

## **KARNATAKA LABOUR WELFARE FUND ACT, 1965**

**15 of 1965**

**[18th July, 1965]**

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# **KARNATAKA LABOUR WELFARE FUND ACT, 1965**

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An Act to provide for the constitution of a Fund for financing and conducting activities to promote welfare of labour in the State of Karnataka. Whereas, it is expedient to constitute a Fund for financing and conducting activities to promote welfare of labour in the State of Karnataka. Be it enacted by the Karnataka State Legislature in the Sixteenth Year of the Republic of India as follows:

## **1. Short title, extent and commencement :-**

(1) This Act may be called the Karnataka Labour Welfare Fund Act, 1965.

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

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas of the State.

## **2. Definitions :-**

In this Act, unless the context otherwise requires

(2) "Employee" means any person who is employed for wages to do any work, skilled or unskilled, manual or clerical, in an establishment;

(5) "Factory" means a factory as defined in Section 2(m) of the Factories Act, 1948;

(6) "Fund" means the Karnataka Labour Welfare Fund constituted under Section 3;

(7) "Independent member" means a member of the Board who is not connected with the management of any establishment or who is not an employee, and includes an officer of Government nominated as a member;

(8) "Inspector" means an inspector appointed under Section 13;

(9) "Prescribed" means prescribed by rules made under this Act;

(10) "Unpaid accumulations" means all payments due to the employees but not made to them within a period of three years

from the date on which they became due whether before or after the commencement of this Act including the wages and gratuity legally payable but not including the amount of contribution, if any, paid by an employer to a provident fund establishment under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

(12) "Welfare Commissioner" means the Welfare Commissioner appointed under Section 12.

### **3. Welfare Fund :-**

(1) The State Government shall constitute a Fund called the Karnataka Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid to the Board, which shall keep a separate account therefor until claims thereto have been decided in the manner provided in Section 7, and the other sums specified in sub-section (2) shall be paid into the Fund.

(3) The sums specified in sub-section (2) shall be collected by such agencies and in such manner and the accounts of the Fund shall be maintained and audited in such manner as may be prescribed.

### **4. Board :-**

(1) The State Government shall, by notification in the Official Gazette, constitute the Board for the whole of the State of Karnataka for the purpose of administering the Fund, and to carry on such other functions assigned to the Board by or under this Act.

(3) The members of the Board shall elect one of its independent members as the Chairman of the Board.

(4) Save as otherwise expressly provided by this Act, the term of office of the members of the Board shall be three years commencing on the date on which their names are notified in the Official Gazette.

(5) The allowances, if any, payable to the members of the Board and the conditions of appointment of the representatives of the employers and employees shall be such as may be prescribed.

(6) The Board shall be a body corporate by the name of the Karnataka Labour Welfare Board, having perpetual successions and

a common seal, with power subject to the provisions of this Act, or the rules made thereunder to acquire, hold and dispose of property, both movable and immovable, and to contract, and may, by the said name sue and be sued.

## **5. Disqualifications and removal :-**

## **6. Resignation of office by member and filling up of casual vacancies :-**

(1) A member may resign his office by giving notice thereof in writing to the State Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(2) A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the authority concerned and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.

(3) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

## **7. Unpaid accumulations and claims thereto :-**

(1) All unpaid accumulations shall be deemed to be abandoned property.

(2) Any unpaid accumulations paid to the Board in accordance with the provisions of Section 3 shall, on such payment, discharge an employer of the liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board; and the liability to make payment to the employee to the extent aforesaid shall, subject to the succeeding provisions of this section, be deemed to be transferred to the Board.

(4) If any question arises whether the notice referred to in sub-section (3) was given as required by that sub-section, a certificate of the Board that it was so given, shall be conclusive

.

(5) If a claim is received whether in answer to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim to the Authority appointed under Section 15 of the Payment of Wages Act, 1936, having jurisdiction in the area in

which the factory or establishment is situated, and the Authority shall proceed to adjudicate upon, and decide, such claim. In hearing such claim, the Authority shall have the powers conferred by, and follow the procedure (in so far as it is applicable) followed in giving effect to the provisions of that Act.

(7) If a claim for payment is refused, the employee shall have a right of appeal to the District Court having jurisdiction over the area and the Board shall comply with any order made in appeal. An appeal shall lie within sixty days of the decision of the Authority.

(8) The decision of the authority, subject to appeal aforesaid and the decision in appeal of the District Court, shall be final as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any.

(9) If no claim is made within the time specified in sub-section (5), or a claim has been duly refused as aforesaid by the authority, or by the Court on appeal, then the unpaid accumulations in respect of such claim, shall accrue to, and vest in, the State as bona vacantia, and shall thereafter, without further assurance be deemed to be transferred to, and form part of the Fund.

#### **7A. Contribution :-**

(1) In respect of every employee in an establishment there shall be paid contribution to the Board comprising the employer's contribution, employee's contribution and State Government's contribution, payable respectively by the employer, the employee and the State Government and the contributions so paid shall form part of the Fund.

(5) Notwithstanding anything to the contrary in any agreement or contract no employer shall deduct the employer's contribution from any wages payable to an employee or otherwise recover it from the employee.

(6) Any sum duly deducted by an employer from the wages of an employee under this section shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(7) The Welfare Commissioner shall submit to the State Government as soon as possible after the end of January every year, in the prescribed form, a statement showing the total amount

of each employer's contribution in respect of his establishment. On receipt of the statement from the Welfare Commissioner, the State Government shall pay to the Board its contribution in respect of each such establishment.

**7B. Interest on unpaid accumulations or fines after notice of demand :-**

**8. Vesting and application of Fund :-**

(1) The Fund shall vest in and be held and applied by the Board as Trustees subject to the provisions and for the purpose of this Act. The moneys therein shall be utilised by the Board to defray the cost of carrying out measures which may be specified by the State Government from time to time to promote the welfare of labour and of their dependents.

(3) The Board may, with the approval of the State Government, make a grant out of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the State Government.

(4) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the State Government and the decision given by the State Government shall be final.

(5) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

**9. Power of Board to borrow :-**

The Board may from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be specified in this behalf borrow any sum required for the purposes of this Act.

**10. Investment of Fund :-**

Where the Fund or any portion thereof cannot be applied at an early date for fulfilling the objects of the Act, the Board shall invest the same in any of the securities specified in clauses (a) to (d) and (f) of Section 20 of the Indian Trusts Act, 1882.

**11. Direction by State Government to Board :-**

The State Government may give the Board, such directions as in its opinion are necessary or expedient in connection with the

expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

**12. Appointment and powers of Welfare Commissioner :-**

(1) The Welfare Commissioner shall be appointed by the Board with the previous approval of the State Government.

(2) The Welfare Commissioner shall be the principal executive officer of the Board.

(3) It shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of this Act and rules made thereunder, as he deems fit including any order implementing the decisions taken by the Board under the Act or rules made thereunder.

**13. Appointment of Inspectors :-**

(1) The State Government may appoint Inspectors to inspect the records in connection with the sums payable into the Fund.

**14. Appointment of clerical and other staff by Board :-**

The Board shall have power to appoint the necessary clerical and executive staff to carry out and supervise the activities financed from the Fund:

Provided that the expenses of the staff thus appointed and other administrative expenses shall not exceed a prescribed percentage of the annual income of the Fund.

**15. Power of State Government to remove any person on staff of the Board :-**

The State Government shall have the power to remove any person whom it may deem unsuitable from the service of the Board.

**16. Power of State Government or authorised officer to call for records, etc :-**

The State Government or any officer authorised by the State Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

**17. Mode of recovery of sums payable into Fund, etc :-**

Any sum payable into the Fund under this Act shall, without

prejudice to any other mode of recovery, be recoverable on behalf of the Board as arrears of land revenue.

**17A. Penalty for obstructing Inspector in the discharge of his duties or for failure to produce documents, etc :-**

Any person who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply to him on demand true copies of any such documents, shall, on conviction, be punished, for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and for a second or subsequent offences with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the Judgment of this Court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than fifty rupees.

**17B. Penalty for contravention of any provision of the Act :-**

Any person who wilfully contravenes any provision of the Act shall on conviction be punished for the first offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months and for the second and subsequent offences, with fine which may extend to one thousand rupees or with imprisonment for a term which may extend to one year or with both.

**17C. Cognizance of offences :-**

No Court shall take Cognizance of an offence under this Act except on a complaint filed by an Inspector with the previous sanction of the Welfare Commissioner.]

**18. Supersession of Board :-**

(2) After the supersession of the Board, and until it is reconstituted the powers, duties and functions, of the Board under this Act shall be exercised or performed by such officer or officers, as the State Government may appoint for this purpose.

**19. Rules :-**



(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under Section 23, every rule made under this Act shall have effect as if enacted in this Act.

**20. Members of Board, Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants :-**

The members of the Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

**21. Protection to persons acting in good faith :-**

No suit, prosecution or other legal proceeding shall lie against the Board or any person for anything which is in good faith done or intended to be done under this Act.

**22. Exemption :-**

The State Government may, by notification in the Official Gazette, exempt any class of establishments from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

**23. Rules and notifications to be laid before State Legislature. :-**

Every rule made under this Act, and every notification issued under Section 22 shall be laid, as soon as may be after it is made, or issued before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any modification or annulment shall be without prejudice to the validity

of anything previously done under such rule or notification.

**24. Transfer of Government Labour Welfare Centres to the Board :-**

(1) The control and management of State Government Labour Welfare Centres shall as from such date as the State Government may by modification in the Official Gazette appoint, be transferred to the Board, and thereupon all the properties and assets and liabilities and obligations, of the State Government in relation to such centres shall stand transferred to, vest in, or devolve upon the Board.

**25. Amendment of Section 8 of Central Act 4 of 1936 :-**

In Section 8 of the Payment of Wages Act, 1936 (Central Act 4 of 1936), to sub-section (8), the following shall be added before the Explanation, namely:

"but in the case of any factory or establishment to which the Karnataka Labour Welfare Fund Act, 1965, applies all such realisations shall be paid into the Fund constituted under the said Act."

**26. Repeal and savings :-**

(2) Subject to the provisions of sub-section (1), the provisions of Section 6 of the Mysore General Clauses Act, 1899 (Mysore Act 3 of 1899), shall be applicable in respect of the repeal of the Bombay Labour Welfare Fund Act, 1953 and Sections 8 and 24 of the said Mysore General Clauses Act, 1899, shall be applicable as if the said Bombay Labour Welfare Fund Act, 1953, had been repealed and reenacted by this Act.