

(Translation in English of “1999-ലെ കേരള വ്യവസായ പുനരുദ്ധാരണ നിയമം” published under the authority of the Governor.)

ACT 19 OF 1999

THE KERALA INDUSTRIAL REVITALISATION FUND ACT, 1999*

AN ACT

to provide for the constitution of a fund to revitalise public sector industrial undertakings and other industrial undertakings under the control of the State and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS it is expedient to constitute a fund to revitalise public sector industrial undertakings and other industrial undertakings under the control of the State and for matters connected therewith or incidental thereto;

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

1. Short title, extent and commencement.—(1) This Act may be called the Kerala Industrial Revitalisation Fund Act, 1999.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 8th day of December, 1998.

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

(a) 'Board' means the Kerala Industrial Revitalisation Fund Board constituted under section 4;

(b) 'Fund' means the Kerala Industrial Revitalisation Fund established under section 3 and the Scheme;

* Received the assent of the Governor on the 29th day of April, 1999 and published in the Kerala Extraordinary Gazette No. 2185 dated 30th November, 1999.

(c) 'Fund Manger' means the Fund Manager of the Board appointed under section 10.;

(d) 'Financial assistance' means the types of assistance specified in the Scheme;

(e) 'Government' means the Government of Kerala;

(f) 'Other industrial undertakings' means corporate bodies established in the State under the Companies Act, 1956 (Central Act 1 of 1956) in joint sector, where the investment of the Government is not less than forty per cent of the total paid up share capital, and under the Industries Department of the Government;

(g) 'Public sector industrial undertakings' means any Company established under the Companies Act, 1956 (Central Act 1 of 1956) or a Co-operative Society registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), and under the control of Industries Department of the Government;

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

(i) 'Scheme' means the Scheme framed under this Act;

(j) 'State' means the State of Kerala;

(k) 'Undertakings' means public sector industrial undertakings or other industrial undertakings;

(l) 'Year' means the financial year.

3. Kerala Industrial Revitalisation Fund Scheme.—(1) The Government may, by notification in the Gazette, frame a Scheme to be called the Kerala Industrial Revitalisation Fund Scheme for the establishment of a fund under this Act for the revitalisation of Public Sector Industrial Undertakings and other industrial undertakings in the State and there shall be established, as soon as may be after the framing of the scheme, a fund in accordance with the provisions of this Act and the Scheme.

(2) There shall be credited to the fund,—

(a) the contribution specified in section 7;

(b) the amount borrowed by the Board under section 8;

(c) grants or loans or advances made by the Government or any institution;

(d) any amount raised by the Board from other sources to augment, the resources of the Board; and

(e) any other amount which, under the provisions of the Scheme, shall be credited to the fund.

(3) The fund shall vest in, and be administered by, the Board constituted under section 4.

(4) The fund may be utilised for all or any of the following purposes, namely:—

(a) to revitalise public sector industrial undertakings and other industrial undertakings;

(b) to provide financial assistance to public sector industrial undertakings and other industrial undertakings.

(c) to redeem the bonds and debentures used to raise resources for the fund; and

(d) for implementation of any other purpose specified in the Scheme.

(5) All moneys specified in sub-section (2) shall be deposited into the public account of the Government or with the approval of the Government with any Scheduled Bank or with the Financial Institution owned by the State Government and the said account shall be operated by the Fund Manager.

(6) 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 (4) and in the Schedule.

(7) The Scheme 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 modification in the scheme, the scheme shall thereafter have effect only in such modified form; so however that, any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

4. *Constitution of 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 “The Kerala Industrial Revitalisation Fund Board” for the administration of the fund and to supervise or carry out the activities financed from the fund.

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

(3) The Board shall consist of such number of directors not exceeding seven, as may be appointed by the Government and they shall be chosen in such manner as may be specified in the scheme.

(4) One of the directors of the Board shall be appointed by the Government to be its Chairman.

(5) The Board shall administer the fund vested in it in such manner as may be specified in the Scheme.

(6) The Board may, with the previous approval of the Government delegate to the Chairman or to the Fund Manager such of its powers and functions under this Act or the Scheme, as it may consider necessary for the efficient administration of the fund, subject to such restrictions and conditions, if any, as it may specify.

5. *Term of office of Directors.*—(1) A Director appointed under sub-section (3) of section 4 shall hold office during the pleasure of the Government.

(2) Any Director may resign his membership by giving notice in writing to the Government but shall continue in office until his resignation is accepted by the Government.

6. *Powers and functions of the Board.*—Subject to the provisions of this Act, the Board shall have the following powers and functions, namely:—

(a) to mobilise resources for utilisation of the fund;

(b) to sanction financial assistance to the undertakings as per the Scheme;

(c) to recover the amounts due to the Board from the assisted undertakings as per the recovery schedule;

(d) to modify, revise or reschedule the recoveries from the assisted undertakings as may be considered appropriate;

(e) to opt for revenue recovery procedures, if found necessary and appropriate, against any of the assisted undertakings in the interest of the Board;

(f) to disburse all expenses relating to the administration of the fund including travel, interest on borrowings, fees, professional charges and other expenses;

(g) to invest any surplus fund of the Board, as may be available from time to time, in such manner as may be specified in the Scheme and also to realise such investments;

(h) to review the performance of public sector industrial undertakings and other industrial undertakings on a periodic basis;

(i) to enter into memorandum of understanding or performance contract with companies and other undertakings under the purview of this Act, on behalf of the Government;

(j) to enter into contract on behalf of the Board;

(k) to exercise such of the powers and functions, as may be specified in the Scheme;

(l) to exercise such other powers and perform such other functions as may be conferred on or entrusted to it by the Government for carrying out the purposes of this Act;

(m) to do all acts necessary for, and incidental to, the carrying out of the functions entrusted or delegated to it.

7. Contribution to the fund.—The Government may, after due appropriation by law, from time to time make such grants, to the fund for the purposes of this Act on such terms and conditions as the Government may determine.

8. *Power of the Board to borrow.*—(1) The Board may, from time to time, with the previous sanction of the Government and subject to such conditions as the Government may, by general or special order determine, borrow any sum required for the purposes of this Act whether by the issue of bonds or debentures or otherwise or by making arrangements with Banks or Public Sector Industrial undertakings and other Industrial undertakings or other bodies or institutions approved by the Government in that behalf.

(2) Bonds or debentures issued by the Board under this section shall be issued, transferred, dealt with or redeemed in such manner as the Government, may, by general or special order, direct.

9. *Guarantee by Government for loans.*—(1) The Government may guarantee, in such manner as they think fit, the payment of the principal and interest of any loan proposed to be raised by the Board under section 8:

Provided that the total principal amount of guarantee issued by the Government under this section shall not exceed a sum of rupees one hundred and eighty crores.

(2) The Government shall, so long as any such guarantee is in force, lay before the State Legislature in every year during the budget session, a statement of the guarantees, if any, given during the current financial year and upto date accounts of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said fund towards repayment of any moneys, so paid out.

10. *Appointment of officers and staff.*—(1) The Government may appoint a Fund Manager and such number of other officers and staff as they consider necessary to assist the Board in the discharge of its functions and duties under this Act.

(2) The method of appointment, salary and allowances, discipline and other conditions of service of the Fund Manager and the other officers and staff appointed under sub-section (1) shall be such as may be specified in the Scheme.

11. *Mode of Recovery of money due to the Board.*—All sums payable by any person to the Board or recoverable by it by or under this Act or the Scheme and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as an arrear of public revenue due on land under the provisions of the Revenue Recovery Act for the time being in force.

12. *Directors of Board etc. to be public servants.*—Every Director of the Board, the Fund Manager and other officers and members of the staff of the Board appointed under sub-section (1) of section 10 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

13. *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.

14. *Power of Government to issue directions.*—(1) Notwithstanding anything contained in this Act it shall be lawful for the Government to issue directions to the Board in matters relating to State and National policies and such directions shall be binding on the Board.

(2) The Government may, after consultation with the Board, give to the Board general directions to be followed by the Board.

(3) In the exercise of the powers and performance of its duties under this Act, the Board shall not depart from any general direction issued under sub-section (2) except with the previous permission of the Government.

15. *Accounts and audit.*—(1) The Board shall maintain such books of accounts and other books in relation to its accounts and prepare an annual statement of accounts and balance sheet in such form and in such manner as may be specified in the Scheme.

(2) The accounts of the Board shall be audited by such auditor, in such manner and at such time as the Government may, by general or special order, direct and the auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information in respect of such matters.

(3) The accounts of the Board as certified by the auditor together with the audit report thereon shall be forwarded annually to the Government who may issue such directions to the Board as they may deem fit and the Board shall comply with such directions.

16. *Annual report and audited statement of accounts.*—(1) The annual report of the Board shall be prepared under the direction of the Board and after approval by the Board, a copy of the report shall be submitted to Government before the end of July every year.

(2) The Government shall, as soon as the annual report is received, cause the same together with the audited statement of accounts to be laid on the Table of the Legislative Assembly.

17. Power to order inquiry.—(1) The Government may, at any time, appoint any person to inquire into the working of the Board and to submit a report to the Government.

(2) The Board shall give the person 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.

18. Dissolution of the Board.—(1) If the Government for any reason are of opinion that it is not necessary to continue the Board they may, by notification in the Gazette, dissolve the Board from such date as may be specified therein.

(2) Upon the publication of a notification under sub-section (1) dissolving the Board,—

(a) the Chairman and all the other Directors of the Board shall, as from the date of dissolution, vacate their offices as such;

(b) all the powers and functions which may, by or under the provisions of this Act, be exercised and performed by or on behalf of the Board and the Chairman shall, as from the date of dissolution, be exercised and performed by the Government or such authority or person as they may appoint in this behalf;

(c) all funds and other properties vested in the Board shall vest in the Government; and

(d) all liabilities legally subsisting and enforceable against the Board shall be enforceable against the Government to the extent of the funds and properties vested in them.

(3) Nothing in this section shall affect the liability of the Government in respect of bonds or debentures guaranteed by the Government.

19. Bar of jurisdiction of Civil Courts.—No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act or Scheme required to be settled, decided or dealt with or to be determined by the Government or the Board or any officer authorised by the Government or the Board.

20. *Removal of difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with this Act or the Scheme made thereunder, which appears to them necessary for the purpose of removing the difficulty.

(2) Every order made under sub-section (1) shall be laid on the table of the State Legislative Assembly.

21. *Modification of the Scheme.*—(1) The Government may, by notification in the Gazette, add to, amend or vary the Scheme either prospectively or retrospectively.

(2) Every notification under sub-section (1) shall be laid, as a soon as may be after it is issued, 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 notification or decides that the notification shall not be issued, the notification 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 notification.

22. *Repeal and saving.*—(1) The Kerala Industrial Revitalisation Fund Ordinance, 1999 (1 of 1999), 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.

SCHEDULE

[See Section 3 (6)]

MATTERS FOR WHICH PROVISIONS MAY BE MADE IN THE SCHEME

1. Eligibility of undertaking for assistance.
2. The purposes for which the assistance may be given.
3. Mode of assistance.

- 4. Interest and penal charges.**
- 5. Security for the assistance.**
- 6. Appraisal and sanction procedure.**
- 7. Disbursement procedure.**
- 8. Guidelines for memorandum of understanding/performance contract,**
- 9. Recovery procedure.**
- 10. Monitoring system.**
- 11. Investment of surplus funds.**
- 12. Board meetings, quorum, fees and allowances to Directors of the Board.**
- 13. The manner in which accounts shall be kept the preparation of the budget, the audit of accounts and the submission of reports to the Government.**
- 14. The manner in which the Directors of the Board shall be chosen.**
- 15. The procedure for defraying the expenditure incurred in the administration of the fund.**
- 16. The method of appointment, salary and allowances, discipline and the conditions of service of the Fund Manager and other officers and staff of the Board.**
- 17. 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 .**