmity;

(iv) to a person of the member's family, on the event of the death of a member who had remitted contribution to the Fund continuously for at least ten years, in the order of preference, as may be prescribed;

(b) for the payment of maternity benefits, as may be prescribed, to the woman member who had remitted contribution to the Fund continuously at least for a period of two years and not coming within the purview of the Employees State Insurance Scheme;

(c) for the payment of financial assistance to the marriage of the daughters of the members and woman members who had remitted contribution to the Fund continuously at least for a period of three years;

(d) for providing educational benefits or grant to the children of members who had remitted contribution to the Fund continuously at least for a period of two years;

(e) for providing medical assistance, as may be prescribed, to the members and family members of the members who had remitted contribution to the Fund continuously, at least for a period of one year, for diseases like Cancer, Tuberculosis, Heart Disease, AIDS, Kidney Disease, Cerebral Hemorrhage;

(f) for providing financial assistance to the family on the death of a member, as may be prescribed in the Scheme, if a member died during the tenure of his membership or within two years on the event of permanent physical infirmity;

(g) for providing financial assistance, as may be prescribed, to the family of the person who died within three years after becoming a member as per the Scheme and entitled for pension;

(h) for providing loan to a member for constructing house or for the repair and maintenance of the house who had remitted contribution to the Fund at least for a period of five years;

(i) for providing a consolidated amount to a member, in the event of . becoming unable to continue the employment, who had remitted contribution to the Fund at least for a period of five years, at such rates as may be prescribed on the basis of the number of years he had worked;

(j) for implementing any other purposes as may be provided in the Scheme.

(6) The Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, 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 amendment in the Scheme, the Scheme shall thereafter have effect only in such amended form. So, however, that any such amendment shall be without prejudice to the validity of anything previously done under the Scheme.

4. *Contribution to the Fund.*—(1) Every worker and self employed person shall pay to the Fund <sup>1</sup>[rupees fifty per month] as contribution.

(2) The Government shall pay to the Fund every year an amount equal to five percentage of the amount remitted by every member under sub-section (1) as contribution;

(3) The amount of contribution to be remitted as such, shall be remitted to the Fund in the manner as may be prescribed in the Scheme.

1 Substituted by Act 14 of 2022 (w.e.f. 19/5/2020).

5. *Dealer cess.*—(1) For the purpose of collecting amount to the fund, for the welfare of the jewellery workers and self employed persons, every dealer shall be liable to pay a sum amounting to <sup>1</sup>[0.1%] of his jewellery sale proceeds of a year to the Consolidated Fund of the Government as cess in the manner as may be prescribed. Provided that this is not applicable to dealers whose sale proceeds are less than <sup>2</sup>[twenty lakh] rupees for a year.

(2) The cess levied under sub-section (1) shall be collected from every dealer, in the manner and time as may be prescribed.

(3) The cess levied under sub-section (1) shall be in addition to any cess, duty or tax as may be levied under any other law for the time being in force.

(4) The amount collected as cess under sub-section (2) shall be credited to the Consolidated Fund of the State of Kerala, in the manner as may be prescribed.

(5) The amount of cess collected by the Government shall be paid to the Fund of the Board after deducting the cost of collection of such Cess not exceeding one per cent of the amount collected every year, before 30th June, in such manner as may be prescribed.

6. *Appointment of Assessing Officer.*—The Government may, by notification in the Gazette, appoint officers of the Labour Department, not below the rank of Assistant Labour Officer Grade I or other officers not below the same rank of the Government as Assessing Officers for the purposes of this Act and may fix the local limits of their jurisdiction.

7. *Maintenance of Registers and Records.*— (1) Every dealer shall maintain such registers and records in the manner prescribed.

(2) The registers and records shall be maintained in the commercial establishment of the dealer and they shall be produced for verification on demand by any officer or authority authorised by this Act.

1 Substituted by Act 17 of 2019 (w.e.f. 1/4/2019).

2 Substituted by Act 17 of 2019 (w.e.f. 1/4/2019).



8. *Furnishing of returns by the dealer.*—(1) Every dealer shall furnish returns showing the sale proceeds of the previous financial year to the Assessing Officer in the manner and time as may be prescribed.

(2) If any dealer liable to pay the cess under section 5 fails to furnish the return under sub-section (1), the Assessing Officer shall give a notice demanding such dealer to furnish such return before the date as may be specified in the notice.

9. *Assessment of cess.*— (1) An Assessing Officer who is in receipt of a return under section 8 shall, after making or cause to make an enquiry in such manner as he may think fit, by order, assess the amount of cess payable by the dealer.

(2) An order of assessment of cess made under sub-section (1) shall specify the amount of cess and the date within which the cess shall be paid by the dealer.

(3) The officer conducting the enquiry under sub-section (1) shall, for the purposes of such enquiry, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) requiring the disclosure, discovery and production of records and documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

(4) Any enquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860) and for the purpose of section 196 of the said Code.

10. *Provisional collection of cess.*—(1) Any dealer liable to pay cess under section 5 shall, pay by way of advance cess on or before the 10th of every month an amount equivalent to one-twelfth of the amount payable by him annually according to the last assessment made under section 9.

(2) Where the amount is not paid under sub-section (1) on or before the due date, the Assessing Officer may issue notice to the defaulter showing the amount in arrears and directing him to pay the said amount within such period not exceeding seven days of the receipt of the notice.

(3) The amount paid under sub-section (1) by the dealer for a year shall be adjusted against the amount assessed under section 9 for that year.

11. *Interest payable for the delay in payment of cess.*—If any dealer fails to pay any amount of cess payable under section 5 within the time specified in the order of assessment, such dealer shall be liable to pay interest on the amount to be paid at the rate of one and half per cent for every month or part of a month comprised in the period from the date on which such payment is due till such amount is actually paid.

12. *Fine for non-payment of cess within the specified time.*—If any amount of cess payable by any dealer under section 5 is not paid within the date noted in the order of assessment under section 9 it shall be deemed to be in arrears and the Assessing Officer may, after making such enquiry as he may deem fit, impose on such dealer an amount of fine not exceeding the arrear cess amount:

Provided that before imposing any such fine such dealer shall be given a reasonable opportunity of being heard and if after hearing, the Assessing Officer is satisfied that the default was made due to good and sufficient reason, no fine shall be imposed under this section.

13. *Recovery of amount due under this Act.*—Any amount due from the dealer under this Act may be recovered in the same manner as an arrear of land revenue from the dealer.

14. *Appeal.*— (1) Any dealer aggrieved by an order of assessment made under section 9 or by an order imposing fine under section 12 may,

prefer an appeal to the appellate authority in such form, within such time and in such manner as may be prescribed.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) On receipt of the appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

15. *Power of entry*.—Any Assessing Officer or an officer specially empowered in this behalf by the Government, may—

(a) along with such assistance, if any, as he may think fit, enter at any reasonable time, in any establishment or place where he considers it necessary for carrying out the purposes of this Act, including verification of the correctness of particulars furnished by any dealer under section 8 and to examine the records;

(b) exercise such other powers as may be prescribed.

16. *Return of collected Cess*.—(1) Every Assessing Officer shall furnish to the Board and other authority as may be prescribed, every month a return showing the amount of cess collected by him during the previous month in such form and within such period.

(2) The Chief Executive Officer of the Board or the authority specified in sub-section (1) shall furnish to the Government every year a return showing the total amount of cess collected during the previous financial year, in such form and within such period as may be prescribed.

17. *Membership*.— (1) After the commencement of the Scheme each eligible worker may apply for membership in the Fund in the manner and within the fixed date as may be prescribed.

(2) Each eligible self-employed worker may also apply for membership in the manner and within the fixed date as may be prescribed.

(3) Those workers and self-employed persons who have completed 18 years of age but not completed 55 years of age shall be eligible for membership.

(4) Application, acceptance of application for membership, taking up of decision, fees and registration of members shall be in the manner as may be prescribed.

(5) The right for appeal to whom the membership was denied, cancellation of membership and reinstatement of cancelled membership shall be in the manner as may be prescribed.

18. *Amendment of the Scheme.*— (1) The Government may, by notification in the Gazette, add to or amend or vary anything in the Scheme framed under this Act either retrospectively or prospectively.

(2) Every notification under sub-section (1) shall be laid as soon as may be, after it is issued, before the Legislative Assembly while it is in session for a total period of 14 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 amendment in the said notification or decides that, the notification should not be issued, the notification shall thereafter, have effect only in such amended form or be of no effect, as the case may be; so however that any such amendment shall be without prejudice to the validity of anything previously done under that notification.

19. *Constitution of the Board.*—(1) The Government may, by notification in the Gazette, constitute with effect from such date as may be specified therein, a Board to be called, <sup>1</sup>“The Kerala Jewellery Worker's Welfare Fund Board” for the administration and management of the Fund and to supervise and carry out the activities of providing financial aid from the Fund.

1 S.R.O No. 759/2010 dated 3-8-2010 published in the Kerala Extraordinary Gazette No. 1774 dated 3-8-2010 ( G.O(Ms) No. 85/2010/Labour).

(2) The Board shall be a body corporate by name aforesaid, having perpetual succession and common seal and shall, by the said name, sue and be sued.

(3) The Board shall consist of as much number of directors not exceeding twelve nominated by Government as hereinafter provided,—

(i) four members representing workers and self-employed persons. In this, at least two of them shall be represented by workers;

(ii) four members representing dealers;

(iii) four members representing Government;

(4) One of the Directors of the Board shall be appointed by the Government as its Chairman;

(5) The Government shall publish in the Gazette the name of the Chairman and the Directors of the Board;

(6) The term of office of the Board shall be three years;

(7) Notwithstanding anything contained in sub-section (6), the Government may, at any time, for reasons to be recorded in writing remove from his office, any Director of the Board and such removal shall be made after giving him a reasonable opportunity of showing cause against the proposed removal:

Provided that it shall not be necessary to record in writing, the reasons for removal or to give an opportunity of showing cause against the proposed removal, if the Government are of the opinion that it is not expedient in the public interest, to record the reasons in writing or to give such opportunity.

(8) Any Director may resign his office by giving notice in writing to the Government and his resignation shall be deemed to have come into force on the date of acceptance of the resignation by the Government;

(9) The administration of the Fund vested in the Board, shall be in such manner as may be provided in the Scheme;

(10) The Board may, with the previous approval of the Government,

subject to any restrictions and conditions the Board may direct, delegate to the Chairman or any Director or Chief Executive Officer or any other officer of the Board such of its powers and functions under this Act or Scheme as it may consider necessary for the efficient administration of the Fund.

(11) The Board may every year expend towards the payment of salary of the Staff of the Board and other approved expenses up to 10 percentage of the amount collected as contribution.

20. *Removal of non-official Directors.*—(1) The Government may, by notification in the Gazette, remove any non-official Director of the Board from his office for the following reasons,—

(a) if he absents himself, without the permission of the Board, from three consecutive meetings of the Board:

Provided that such absence may be condoned for sufficient reasons by the Board before the publication of the notification in the Gazette; or

(b) if, in the opinion of the Government, he is ineligible or has become incapable of acting as Director or has so abused his position as Director detrimental to public interest:

Provided that before removing a Director under this sub-section, he shall be given a reasonable opportunity to show cause why he should not be removed.

(2) A Non-official Director of the Board removed under clause (a) of sub-section (1) shall be disqualified for re-appointment as a Director of the Board for a period of three years from the date of his removal, unless otherwise ordered by the Government.

21. *Appointment of officers and staff.*—(1) The Government may appoint a Chief Executive Officer and such number of other officers and staff as they consider necessary to assist the Board in the discharge of its functions and duties in addition to those officers appointed under section 6 of this Act.

(2) Subject to the provisions of sub-section (3), the method of appointment, salary and allowances, disciplinary conditions and other conditions of service of the Chief Executive Officer and the other officers and staff appointed under sub-section (1) shall be such, as may be prescribed by Government.

(3) In the case of direct recruitment to the posts in the Board, the provisions in the Rules 14 to 17 in Part I of the Kerala State and Subordinate Service Rules, 1958 as amended from time to time shall be complied with,

*22. Power of the Board to borrow.*—The Board may, from time to time with the previous approval of the Government and subject to the terms and conditions as may be specified by the Government, borrow money for the purposes of the Scheme.

*23. Determination of the amount due.*—(1) The Chief Executive Officer or any other officer authorised by the Board in this behalf may, after making such enquiry as may be necessary and after giving an opportunity of being heard, to every person liable to pay contribution under sub-section (1) of section 4 by order, determine the amount of contribution due under the provisions of this Act or the Scheme.

(2) The Officer conducting the enquiry under sub-section (1), shall for the purpose of such enquiry, have the powers as provided under sub-section (3) of section 9.

(3) Any amount determined under sub-section (1) if not remitted to the Fund as directed, it shall be recovered as arrears of public revenue due on land.

(4) Any person aggrieved by an order under sub section (1) may, within 60 days from the date of receipt of the order, prefer an appeal to an officer not below the rank of the District Labour Officer of the Labour Department authorised by Government in this behalf and such officer may, after making necessary enquiry on such appeal and after giving the petitioner a reasonable opportunity of being heard, and within 45 days of the receipt of the appeal, pass such orders as he thinks fit.

(5) The Government may, either *suo-motu* or on an application of the aggrieved person, call for the records of any proceedings of an officer authorised under sub-section (4) and make such enquiry as the Government may think fit and pass orders thereon:

Provided that an application for revision under this sub-section shall be made within 30 days from the date of receipt of the order, by the applicant:

Provided further that no order shall be passed under this sub-section, without giving an opportunity of being heard to the person who may be affected thereby.

24. *Priority for payment of contribution, cess, etc. over other debts.*—Where any dealer, liable to pay cess under sub-section (1) of section 5 is adjudicated as insolvent or in case such dealer is a company, an order of winding up is made, the liability in respect of the amount due from such dealer under this Act or the Scheme shall, where the liability therefore has accrued before the order of adjudication as insolvent or winding up is made be deemed to be included among the debts which under section 64 of the Insolvency Act, 1955 (Central Act 2 of 1956) or under section 530 of the Companies Act, 1956 (Central Act 1 of 1956) are to be paid in priority to all other debts, in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

25. *Directors of Board etc., to be public servants.*—Each Director of the Board and the Chief Executive Officer appointed under sub-section (1) of section 21 and each other officer and staff of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

26. *Penalty.*—(1) A person who, for the purpose of avoiding any payment to be made by him under this Act or Rules or the Scheme, or of assisting any other person to avoid such payment, knowingly makes or causes to be made any false statement or misrepresentation or false representation, shall be punishable with imprisonment for a term, which may extend to three months or with fine which may extend to five thousand



rupees but shall not be less than three thousand rupees or with both.

(2) Any person who contravenes or makes default in complying with any of the provisions of this Act or Rules or the Scheme, shall, if no other penalty is elsewhere provided by or under this Act, for such contravention or non-compliance, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to three thousand rupees but shall not be less than one thousand rupees or with both.

(3) A Judicial Magistrate of the First Class shall try any offence punishable under this Act.

(4) No court shall take cognizance of any offence punishable under this Act except on a complaint of such offence in writing made with the prior sanction of the Chief Executive Officer.

*27. Enhanced punishment for second or subsequent offence.—*Whoever, having been convicted by Court, of an offence punishable under this Act, again commits the same offence, shall be punishable by giving every such offence with imprisonment for a term which may extend to one year, but shall not be less than one month or with fine which may extend to twenty five thousand rupees but shall not be less than ten thousand rupees or with both.

*28. Offences by Company.—*(1) Where an offence under this Act has been committed by a company, every person, who at the time of offence committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be punished:

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

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is

attributable to or any willful neglect on the part of any officer of the company, such officer of the company shall be deemed to be guilty of that offence and shall be punished.

*Explanation.*—For the purpose of this section,—

(a) "Company" means a company defined under section 3 of the Companies Act, 1956 (Central Act 1 of 1956) and includes an establishment, a co-operative society or other association of individuals;

(b) "Officer of the Company" means the Managing Director or Treasurer or Manager of the Company and includes the office bearers of an establishment or Co-operative Society or other association of individuals;

(c) "Director" in relation to an establishment means a partner in that establishment.

29. *Power to recover damages.*—Where any person makes default in the payment of any contribution to the Fund under this Act or the Scheme or Rule, the Board may recover from him the arrear amount with 18 per cent interest.

30. *Protection for acts done in good faith.*— No suit or other legal proceeding shall lie against any Director of the Board or any other person in respect of anything which is in good faith done or intended to be done under this Act or under the Scheme.

31. *Directions given by Government.*—(1) The Government may, after consultation with the Board, issue to the Board, directions regarding matters to be followed by the Board.

(2) In exercise of the powers and performance of its duties under this Act, the Board shall not depart from any directions issued under subsection (1), except with the prior sanction of the Government.

32. *Power to order inquiry.*—(1) The Government may, at any time, appoint an officer not below the rank of a Deputy Secretary to Government to inquire into the working of the Board and to submit report to Government.

(2) The Board shall give the officer so appointed, all facilities for the proper conduct of the inquiry and furnish to him such documents, accounts and information in the possession of the Board, as he may require.

33. *Power to supersede the Board.*—(1) If, after consideration of the report under section 32 or otherwise, the Government are of the opinion that the Board has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or the Scheme or has superseded or abused its powers, the Government may, by notification in the Gazette, supersede the Board for a period not exceeding six months as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Board.

(2) On the publication of a notification under sub-section (1),—

(a) all Directors of the Board shall, as from the date of such publication, be deemed to have vacated their offices as Directors; and

(b) all the powers and duties which may be exercised or performed by the Board shall, during the period of supersession be exercised or performed by such officer or officers, as may be specified in the notification; and

(c) all funds and other properties vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government shall reconstitute the Board in such manner as may be provided under section 19.

34. *Appointment of Auditors and audit of Accounts of the Board.*— (1) Auditors shall be appointed with the approval of Government to audit the accounts of Board.

(2) Such auditors shall inspect and audit the accounts of the Board

once in every year.

35. *Annual report and audited statement of Accounts.*—(1) The annual report of the Board shall be prepared by the Chief Executive Officer, under the direction of the Board, and after getting approval by the Board, a copy of the report together with the audited statement of accounts shall be submitted to Government before the end of November every year.

(2) As soon as the annual report is received by the Government, it shall be laid together with the audited statement of accounts on the table of the Legislative Assembly.

36. *Bar of jurisdiction of Civil Courts.*—No Civil Court shall have jurisdiction to settle or decide or deal with any matter which is by or under this Act or the Scheme required to be settled, decided or dealt with by the Government or the Board or any other officer authorised by the Government or the Chief Executive Officer or any other officer authorised by the Board.

37. *Special provisions for transfer of accumulations from the existing Welfare Funds.*—The sums standing to the credit of member in any existing Welfare Fund on the date of commencement of this Act shall stand transferred to and credited to the Fund established under this Act and the liability of such member to pay contribution to such Welfare Fund shall cease from such date.

38. *Removal of difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, in accordance with the occasion do anything not inconsistent with the provisions of the Act and which are considered necessary for the purpose of removing such difficulties:

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

(2) Every order passed under sub-section (1) shall be laid before the first session of the Legislative Assembly after the order is passed. 39. *Power to make rules.*—(1) The Government may, by notification in the

Gazette, make <sup>1</sup>rules either retrospectively or prospectively for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of 14 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 amendment in the rule or decides that the rule should not be made the rule shall thereafter have effect only in such amended form or be of no effect as the case may be; so however that any such amendment or annulment shall be without prejudice to the validity of anything previously done under that rule.

## SCHEDULE

[See section 3(2)]

### MATTERS FOR WHICH PROVISION MAY BE MADE IN THE SCHEME

1. Registration of employees and self-employed persons.
2. The time and manner in which contribution shall be made to the Fund by the workers and self-employed persons under section 4 and the manner in which the same may be recovered and the procedure for obtaining Government contribution to the Fund.
3. More informations regarding the recovery of Cess under section 5 and Assessment of Cess, Recovery, Appeal and Maintenance of Registers.
4. Procedure of Board Meeting.
5. Constitution of any sub-committee for assisting the Board and Procedure of sub-committee.
6. The manner in which accounts shall be kept, the investment of

1 S.R.O No. 267/2010 dated 15-3-2010 published in the Kerala Extraordinary Gazette No. 612 dated 15-3-2010 ( G.O (p) No. 40/2010/Labour.

money belonging to the Fund in accordance with any directions issued or conditions specified by the Government, the preparation of Budget, the audit of accounts and the submission of reports to Government etc.

7. The conditions under which withdrawals from the Fund may be permitted, any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
8. The form in which a member shall furnish particulars about himself and his family, whenever required.
9. The procedure for the nomination of a person to receive any family pension and other benefits of a member on his death and the cancellation or variation of such nomination.
10. The registers and records to be maintained with respect to members and the returns to be furnished by the dealer.
11. The form or design of identity card for the purpose of identifying a member of the Fund and their issue, custody and replacement thereof.
12. The fees to be levied for any of the purposes specified in the Act.
13. The further powers, if any, which may be exercised by the officers and assessing officers under this Act.
14. The Fund may be utilised for any of the matters of welfare of the workers or self-employed persons or their dependants and its procedures.
15. The manner in which the sums transferred under section 37 is to be credited to the Fund.
16. The procedure for defraying the expenditure including administrative expenditure incurred in the administration of the Fund.
17. Procedure for paying grants, loans etc. from the Fund.
18. The procedure for payment of pension, Family Pension, Death/

Retirement benefits, other benefits and refund of contribution, etc. from the Fund.

19. Any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.