

Karnataka Toddy Workers Welfare Fund Act, 1981

31 of 1984

[28 April 1984]

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SCHEDULE 1 :- Schedule I

Karnataka Toddy Workers Welfare Fund Act, 1981

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An Act to provide for the constitution of a fund to promote the welfare of toddy workers in the State of Karnataka. WHEREAS it is expedient to provide for the constitution of a fund to promote the welfare of toddy workers in the State of Karnataka ; BE it enacted by the Karnataka State Legislature in the Thirty--second Year of the Republic of India as follows :--

1. Short Title And Commencement :-

(1) This Act may be called the Karnataka Toddy Workers Welfare Fund Act, 1981.

(2) It shall come into force on such¹[date]¹as the State Government may, by notification in the official Gazette, appoint.

1. Act came into force on 2.10.1984 by notification No. SWL 85 LBW 84 dated 29.9.1984.

2. Definitions :-

In this Act, unless the context otherwise requires ,--

(a) "Board" means the Karnataka Toddy Workers Welfare Fund Board constituted under section 5 ;

(b) "contribution" means a contribution payable in respect of a member under the scheme ;

(c) "employer" means any person who employs whether directly or through another person, or whether on behalf of himself or any other person, one or more employees and includes any person who has a licence for the manufacture, distribution, transport, storage or sale of toddy, under the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) ;

(d) "employee" means any person who is employed for wages in connection with the manufacture, distribution, transport, storage or sale of toddy and who gets his wages directly or indirectly from the employer and includes any person employed by or through a contractor or through an agent in or in connection with the manufacture, distribution, transport, storage or sale of toddy ;

(e) "Fund" means the Karnataka Toddy Workers Welfare Fund established under section 3 ;

(f) "manufacture" means any process for the preparation and collection of toddy and includes the preparation of a tree for tapping ;

(g) "member" means a member of the Fund ;

(h) "Schedule" means the Schedule appended to this Act ;

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

(j) "toddy", means fermented or unfermented juice drawn from an excise tree as defined in clause (27) of section 2 of the Karnataka Excise Act, 1965;

(k) "wages" means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or

payable in cash to him, but does not include,--

- (i) the cash value of any food concession ;
- (ii) overtime allowance, bonus and commission.

3. Establishment Of Karnataka Toddy Workers Welfare Fund

:-

(1) On the commencement of this Act, the State Government shall establish in and for the State, a fund called "The Karnataka Toddy Workers Welfare Fund" which shall consist of ,--

- (a) such sums as an employer shall from time to time contribute under clause (a) of sub--section (3) ;
- (b) such sums as an employee shall from time to time contribute under clause (b) of sub--section (3) ; and
- (c) the interest which may, from time to time, accrue on the sums of the Fund invested or reinvested under sub--section (4).

(2) The Fund shall vest in and be administered by the Board in such manner as may be provided for in the Scheme.

(3) There shall be contributed to the Fund ,--

(a) by the employer ,--

(i) an amount equal to five percent of the wages for the time being payable to each of the employees ; and

(ii) as gratuity an amount equal to five per cent of the wages for the time being payable to each of the employees ;

(b) by the employee an amount equal to five per cent of the wages for the time being received by him.

(4) The Board may from time to time invest or reinvest in the securities of the State Government or in any Scheduled Bank all or any sum at the credit of the Fund which may not be required immediately for any of the purposes for which it may be spent.

4. Scheme :-

(1) The State Government may, by notification in the official Gazette, frame a scheme called the Karnataka Toddy Workers Welfare Fund Scheme which may provide for all or any of the matters specified in the Schedule.

(2) The State Government may by notification in the Official Gazette, amend the Scheme from time to time either prospectively or retrospectively.

5. Constitution Of The Board :-

(1) The State Government may, by notification in the official Gazette, constitute with effect from such date as may be specified therein a Board to be called the Karnataka Toddy Workers Welfare Fund Board for the purpose of the administration of the Fund and to supervise or carry out the activities financed from and out of the Fund.

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

(3) The Board shall consist of such number of directors as may be appointed by notification in the official Gazette by the State Government, out of whom at least one shall be a person belonging to scheduled caste and one shall be from among toddy tappers and they shall be, chosen in such manner as may be provided for in the Scheme :

Provided that the Board shall include an equal number of directors representing the State Government, the employers and the employees.

(4) One of the directors of the Board shall be appointed by the State Government as Chairman.

(5) Subject to the pleasure of the State Government the term of office of the Chairman and other members of the Board shall be three years.

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

6. Appointment Of The Members Of The Staff :-

(1) The State Government may appoint a Chief Welfare Fund Inspector and as many Welfare Fund Inspectors as they consider necessary to assist the Chief Welfare Fund Inspector in the discharge of his duties. The Chief Welfare Fund Inspector shall be the Chief Executive Officer of the Board.

(2) The Board may with the previous approval of the State Government appoint such staff as it may consider necessary.

(3) The methods of recruitment, salary and allowances, discipline and other conditions of service of the Chief Welfare Fund Inspector and the Welfare Fund Inspectors shall be such as may be specified by the State Government and the method of recruitment, salary and allowances, discipline and other conditions of service of the staff appointed by the Board shall be such as may be specified by the Board with the previous approval of the State Government.

7. Determination Of Amount Due From Employers :-

The Chief Welfare Fund Inspector or any Welfare Fund Inspector authorised by him in this behalf may, by order, determine the amount due from any employer under the provisions of this Act or of the Scheme and for this purpose may conduct such inquiry as he may deem it necessary.

(2) The officer conducting the inquiry under sub--section (1) shall for the purposes of such inquiry have the same powers as are vested in a court for trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :--

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents ;

(c) receiving evidence on affidavit ; and

(d) issuing commissions for the examination of witnesses.

(3) Any inquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 198 and 228 and for the purpose of section 196 of the Indian Penal Code.

(4) No order determining the amount due from any employer shall be made under sub--section (1) unless the employer has been given a reasonable opportunity of being heard.

(5) Any person aggrieved by an order under sub--section (1) may prefer an appeal to the State Government or any other authority as may be specified by the State Government within sixty days from the date of the receipt of the order and the decision of the State Government or of such authority on such appeal shall be final.

8. Mode Of Recovery Of Moneys Due From Employers :-

Any amount due from the employer in pursuance of the provisions of this Act or the Scheme may, if the amount is in arrears be recovered together with the interest thereon at the rate of nine percent per annum in the same manner as an arrear of land revenue.

9. Prohibition Against Attachment :-

(1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member and no receiver appointed under the Provincial Insolvency Act, 1920

shall be entitled to or have any claim on any such amount.

(2) Any amount standing to the credit of a member in the Fund at the time of his death and payable to his nominee under the Scheme shall, subject to any deduction authorised by the Scheme vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member.

10. Priority Of Payment Of Contributions Over Other Debts :-

Where any employer is an adjudicated insolvent or being a company, an order for winding up is made, the amount due from the employer under the scheme shall, where the liability therefor has accrued before the order of adjudication or winding up is made be deemed to be included among the debts which under section 61 of the Provincial Insolvency Act, 1920 or under section 530 of the Companies Act, 1956 are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

11. Employer Not To Reduce Wages, Etc :-

No employer shall by reason only of his liability for the payment of any contribution to the Fund, reduce, whether directly or indirectly, the wages of any employee to whom the Scheme applies or the total quantum of benefits to which the employee is entitled under the terms of his employment, express or implied.

12. Members Of The Board To Be Public Servants :-

Every Director of the Board, the Chief Welfare Fund Inspector and every Welfare Fund Inspector and every member of the staff of the Board appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

13. Penalty, Etc :-

(1) Whoever for the purpose of avoiding any payment to be made by himself under this Act or under the Scheme or for the purpose 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 three months or with fine which may extend to five hundred rupees or with both.

(3) 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 the previous sanction of the State Government or such authority as may be specified in this behalf by the State Government.

14. Offences By Companies Etc :-

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary, or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section,--

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

15. Power To Recover Damages :-

Where an employer makes default in the payment of any contribution to the fund under this Act, the State Government may

recover from the employer damages not exceeding twenty five per cent of the amount in arrears as they may think fit to impose.

16. Directions By The State Government :-

The State Government may, after consultation with the Board, give to the Board general instructions to be followed by the Board.

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

17. Protection For Acts Done In Good Faith :-

No suit or other legal proceeding shall lie against any director of the Board or the Chief Welfare Fund Inspector or any Welfare Fund Inspector or any other member of the staff of the Board or any person in respect of anything which is in good faith done or intended to be done under this Act or under the scheme.

18. Special Provisions For Transfer And Vesting Of Welfare Funds Established By Custom Or Agreement :-

All welfare funds established by custom or agreement before the date of commencement of this Act and standing to the credit of any employee on the date of commencement of this Act shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument, stand transferred to and vest in the Fund and shall be credited to the accounts of the employees entitled thereto in the Fund.

19. Bar Of Jurisdiction Of Civil Court :-

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 required to be settled, decided or dealt with or to be determined by the State Government or the Board or the Chief Welfare Fund Inspector or any Welfare Fund Inspector.

20. Power To Make Rules :-

(1) The State Government may, by notification in the Official Gazette, make rules 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 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 session immediately following, both Houses agree to make 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.

21. Amendment Of Schedule :-

The State Government may, by notification, add any matter to the Schedule :

Provided that no matter unrelated to the objects of this Act shall be so added.

SCHEDULE 1

Schedule I

[See section 4 (1)]

Matters for which provisions may be made in the Scheme :

1. The time and manner in which contributions shall be made to the Fund by employers and by or on behalf of employees (whether employed directly or by or through a contractor), the contributions which an employee may make under section 3 and the manner in which such contributions may be recovered.
2. The manner in which employees contributions may be recovered by contractors from employees employed by or through such contractors.
3. The payment by the employer of such sum of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which such payment shall be made.
4. The constitution of any committee for assisting the Toddy Workers Welfare Fund Board.
5. The manner in which accounts shall be kept, the investment of money belonging to the Fund in accordance with any directions issued or conditions specified by the State Government, the preparation of the budget, the audit of accounts and the submission of reports to the State Government.
6. The conditions under which withdrawals 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 fixation by the State Government in consultation with the Board the rate of interest payable to members.
8. The form in which an employee shall furnish particulars about himself and his family whenever required.
9. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.
10. The register and records to be maintained with respect to employees and the return to be furnished by the employers or contractors.

11. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.
12. The fees to be levied for any of the purposes specified in this Act or Schedule.
13. The powers, if any, which may be exercised by the officers appointed under this Act.
14. The conditions under which a member may be permitted to pay premia on life insurance from the Fund.
15. The manner in which the directors of the Board shall be chosen and appointed.
16. The conditions of service, duties and remuneration of officers appointed under this Act.
17. The manner in which any welfare fund vested under section 18 is to be brought and credited to the accounts of the employees entitled thereto in the Fund.
18. The rate of gratuity payable to members and the conditions for such payment.
19. The conditions under which any amount due to the Board may be written off.
20. Any other matter which is to be provided for in the scheme or which may be necessary or proper for the purposes of implementing the scheme.