

THE KERALA EMPLOYMENT GUARANTEE WORKERS' WELFARE FUND ACT, 2021

KERALA

India

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Act 29 of 2021

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[Translation in English of “2021-” published under the authority of the Governor.] ACT 29 OF 2021 THE KERALA EMPLOYMENT GUARANTEE WORKERS' WELFARE FUND ACT, 2021 An Act to provide for the constitution of a Fund to grant relief to, to ensure the welfare of, to pay pension and other benefits to the workers those come under the purview of Mahatma Gandhi National Rural Employment Guarantee Scheme and Ayyankali Urban Employment Guarantee Scheme in the State of Kerala and for matters connected therewith or incidental thereto. WHEREAS, it is expedient to provide for the constitution of a Fund to grant relief to, to ensure the welfare of, to pay pension and other benefits to the workers those come under the purview of Mahatma Gandhi National Rural Employment Guarantee Scheme and Ayyankali Urban Employment Guarantee Scheme in the State of Kerala and for matters connected therewith or incidental thereto; BE it enacted in the Seventy-second Year of the Republic of India as follows:—

1. Short title and commencement.—

(1) This Act may be called the Kerala Employment Guarantee Workers' Welfare Fund Act, 2021. (2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. Definitions.—

In this Act, unless the context otherwise requires,—(a) “Board” means the Kerala Employment Guarantee Workers' Welfare Fund Board constituted under sub-section (1) of section 8; (b) “Chief Executive Officer” means the “Chief Executive Officer” appointed under sub-section (1) of section 13; (c) “contribution” means the sum of money payable to the Fund under sub-section (1) of section 4; (d) “District Welfare Officer” means the “District Welfare Officer” appointed under sub-section (1) of section 13; (e) “Employment Guarantee Worker” means a worker who has received employment guarantee card by registering in the grama panchayats in the State on the basis of the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (Central Act 42 of 2005) or

an unskilled worker who has received employment guarantee card by registering in the Municipal Council or Municipal Corporation in the State on the basis of the provisions of Ayyankali Urban Employment Guarantee Scheme; Explanation.—Ayyankali Urban Employment Guarantee Scheme means the Scheme constituted as per G.O. (Ms) No. 210/2010/LSGD. dated 13th day of September, 2010. (f) “family” means wife or husband, their minor children and unmarried daughters and includes father, mother or mentally or physically disabled children or widowed daughters who are solely dependent on the worker; (g) “Fund” means the Kerala Employment Guarantee Workers' Fund constituted under sub-section (1) of section 3; (h) “Government” means the Government of Kerala; (i) “identity card” means an identity card issued by the Board to the employment guarantee worker; (j) “member” means a member of the Fund; (k) “Mission Director” means the Kerala State Mission Director for the implementation of Mahatma Gandhi National Rural Employment Guarantee Scheme or Director of Urban Affairs, having State level charge of Ayyankali Urban Employment Guarantee Mission; (l) “Notification” means a notification published in the Official Gazette of the Government of Kerala; (m) “prescribed” means prescribed by rules made under this Act; (n) “Schedule” means Schedule to this Act; (o) “Scheme” means “the Kerala Employment Guarantee Workers' Welfare Fund Scheme” framed under sub-section (1) of section 3; (p) “year” means a financial year which commence from 1st April .

3. Kerala Employment Guarantee Workers' Welfare Fund.—

(1) The Government shall, by notification, frame a scheme to be called “the Kerala Employment Guarantee Workers' Welfare Fund Scheme” for the workers and after framing the scheme, as soon as possible, constitute a Fund under the provisions of this Act and the Scheme. (2) The following shall be credited to the Fund, namely:—(a) contributions under section 4; (b) amount borrowed by the Board under section 14; (c) fine realised under section 19; (d) grants, loans or advances granted by the Government of India or the State Government or the Local Self Government Institutions or any other institution or organisation; (e) any donation from any other source; (f) any amount raised by the Board from other sources to augment the resources of the Board; (g) fees levied under the provisions of the Scheme and any other amount to be credited to the Fund. (3) The Fund shall vest in the Board and shall be administered by the Board. (4) The Fund may be utilised for all or any of the following purposes, namely:—(a) for payment of pension to a member who have completed sixty years of age and have remitted contribution without interruption upto the age of sixty years; (b) for payment of family pension, in case of death of a member who have remitted the contribution for a period not less than ten years; (c) for payment of financial assistance to a member who died due to illness of accident; (d) for payment of the amount remitted by a member as contribution, with interest as may be specified on cessation of membership of a member in the Fund, who is unable to work due to infirmity or disablement and for the grant of disability pension; (e) for providing financial assistance for the treatment of members who suffers from serious ailments; (f) for providing financial assistance to the expenses in connection with the marriage of women members, daughters of the members and for providing maternity benefits to the women members; (g) for providing financial assistance for the purpose of education and incentive to the children of members; (h) for providing financial assistance to any other purposes specified in the Scheme; (i) to meet the day to day administrative expenses of the Board and other expenses as directed by the Government, from time to time. (5) 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.(6)The Scheme after it is framed 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 or decides that the Scheme should not be made, the Scheme 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 the Scheme.

4. Contribution to the Fund.—

(1)Every worker who join as a member of the Fund shall contribute to the Fund, an amount of rupees fifty per month as contribution.(2)The contribution payable under sub-section (1), shall be remitted in any nationalised bank or co-operative bank as approved by the Board for collecting the same or institutions as decided by the Government. It may be paid in advance monthly, half yearly or yearly.(3)The Government shall contribute to the fund such amount as contribution or grant, as fixed in accordance with the number of workers and the number of days of work.(4)The State Government shall contribute a fixed amount, monthly or yearly, for the welfare of the employment guarantee workers.(5)The Government may, by notification, modify the rate of contribution specified in sub-section (1), for the smooth functioning of the Scheme, once in three years.(6)Every notification under sub-section (5), 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 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 should 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.

5. Membership of the Fund.—

(1)Every employment guarantee worker who have completed eighteen years of age and not completed fifty five years, and who have received employment guarantee card by registering in grama panchayats in the State under the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act (Central Act 42 of 2005) and who has received employment guarantee card by registering in the Municipal Council or Municipal Corporation in the State under the provisions of Ayyankali Urban Employment Guarantee Scheme and who have engaged in the unskilled work at least twenty days in the year in which he has applied for membership or in any year during the period of two years immediately preceding such year, shall be eligible to apply for registration as a member in the Fund.(2)An application for becoming a member in the Fund shall be, in such manner and along with such fees as may specified in the scheme.

6. Cessation of Membership.—

(1) A person shall cease to be a member when he fails to contribute to the Fund, continuously for a period of one year: Provided that the Chief Executive Officer is satisfied that the non payment of contribution was on reasonable grounds, he may revive the membership of the defaulter on payment of arrears of contribution in such manner, as may be specified in the scheme. (2) If a member violates any of the provisions of the scheme for the payment of contribution his membership shall be ceased immediately: Provided that the membership of a person that has been ceased due to violation of procedure specified for remitting the contribution, may be revived on such conditions, as may be specified, in the scheme.

7. Modification of the Scheme.—

(1) The Government may, by notification, amend 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 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 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 or annulment shall be without prejudice to the validity of anything previously done under that notification.

8. Constitution of the Board.—

(1) The Government may, by notification, constitute with effect from such date, as may be specified in such notification, a Board to be called, “the Kerala Employment Guarantee Workers’ Welfare Fund Board” for the administration of the Fund, to supervise the activities financed from the Fund, and for implementing the same. (2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and common seal and shall, by the said name sue and be sued. (3) The Board shall consist of five official members nominated by Government and eight non-official members as Directors, as hereinafter provided, namely:—(a) Secretary, Local Self Government Department; (b) a representative from the Finance Department not below the rank of Joint Secretary nominated by the Government; (c) Director of Panchayats; (d) Director of Urban Affairs; (e) State Mission Director, Mahatma Gandhi National Rural Employment Guarantee Scheme; (f) eight non-official members, who are beneficiaries and having interest in the implementation of Employment Guarantee Scheme, nominated by the Government; (4) The Government shall appoint one of the Directors of the Board as its Chairman. (5) The Government shall publish the names of the Chairman and Directors of the Board in the Gazette. (6) The Board shall administer the Fund vested in it, in such manner as may be specified in the Scheme. (7) 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. (8) The Board may every year utilise, towards the payment of

salary of the officers and staff of the Board and other office expenses, up to five per cent of the amount collected as contribution by the Board or such amount as may be determined by the Government from, time to time.(9)The functioning of the Board in relation to the employment guarantee Scheme shall be in accordance with the guidelines specified by Central Government and State Government.

9. Term of office of the Directors.—

(1)The term of office of the Directors, except those who are appointed as ex-officio Directors under sub-section (3) of section 8, shall be for three years.(2)Notwithstanding anything contained in sub-section (1), the Government may, at any time, for reasons to be recorded in writing remove from office any non-official Director of the Board and such removal shall be made after giving him a reasonable opportunity to show cause against such removal:Provided that it shall not be necessary to record in writing the reasons for the removal or to give an opportunity to show cause against the proposed removal, if the Government are of the opinion that it is not expedient in the public interest to record the reason in writing or to give such opportunity .(3)Any Director may resign his office by giving notice in writing to the Government, but shall continue in office until the resignation is accepted by the Government.

10. Removal of non-official Directors.—

(1)The Government may, by notification, remove any non-official Director of the Board from his office for the following reasons,—(a)if he has, without the permission of the Board, been absent in three consecutive meetings of the Board:Provided that such absence may be condoned by the Board for sufficient reasons 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 functioning 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-nomination as a Director of the Board for a period of three years from the date of his removal, unless otherwise ordered by the Government.(3)A non-official Director of the Board removed under clause (b) of sub-section (1) shall not be eligible for re-nomination until he is declared by an order of the Government to be no longer ineligible.

11. Meetings of the Board.—

(1)The Board shall hold meeting, atleast once during three months, for the transaction of its business.(2)The quorum of the meeting shall be seven members including two official members.(3)The Chairman or in his absence any person chosen by the members present from among themselves shall preside at the meeting of the Board.(4)Any case which comes for the consideration of the Board shall be decided by the majority of votes of the members present and in the case of equality of votes, the Chairman or the member presiding in the meeting shall have a casting vote.

12. Travel allowance and daily allowance of Board members.—

The Chairman and the members of the Board shall be eligible for sitting fees, travel allowance and daily allowance at the rate, as may be prescribed.

13. Appointment of officers and staff.—

(1)The Government may appoint Joint Development Commissioner of the departments of Panchayat, Town or Rural Development or an officer of the similiar post as the Chief Executive Officer, District Welfare Fund Officers and such number of other officers and staff as it may deem necessary, in such manner, as may be prescribed to assist the Board to exercise its powers and perform its functions under this Act.(2)Subject to the provisions of sub-section (1), the method of appointment, salary and allowances, discipline and other service conditions of officers and staff appointed under the said sub-section shall be in such manner, as may be determined by the Government.

14. Power of the Board to borrow.—

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

15. 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 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 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)enforce the attendance of any person and examine him on oath;(b)require the discovery and production of records and documents;(c)receive evidence on affidavit;(d)issue commission for the examination of witnesses.(3)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.(4)In the event of non payment of the amount determined under sub-section (1) to the Fund the same shall be recovered as if arrears of revenue due from the land.(5)Any person aggrieved by an order under sub-section (1) may, within sixty days from the date of receipt of the order, prefer an appeal to an officer not below the rank of the Deputy Secretary of the Local Self Government Department, authorised by Government in this behalf, and such officer may, after making necessary enquiry on such appeal and after giving the appellant a reasonable opportunity of being heard, [within forty five days of the receipt of the appeal,] pass such orders as he thinks fit.(6)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 by the Government under sub-section (5) 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 thirty days from the date of receipt of the order under sub-section (5) 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 affected thereby.

16. Directors of Board etc. to be public servants.—

Every Director of the Board, Chief Executive Officer appointed under sub-section (1) of section 13 and other officers and 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).

17. 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 for assisting any other person to avoid such payment, knowingly makes or causes to be made any false statement 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 or with both. (2) Any offence punishable under this Act shall be tried by the First Class Judicial Magistrate Court. (3) No court shall take cognizance of any offence punishable under this Act except on a report regarding the details of the offence in writing made with the prior sanction of the Chief Executive Officer.

18. 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 proceeded against and 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 on any wilful 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 any body corporate and includes a firm or a co-operative society or other association of persons; (b) “Officer of the Company” means the Managing Director or Director or Secretary or Treasurer or Manager of the Company and includes the office bearers of a firm or co-operative society or other association of persons; (c) “Director” in relation to a firm includes a partner in that firm.

19. Power to recover fine.—Where any person makes default in the payment of any

contribution to the Fund under this Act or the Scheme or rule, made thereunder, the Board may recover from him an amount not exceeding twenty five per cent of the arrears, the Board may deem fit as fine.

20. Protection of action taken in good faith.—No suit or other legal proceedings shall lie

against any Director of the Board or any other person in respect of anything which is done or intended to be done in good faith under this Act or rules or Scheme made thereunder.

21. Directions given by Government.—(1) The Government may, give directions to the

Board regarding the matters to be followed by the Board.(2)The Board shall not deviate from any direction given under sub-section (1), while exercising the powers and discharging its duties under this Act.

22. Power to order inquiry.—(1) The Government may, at any time, appoint any officer

not below the rank of a Joint Secretary to Government to inquire into the functioning of the Board and to submit report to the Government.(2)The Board shall provide all facilities for the proper conduct of the inquiry to the officer appointed under sub-section (1), and furnish to him such documents, accounts and information in the possession of the Board, as he may require.

23. Power to supersede the Board.—(1) If, after consideration of the inquiry report, under

sub-section (1) of section 22 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, supersede the Board for a period not exceeding six months: 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, from the date of such publication, be deemed to have vacated their offices as Directors;(b)all the powers and duties which may be exercised or performed by the Board shall, during the period of supersession shall 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 re-constitute the Board, in such manner as may be provided under sub-section (1) of section 8.

24. Audit of accounts of the Board, appointment of Auditors and remuneration.—(1) The

Board shall appoint the auditors with the approval of the Government to audit the accounts of the Board.(2)The Board shall give remuneration to the said Auditors as directed by the Government.(3)Such Auditors shall inspect and audit the accounts of the Board once in every year.

25. 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 after the end of the Financial year and after getting approval by the Board and a copy of the report together with the audited statement of accounts shall be submitted to the Government before the end of December, every year.(2)As soon as the annual report is received, the Government shall cause it to be laid together with the audited statement of accounts before the Legislative Assembly.

26. Bar of jurisdiction of Civil Courts.—No Civil Court shall have jurisdiction to settle

or decide or deal with any issue or matter which is by or under this Act or the Scheme required to be settled, decided or dealt with or to be determined 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.

27. Special provisions for transfer of accumulations from the existing Welfare

Funds.—The amount in the account of a member in the existing Welfare Fund on the date of commencement of this Act, shall be transferred to and credited to the Fund established under this Act in such manner as may be specified in the Scheme and the liability of such member to pay contribution to such Welfare Fund shall be ceased on such date.

28. Removal of difficulties.—(1) If any difficulty arises in giving effect to the provisions

of this Act, the Government may, by order published in the Gazette do anything which appears to them to be necessary and not inconsistent with the provisions of this Act for the purpose of removing the difficulty: 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 Legislative Assembly.

29. Power to make rules.—(1) The Government may, by notification, make 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 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 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.

30. Repeal and saving.—(1) The Kerala Employment Guarantee Workers' Welfare Fund

Ordinance, 2021 (125 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.

Schedule

[See section 3(5)] MATTERS FOR WHICH PROVISION MAY BE MADE IN THE SCHEME (1) Registration of employment guarantee workers in the fund. (2) Constitution of any committee for assisting the Board, head quarters of Board. (3) The manner in which account shall be maintained, the investment of money belonging to the fund in accordance with any direction issued or conditions specified by the Government, preparation of budgets, audit of accounts, and submission of reports to the Government. (4) The condition under which withdrawal from the fund and the provisions for any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture. (5) The form in which the member shall furnish particulars about himself and his family whenever required. (6) The nomination of a person to receive family pension or other benefits of a member on the event of his death, and the procedure of cancellation or modification of such nomination. (7) The Registers and records to be maintained with respect to members. (8) The form or model of identity card for identifying a member of the fund and the issue, upkeep and replacement. (9) The fees to be levied for any of the purposes specified in the Act. (10) Any of the additional powers which can be exercised by the officers appointed under this Act. (11) The procedure for meeting the expenditure that may be occurred while handling the fund. (12) The procedure for paying pension, family pension, grants and other allowances or loans and advances. (13) The matter specified under sub-section (4) of section 3. (14) The manner in which the amount is transferred under section 27. (15) Any other matter which is to be provided or necessary or proper for the implementation of the

scheme.

BY THE SUPERINTENDENT OF GOVERNMENT PRESSES AT THE GOVERNMENT CENTRAL
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