



കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം EXTRAORDINARY

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17th February 2021

1196 കുംഭം 5
5th Kumbham 1196

1942 മാഘം 28
28th Magha 1942

നമ്പർ
No.

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കേരള സർക്കാർ

നിയമ (നിയമനിർമ്മാണ-സി) വകുപ്പ്

വിജ്ഞാപനം

നമ്പർ 3116/ലെറ്.സി3/2021/നിയമം.

തിരുവനന്തപുരം, 2021 ഫെബ്രുവരി 17

1196 കുംഭം 5

1942 മാഘം 28.

2021 ഫെബ്രുവരി 17-ാം തീയതി കേരള ഗവർണ്ണർ വിളംബരപ്പെടുത്തിയ താഴെപ്പറയുന്ന ഓർഡിനൻസ് പൊതുജനങ്ങളുടെ അറിവിലേക്കായി ഇതിനാൽ പ്രസിദ്ധപ്പെടുത്തുന്നു.

ഗവർണ്ണറുടെ ഉത്തരവിൻപ്രകാരം,

അരവിന്ദ ബാബു പി. കെ.,
നിയമ സെക്രട്ടറി.



GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 3116/Leg. C3/2021/Law.

Dated, Thiruvananthapuram, 17th February, 2021
5th Kumbham, 1196
28th Magha, 1942.

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 Employment Guarantee Workers' Welfare Fund Ordinance, 2021 (36 of 2021).

By order of the Governor,

ARAVINTHA BABU P. K.,
Law Secretary.



[Translation in English of “2021-ലെ കേരള തൊഴിലുറപ്പ് തൊഴിലാളി ക്ഷേമനിധി ഓർഡിനൻസ്” published under the authority of the Governor.]

ORDINANCE No. 36 OF 2021

THE KERALA EMPLOYMENT GUARANTEE WORKERS’ WELFARE FUND ORDINANCE, 2021

Promulgated by the Governor of Kerala in the Seventy-second Year of the Republic of India.

AN

ORDINANCE

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;

Preamble.—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;

AND WHEREAS, the Legislative Assembly of the State of Kerala is not in session, and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Employment Guarantee Workers’ Welfare Fund Ordinance, 2021.

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



2. *Definitions.*—In this Ordinance, 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;

(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 who is in charge of Ayyankali Urban Employment Guarantee Scheme;

(l) “Notification” means a notification published in the Official Gazette of the Government of Kerala;

(m) “prescribed” means prescribed by rules made under this Ordinance;

(n) “Scheme” means “the Kerala Employment Guarantee Workers' Welfare Fund” framed under sub-section (1) of section 3;

(o) “year” means a financial year which commence from 1st April .

3. *Kerala Employment Guarantee Workers' Welfare Fund.*—(1) The Government shall, by notification in the Gazette, 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 Ordinance 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) compensation realised under section 19;

(d) grants, loans or advances granted by the Government of India or the State Government or the Local Self Government institution 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 to a deceased 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 or accident;

(d) for payment of the amount remitted by a member as contribution, with interest on cessation of membership of a member in the Fund, who is unable to work due to infirmity or disablement;

(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 Ordinance, 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) Every 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 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 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 or institutions as approved by the Board for collecting the same as directed 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 grant or contribution, 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 in the Gazette modify the rate of contribution specified in sub-section (1), once in three years.

5. *Membership of the Fund.*—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 Scheme and 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 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 be registered as a member in the Fund.

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.

(2) A person shall cease to be a member, if he violates any of the provision in the scheme for the payment of contribution:



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 add to, amend or vary the Scheme framed under this Ordinance 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 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 in the Gazette, constitute with effect from such date as may be specified therein, a Board to be called, "the Kerala Employment Guarantee Workers' Welfare Fund Board" for the administration and management of the Fund and to supervise the activities financed from the Fund.

(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 to Local Self Government Department;

(b) A Government nominated representative from the Finance Department not below the rank of Joint Secretary;

(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.

(4) The Government shall appoint one of the directors as it's Chairman.

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

(6) The Board shall administer the Fund 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 Ordinance or Scheme as it may consider necessary for the efficient administration of the Fund.

(8) The Board may every year expend towards the payment of salary of the Staff of the Board and other approved expenses, up to five percentage 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 reason to be recorded in writing remove from office any non-official Director of the Board, 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 reason for the 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.

(3) Any director may resign his membership by giving notice in writing to the Government, but shall continue in office until the resignation accepted by the Government.

10. *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 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-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.

(3) A non-official director of the Board removed under clause (b) of sub-section (1) shall not be eligible for reappointment until he declared by an order of the Government to be no longer ineligible.

11. *Meetings of the Director.*—(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 person 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 department of Panchayat, Town or Rural Development or an officer of the similiar post as the Chief Executive Officer and such number of other officers and staff as it may deem necessary to assist the Board to exercise its powers and perform functions in such manner, as may be prescribed.

(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 said sub-section shall be in such manner, as may prescribed.

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 Ordinance or the Scheme.

(2) The Officer conducting the enquiry under sub-section (1), shall for the purpose of such enquiry, have 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 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 1860 (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) the same shall be realised 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 petitioner a reasonable opportunity of being heard, and 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 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 thirty 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.

16. *Directors of Board etc., to be public servants.*—Every Director, Chief Executive Officer appointed under sub-section (1) of section 13 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).

17. *Penalty.*—(1) A person who, for the purpose of avoiding any payment to be made by him under this Ordinance 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 offences punishable under this Ordinance shall be entertained by First Class Judicial Magistrate Court.

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

18. *Offences by Company.*—(1) Where an offence under this Ordinance 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 Ordinance 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 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 damages.*—Where any person makes default in the payment of any contribution to the Fund under this Ordinance or the Scheme or rule, the Board may recover from him an amount not exceeding twenty five percent of interest, the Board may deems fit.

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 Ordinance or under the Scheme.

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 Ordinance.

22. *Power to order inquiry.*—(1) The Government may, at any time, appoint an 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 report under 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 Ordinance 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, 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 8.

24. 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 the Board.

(2) The Board shall give salary 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, 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 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 matter which is by or under this Ordinance 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 amounts in the account of a member in the existing Welfare Fund on the date of commencement of this Ordinance, shall be transferred to and credited to the Fund established



under this Ordinance 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 Ordinance, the Government may, by order published in the Gazette do anything which appear to them to be necessary and not inconsistent with the provisions of this Ordinance 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 Ordinance.

(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, in the Gazette, make rules either retrospectively or prospectively for the purpose of carrying into effect the provisions of this Ordinance.

(2) Every rule made under this Ordinance 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.

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 the any direction issued or conditions specified by



the Government, preparation of budgets, audit of accounts, 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 Ordinance.

(10) Any of the additional powers which can be exercised by the officers appointed under this Ordinance.

(11) The procedure for meeting the expenditure that may be incurred while handling the fund.

(12) The procedure for paying pension, family pension, grants and other allowances or loans and advances.

(13) The matters specified under sub-section (4) of section 3.

(14) The matters in which the amount transferred under section 27.

(15) Any other matter which is necessary or proper for making provision in the scheme or for the implementation of the scheme.

ARIF MOHAMMED KHAN,

GOVERNOR.

