



The Kerala Khadi Workers' Welfare Fund Act, 1989

Act 1 of 1989

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THE KERALA KHADI WORKERS' WELFARE FUND ACT, 1989 [\[1\]](#)

ACT 1 OF 1989

An Act to provide for the constitution of a Fund to grant relief to, to promote the welfare of and to pay pension to the Khadi Workers in Khadi industry in the State of Kerala and for certain other matters incidental thereto

Preamble .-WHEREAS it is expedient to provide for the constitution of a Fund to grant relief to, to promote the welfare of and to pay pension to the Khadi Workers in khadi industry in the State of Kerala and for certain other matters incidental thereto

BE it enacted in the Thirty-ninth Year of the Republic of India as follows:-

1. *Short title, extent and commencement.*- (1) This Act may be called the Kerala Khadi Workers' Welfare Fund Act, 1989.

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

(3) 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 Khadi Workers' Welfare Fund Board constituted under section 6 ;

(b) "Chief Executive Officer" means the Chief Executive Officer appointed under subsection (1) of 9;

(c) "Contribution" means the sum of money, payable to the Fund under section 4;

(d) "Cost Chart" means the Cost Chart approved and enforced by the Khadi and Village Industries Commission from time to time;

(e) "Family" means,-

(i) husband, wife, minor sons, unmarried daughters;

(ii) father and mother, who are dependent upon the Khadi Worker ;

(f) "Fund" means the Kerala Khadi Workers' Welfare Fund established under section 3 ;

(g) "Khadi Institution" means the Kerala Khadi and village Industries Board constituted under the Kerala Khadi and village Industries Board Act, 1957 (9 of 1957); Societies registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969

(21 of 1969) or the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 (12 of 1955) or the Societies Registration Act, 1860 (Central Act XXI of 1860) and engaged in the production of Khadi with the financial and technical assistance from the Kerala Khadi and Village Industries Board or from the Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 (Central Act LXI of 1956) ;

(h) “Khadi” means any cloth woven on handlooms in India from cotton, silk or woollen yarn handspun in India or from a mixture of any two or all of such yarns;

(i) “Khadi worker” means any person employed through Khadi Institutions and engaged in the production of Khadi or doing any work in connection with the various processes in khadi industry and gets his wages from such institutions and includes any other person engaged in Khadi industry whom the Government may by notification in the Gazette from time to time declare to be Khadi worker for the purposes of this Act.

Explanation.- If any question arises to whether a person is or is not a Khadi worker for the purpose of this Act, the question shall be referred to the Secretary, Kerala Khadi and Village Industries Board or an officer authorised by the Government in this behalf whose decision thereon shall be final.

(j) “Member” means a member of the Fund'

(k) “Person” includes a company, a firm, an association of individuals, Societies registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) or the Travancore-Cochin, Literary Scientific and Charitable Societies Registration Act, 1955 (12 of 1955) or the Societies Registration Act, 1860 (Central Act XXI of 1860) ;

(l) “Prescribed” means prescribed by rules made under this Act;

(m) “Processes in khadi industry” means processing of cotton, silver yarn production, processing of yarn for weaving, weaving, designing, dyeing or bleaching of Khadi yarn or Khadi cloth, printing and finishing of Khadi products;

(n) “schedule” means the schedule to this Act;

(o) “scheme” means a scheme framed under section 3;

(p) “Wages” means wages payable as prescribed in the Cost Chart;

(q) “year” means the financial year.

3. Khadi Workers' Welfare Fund Scheme .- (1) The Government may, by notification in the Gazette, frame a scheme to be called “The Kerala Khadi Workers' Welfare Fund Scheme” for the establishment of a Fund under this Act for the welfare of the Khadi

workers in the khadi industry 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 contributions specified under section 4;

(b) the amount borrowed by the Board under section 10;

(c) damages realised under section 17;

(d) grant or loans or advances made by the Government of India or the State Government or any institution;

(e) any donations from whatever source;

(f) any amount raised by the Board from other sources to augment the resource of the Board;

(g) fee levied under the scheme;

(h) any amount, which under the provisions of the scheme, shall be credited to the Fund.

(3) The Fund shall be vest in and be administered by the Board constituted under section 6.

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

(a) for payment of pension to a member who is unable to work due to infirmity or has completed the age of sixty years;

(b) for payment of family pension and Provident fund;

(c) to provide for maternity benefits to women khadi workers;

(d) to provide for the khadi workers and members of their families:

(i) medical facilities;

(ii) nurseries and creches;

(iii) educational benefits;

(e) for meeting the funeral expenses to the khadi workers and members of their families;

(f) for any other purpose specified in the scheme.

(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 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. *Contribution to the Fund* .- (1) Every khadi worker shall contribute to the fund every year in the manner provided in the scheme eight per cent of the total wages received by him in a year in accordance with the terms of the Cost Chart.

(2) Every Khadi institution shall contribute to the Fund every year an amount equal to the amount contributed by the Khadi workers employed through that institution.

(3) Government shall contribute to the Fund an amount equal to the amount contributed by the khadi worker under sub-section (1).

(4) The contribution shall be paid to the Chief Executive Officer or other officers authorised by him in this behalf in the manner provided in the scheme.

(5) Where the amount of contribution payable under this Act involves a fraction of a rupee, the scheme may, provide for the rounding of such fraction to the nearest rupee.

5. *Modification of the scheme*.- (1) The government may, by notification in the Gazette, add to, amend or vary the scheme framed under this Act either prospectively or retrospectively.

(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 agrees in making 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.

6. *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 Khadi Workers' Welfare 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 eleven Directors nominated by Government as hereinafter provided,-

(i) Vice-Chairman, Kerala Khadi and Village Industries Board, *ex-officio* ;

(ii) Secretary, Kerala Khadi and Village Industries Board, *ex-officio*;

(iii) One person representing Khadi and Village Industries Commission;

(iv) One person representing Khadi Institutions;

(v) Four persons representing the Khadi workers;

(vi) Three Officers of Government, representing the Industries Department, the Finance Department and the Labour Department.

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

(5) The government shall publish in the Gazette the names of the Chairman and Directors of the Board.

(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 delegate to the Chairman or to any Director of the Board or to the Chief Executive Officer 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.

7. Term of office of the Directors .- (1) Non-official Directors appointed under sub-section (3) of section 6 shall hold office for a period of three years.

(2) Notwithstanding anything contained in section 8, the Government may, at any time, for reasons to be recorded in writing, remove from Office any 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 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 his resignation is accepted by the Government.

8. *Removal of non-official Directors.*- (1) The Government, may by notification in the Gazette, remove any non-official Director of the Board from office,-

(a) if he has, without the permission of the Board, been absent from the meetings of the Board for three consecutive meetings:

Provided, however, that such absence may be condoned by the Board before the publication of the notification in the Gazette;

(b) if in the opinion of the Government, he is unsuitable or has become incapable of acting as a Director or has so abused his position as a Director as to render his continuance as such Director detrimental to the 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 is declared by an order of the Government to be no longer ineligible.

9. *Appointment of Officers and Staff* .- (1) The Government may, appoint the Secretary, Kerala Khadi and Village Industries Board as Chief Executive Officer of the Board and such number of other officers and staff as the Government consider necessary to assist the Board in the discharge of its functions and duties under this Act.

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

(3) In the case of posts in the service under the Board to which appointment is made by direct recruitment, the Government shall *mutatis mutandis* observe the provisions of clauses (a), (b) and (c) of rule 14 and the provisions of rules 15, 16, 17, and 17A of the Kerala State and Subordinate services Rules, 1958 as amended from time to time.

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

11. *Determination of amount due*.- (1) The Chief Executive Officer or an officer not below the rank of an Assistant Labour Officer authorised by the Board in this behalf may, after making such enquiry as may be necessary and after giving every person liable to pay contribution under section 4, an opportunity to be heard, by order determine the contribution due under the provisions of this Act.

(2) 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:-

- (i) enforcing the attendance of any person or examining him on oath;
- (ii) requiring the discovery and production of documents;
- (iii) receiving evidence on affidavits;
- (iv) issuing commissions 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) Any person aggrieved by an order under sub-section (1) may within thirty days from the date of receipt of the order prefer an appeal to the Labour Commissioner or an officer not below the rank of District Labour Officer authorised by him in this behalf and the Labour Commissioner or the officer authorised by him may, after making such enquiry, pass such order thereon as he thinks fit.

(5) The Government may, either *suo motu* or on application of the aggrieved person, call for the records of any proceedings taken by the Labour Commissioner or the officer authorised by him under sub-section (4) and make such enquiry and pass such orders, as they deem fit:

Provided that an application for revision under this sub-section shall be made within sixty days from the date on which the order was communicated to the applicant:

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

12. *Mode of recovery of money due from Khadi Institutions* .- Any amount due from the Khadi Institutions in pursuance of the provisions of this Act or the scheme may, if the

amount is in arrears, be recovered in the same manner as an arrear of public revenue due on land.

13. *Priority to payment of contribution over other debts* .- Where any Khadi Institution liable to pay contribution to the Fund under section 4 is adjudicated as insolvent, the contribution due to the Fund shall be deemed to be included among the debits of the insolvent institution and be paid in priority to all other debts in the distribution of property or assets of such institution.

14. *Khadi Institution not to reduce wages etc.*- No Khadi Institution shall by reason only of its liability for the payment of any contribution to the Fund, reduce whether directly or indirectly the wages of any Khadi worker to whom the scheme applies or the total quantum of benefits to which the Khadi worker is entitled under the terms of his employment express or implied.

15. *Directors of Board etc., to be public servants.*- Every director of the Board, the Chief Executive Officer and other officers and members of the staff of the Board appointed under sub-section (1) of section 9 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

16. *Penalty* .- (1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under the scheme or of enabling 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 hundred rupees, or with both.

(2) Whoever, contravenes or makes default in complying with any of the provisions of this Act or of 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 two months or with fine which may extend to four hundred rupees, or with both

(3) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

(4) No court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made with previous sanction of the Chief Executive Officer.

17. *Power to recover damages* .- Where any person makes default in the payment of any contribution to the Fund under this Act or the scheme, the Board may recover from him damages not exceeding twenty per cent of the amount of arrear as it may think fit to impose.

18. *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.

19. *Directions by Government .-*(1) The government may after consultation with the Board, give to the Board general directions to be followed by the Board.

(2) In the exercise of the powers and performance of its duties under this Act, the Board shall not depart from any general directions issued under sub-section (1), except with the previous permission of the Government.

20. *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 required.

21. *Power to supersede Board.*- (1) If on consideration of the report under section 23 or, after, consideration of the enquiry report under section 20 the Government are of 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 exceeded or abused its powers, the Government may, by notification in the Gazette, supersede the Board for such 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 explanations and objections, if any, of the Board.

(2) Upon the publication of notification under sub-section (1),-

(a) all the Directors of the Board shall, as from the date of such publication, vacate their offices as such Directors;

(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:

(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 constitute the Board in the manner provided in section 6.

22. *Audit of accounts of the Board and appointment of auditors* .- (1) The Board shall appoint auditors to audit the accounts of the Board.

(2) The accounts of the Board shall be examined and audited once in every year by such auditors.

23. *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 together with audited statement of accounts 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.

24. *Bar 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 the scheme required to be settle decided or deal with or to be determined by the Government or the Board or the Labour Commissioner or any officer authorised by the Labour Commissioner or the Chief Executive Officer or any Officer authorised by the Board.

25. *Special provisions for transfer of accumulation from Welfare Funds established by any Act or agreement* .- Notwithstanding anything contained in any other law for the time being in force on the date of coming into force of this Act the sum standing to the credit of the member in any Welfare Fund established either by any law or agreement 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 funds shall cease from such date.

26. *Power to make rules*.- (1) The government may, by notification in the Gazette, make rules either prospectively or retrospectively 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 modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. *Repeal* .- The Kerala Khadi Workers' Welfare fund Ordinance 1988 (19 of 1988), is hereby repealed.

SCHEDULE

[See section 3 (5)]

Matters for which provision may be made in the scheme

1. Registration of Khadi workers;
2. The time and manner in which contribution shall be made to the Fund by Khadi workers, and the khadi institutions under section 4 and the manner in which contribution may be recovered;
3. The manner in which the contribution of the Khadi workers from different sectors may be recovered by the Khadi Institutions;
4. The constitution of any Committee for assisting the Board;
5. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the government, the preparation of the budget, audit of accounts and the submission of reports to the Government;
6. The conditions under which withdrawal from the Fund may be permitted and any deduction or forfeiture may be made and the maximum, amount of such deduction or forfeiture;
7. The form in which a member shall furnish particulars about himself and his family whenever required;
8. The nomination of a person to receive any family pension of a member on his death and the cancellation or variation of such nomination;
9. The registers and records to be maintained with respect to Khadi workers and the returns to be furnished by the institution;
10. The form or design of any identity card, token or disc for the purpose of identifying any member of the Fund and for issue, custody and replacement thereof;
11. The fees to be levied for any of the purposes specified in the schedule;
12. The further powers, if any, which may be exercised by the officers appointed under the Act;
13. The manner in which the sums transferred under section 25 to be brought and credited to the Fund;
14. The purposes for which the Fund may be utilised for the welfare of Khadi workers;

15. The procedure for defraying the expenditure incurred in the administration of the Fund;
16. The procedure for paying pension, family pension, grants or advances from the Fund;
17. Establishment of Provident Fund Scheme for Khadi Workers;
18. 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.