

Kerala Agricultural Workers Act, 1974

18 of 1974

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SCHEDULE 1 :- THE SCHEDULE

Kerala Agricultural Workers Act, 1974

18 of 1974

An Act to provide for the welfare of agricultural workers in the State of Kerala and to regulate the condition of their work. Whereas it is expedient to provide for the welfare of agricultural workers in the State of Kerala and to regulate to conditions of their work; BE it enacted in the Twenty-fifth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Kerala Agricultural Workers Act, 1974.

(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, and different dates may be appointed for different areas and for different provisions of this Act.

2. Definitions :-

In this Act, unless the context otherwise requires,-

adult means a person who has completed his eighteenth year of age;

adolescent means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

agricultural dispute means any dispute or difference between landowners and landowners or between landowners and agricultural workers or between agricultural workers and agricultural workers which is connected with the employment or non-employment or the terms of employment with the conditions of labour, of any person.

Explanation .-Where any landowner discharges, dismisses, retrenches or otherwise terminates the services of, or denies employment to, an individual agricultural worker, any dispute or difference between that agricultural worker, and his employer connected with, or arising out of, such discharge dismissal, retirement, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to the dispute;

agricultural land means any land used for cultivation, but does not include any plantation as defined in the Plantations Labour Act, 1951 (Central Act 69 of 1951);

Agricultural Tribunal means, in relation to any area, the Agricultural Tribunal constituted under this Act for that area;

agricultural worker means a person who, in consideration of the wages payable to him by a landowner, works on, or does any other agricultural operation in relation to, the agricultural land of such landowner;

(Board means the Agricultural Workers Welfare Fund Board constituted under section 11;)

child means a person who has not completed his fifteenth year of age;

Conciliation Officer means, in relation to any area, the Conciliation Officer appointed under this Act for that area;

family means husband, wife, and their unmarried minor children or such of them as exist;

Fund means the fund established in pursuance of sub-section (1) of section 8;

Inspector means an Inspector appointed under sub-section (1) of section 5 or deemed, under sub-section (3) of that section, to be appointed for the purposes of this Act;

landowner means,-

(i) in relation to a land personally cultivated, the owner of such land;

(ii) in relation to a land held by a cultivating tenant, such cultivating tenant;

(iii) in any other case, the person in actual possession of the land, and includes his heirs, assignees and legal representatives..

Explanation I.- For the purposes of this clause,-

cultivating tenant shall have the same meaning as in clause(8) of section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964); and personally cultivate means cultivate either solely by ones own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers or both, provided that such members or hired labourers have not agreed to pay or to take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it.

Explanation II.- For the avoidance of doubts it is hereby clarified that the Government shall be deemed to be the landowner, where the land referred to in sub clause (i) or sub clause (iii) is land owned by, or as the case may be, in the actual possession of, the Government;

prescribed wages means-

(i) wages at such rate, not being-

(a) less than the minimum rate of wages fixed or revised under the Minimum Wages Act, 1948 (Central Act 11 of 1948); or

(b) more than fifteen per cent in excess of such minimum rate of wages,as may be specified by the Government by notification in the Gazette; or

(ii) the agreed rate of wages,which is higher.

Explanation.- For the purposes of this clause, the rate of wages decided by an Industrial Relations Committee constituted for any area or the rate of wages agreed at conferences held by the Government or the Labour department of the Government in

respect of any area shall be deemed to be agreed rate of wages for that area during the period covered by such decision;

prescribed means prescribed by rules made under this Act;

(p) Scheme means the Agricultural Workers Welfare Fund Scheme framed under sub-section (1) of section 8;)

(q) wages means all remuneration, whether payable in cash or in kind, which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include-

the value of-

(A) any house accommodation, supply of light, water or medical attendance; or

(B) any other amenity or any service excluded by general or special order of the Government; or

any contribution paid by the employer under any scheme framed under any law for the time being in force;

any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment.

CHAPTER 2

OFFICERS AND AGRICULTURAL TRIBUNAL

3. Appointment Of Conciliation Officers :-

The Government may by notification in the Gazette, appoint for any area specified therein any officer of the Labour Department not below the rank of Assistant Labour Officer to be a Conciliation Officer for the purpose of performing the functions entrusted to a Conciliation Officer by or under this Act.

4. Constitution Of Agricultural Tribunals :-

(1) The Government may, by notification in the Gazette, constitute for any area specified therein an Agricultural Tribunal for the purpose of performing the functions of the Agricultural Tribunal under this Act.

(2) An Agricultural Tribunal shall consist of a sole member, who shall be an officer not below the rank of Deputy Collector, appointed by the Government.

5. Inspectors :-

(1) The Government may, by notification in the Gazette, appoint-

(a) such officers, or

(b) such persons as possess the prescribed qualification , as they think fit, to be inspectors for the purposes of this Act and defined the local limits within they shall exercise their powers.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,-

(a) enter, at any time after sunrise and before sunset with such assistants (if any), being persons in the service of the Government or any local or other public authority, as he thinks fit, premises or places where agricultural workers are employed or where he has reasons to believe that records are kept, for the purpose of examining any register or record of wages required to be kept under this Act or the rules made thereunder and required the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and whom he has reasonable cause to believe to be an agricultural worker;

(c) seize or take copies of such register or record or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by a landowner; and

(d) exercise such other powers as may be prescribed.

(3) Until Inspectors are appointed under this Act, the Inspectors appointed under the Minimum Wages Act, 1948 (Central Act 11 of 1948), shall be deemed to be Inspectors appointed under this Act, for the area in which they exercise jurisdiction under the said Act.

6. Facilities To Be Afforded To Inspectors :-

Every landowner shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

CHAPTER 3

SECURITY OF EMPLOYMENT AND WELFARE

7. Preference For Employment As Agricultural Workers :-

(1) The landowner shall not employ any agricultural worker other than an agricultural worker who has worked in the same land during the previous agricultural season:

Provided that preference shall be given to agricultural workers employed for the previous agricultural operation in the same agricultural land during the same agricultural season:

Provided further that where there are permanent workers of the landowner, such workers shall be given preference over other agricultural workers.

Explanation.- For the purposes of this sub-section, permanent worker, in relation to a landowner, means an agricultural worker who is bound by custom or contract or otherwise to work in the agricultural land of that landowner.

(2) Notwithstanding anything contained in sub-section (1), where any agricultural worker has worked in the land of a landowner during three consecutive agricultural seasons, prior to the previous agricultural season, he shall not be denied employment merely on the ground that he has not worked during the previous agricultural season, provided his absence during that season was due to reasons beyond his control.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to enable the landowner to refuse employment during an agricultural season to an agricultural worker eligible to be employed by the landowner under either of those sub-sections but who has not offered himself for employment on any previous day of that agricultural season.

(4) Where the agricultural workers mentioned in sub-section (1) or sub-section (2) or sub-section (3) are not available or the number of such agricultural workers available is less than the number required by the landowner for the agricultural operation in his land, nothing in those sub-sections shall be deemed to prevent him from employing other agricultural workers.

(5) Notwithstanding anything contained in the foregoing provisions of this section, no landowner shall be under an obligation to employ any agricultural worker-

(a) who does not offer himself for employment; or

(b) who is more than sixty years of age; or

(c) who is incapacitated and is unable to do the work; or

(d) who has intentionally caused damage of crops belonging to the owner or caused any other loss to the landowner.

8. Establishment Of Agricultural Workers (Welfare Fund) :-

(1) The Government may, by notification in the Gazette, frame a scheme to be called the Agricultural Workers (Welfare Fund) Scheme for the establishment of a (Welfare Fund) under this Act (for the welfare of agricultural workers) 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) The Fund shall vest in, and be administered by, a Board constituted under section 11.

(3) 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 the Schedule.

(4) The 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 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.

(Explanation.- The amount standing to the credit of the Provident Fund in existence immediately before the date of commencement of the Kerala Agricultural Workers (Amendment) Act, 1990 shall, on such commencement, be deemed to be the amount standing to the credit of the Agricultural Workers Welfare Fund.)

9. Contribution To The Fund :-

(1) Every land owner holding more than half a hectare but less than one hectare in extent of agricultural land shall pay contribution to the Fund at the rate of rupees ten per annum for the land held by him and those holding one hectare and in excess thereof in extent of agricultural land shall contribute fifteen rupees per annum per hectare of land or part thereof held by him in the manner prescribed.

(2) Every registered agricultural worker shall pay contribution to the Fund at the rate of two rupees per mensem.

(3) Any loan, grant or advance made by the Government of India, the State Government, a local body, or any other institution shall be credited to the Fund.

The loan, grant or advance made by any authority or institution shall be utilised for no purpose other than the purpose for which it was given.)

10. Modification Of Scheme :-

(1) The Government may, by notification in the Gazette, add to,

amend or vary the Scheme.

(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 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.

11. Constitution Of Board :-

(1) The government shall, by notification in the Gazette, constitute with effect from such date as may be specified in the notification a Board to be called the Agricultural Workers (Welfare Fund) board for the administration 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 members as the Government may determine and they shall be chosen in such manner as may be prescribed:

Provided that the number of members representing the Government, the landowner and the agricultural workers shall be equal.

(4) The government shall appoint one of the members of the Board to be its Chairman.

(5) The term of office of, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

(6) The names of the members and the Chairman shall be published in the gazette.

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

12. Appointment Of Officers For Assisting The Board :-

(1) The Government may appoint such number of officers as they think fit for assisting the Board in the administration of the Fund.

(2) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

13. Direction S By The Government :-

(1) The Government may, after consultation with Board, give to the Board general instruction to be followed by the Board, and such instructions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees

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

14. Protection From 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 Insolvency Act, 1955 shall be entitled to or have any claim on 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 authorized 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 .

(3) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty years of age or that he is incapacitated and is unable to work or on the ground of cessation of his membership due to default in payment of contribution to the Fund or on any other ground, shall, subject to any deduction authorised by the scheme, be paid to him and shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.)

15. Landowner Not To Reduce Wages, Etc. :-

No landowner 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 agricultural worker to whom the Scheme applies.

CHAPTER 4

HOURS AND LIMITATIONS OF EMPLOYMENT AND WAGES

16. Hours Of Work :-

Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours in any day and no adolescent or child for more than six hours in any day:

Provided that nothing contained in this section shall be deemed to prohibit an agreement between the landowner and the agricultural workers for working for less than eight hours or six hours, as the case may be, on any particular day or days or on all days of employment or to affect any custom or practice prevailing in the locality under which the agricultural worker is required to work for less than eight hours or six hours, as the case may be.

17. Daily Intervals For Rest :-

The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest for at least half an hour.

18. Wages Payable To Agricultural Workers :-

(1) Every landowner shall pay to any agricultural worker employed by him the prescribed wages for each day of work done.

(2) The Government may, from time to time, by notification in the Gazette, fix the number of hours of work which shall constitute a normal working day for the purposes of sub-section (1) either for the whole State or any part thereof:

Provided that where the Government have fixed the number of hours of work which shall constitute a normal working day in respect of any of the categories of agricultural workers in the employment in agriculture under Section 13 of the Minimum Wages Act, 1948 (Central Act 11 of 1948), the hours of work so fixed shall, until a notification is issued under this sub-section, be deemed to have been fixed under this sub-section.

19. Wages For Harvest :-

(1) The prescribed wages for harvest shall be paid at the threshing

floor on which the threshing takes place and no portion of the produce shall be removed from the threshing floor without payment of the prescribed wages to the agricultural worker concerned.

(2) Notwithstanding anything contained in sub-section (1), where the quantum of prescribed wages is in dispute and such quantum cannot be determined without settling the dispute under the provisions of this Act, an officer not below the rank of Tahsildar authorised in this behalf by the Government by notification in the gazette shall, if he is satisfied that the harvested produce if kept in the threshing floor till the settlement of the dispute will perish or be otherwise lost, take such action as he thinks expedient in each case to ensure that the harvested produce does not perish or is not otherwise lost till the settlement of the dispute.

20. Enforcement Of Payment Of Prescribed Wages :-

(1) If any landowner pays less than the prescribed wages or refuses to pay the prescribed wages to any agricultural worker, the agricultural worker or an official of the union of which he is a member may make an application to the Conciliation Officer for a direction under sub-section (2).

(2) On receipt of an application under sub-section (1), the Conciliation Officer shall, after giving the applicant and the landowner an opportunity of being heard and after such inquiry, if any, which he may consider necessary, direct,-

(a) in the case of a claim arising out of the payment of less than the prescribed wages, the payment to the agricultural worker of the amount by which the prescribed wages payable to him exceeds the amount actually paid by the landowner;

(b) in the case of a claim arising out of non-payment of prescribed wages, the payment of the prescribed wages to the agricultural worker.

(3) If as a result of direction under sub-section (2), any amount of the prescribed wages becomes payable to an agricultural worker, the Conciliation Officer may,-

(a) in the case of harvest,

(i) recover in kind such amount of the prescribed wages at the threshing floor from out of the harvested paddy; and

(ii) if the harvested paddy or any portion thereof has been removed from the threshing floor in contravention of the provisions of section 19, recover in kind the amount of prescribed wages from the landowner concerned and if such recovery is not possible, the

Conciliation Officer shall make a report to the Collector specifying the full particulars regarding the amount or cash value of the prescribed wages due to the agricultural worker concerned and on receipt of such report, the Collector shall proceed to recover the same from the landowner concerned as if it were an arrear of public revenue due on land;

(b) in the case of any work other than harvest, recover in kind the amount of prescribed wages from the landowner concerned and if such recovery is not possible, the Conciliation Officer shall make a report to the Collector specifying the full particulars regarding the amount or cash value of the prescribed wages due to the agricultural worker concerned and on receipt of such report, the Collector shall proceed to recover the same from the landowner concerned as if it were an arrear of public revenue due on land.

Explanation .- In this sub-section, Collector means the District Collector or any other officer appointed by the Government to exercise the powers and perform the functions of a Collector under the Kerala Revenue Recovery Act, 1968 (15 of 1968).

(4) The Conciliation Officer shall have such powers as are necessary to effect the payment of the prescribed wages to the agricultural worker, including the power to enter upon any land on which, or into any building in which, the harvested crop is kept.

21. Wages For Over-Time Work :-

Where an agricultural worker is required by the landowner to work for more than the number of hours of work fixed or deemed to have been fixed under sub-section (2) of section 18, he shall be entitled in respect of each hour of such over-time work to wages at the rate of twice his ordinary rate of wages for one hour:

Provided that nothing contained in this section shall apply in respect of harvest or any work connected therewith.

CHAPTER 5 **DISPUTES**

22. Settlement Of Agricultural Disputes :-

(1) Where an agricultural dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the same and all matters affecting the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair

and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the District Labour Officer together with a memorandum of settlement signed by the parties to the dispute.

(3) If no such settlement is arrived, at the Conciliation Officer shall as soon as practicable after the close of the investigation, send to the District Collector through the District Labour Office a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at:

Provided that in a case where the agricultural dispute relates to an agricultural land situate within the local limits of more than one revenue district, the Conciliation Officer shall send the report to the District Collector in whose jurisdiction the major portion of such land is situate.

(4) If on a consideration of the report referred to in sub-section (3), the District Collector is satisfied that there is a case for reference to an Agricultural Tribunal, he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication, and where the District Collector does not make such a reference, he shall record and communicate to the parties concerned his reasons therefore .

(5) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date of receipt of the reference by the Tribunal, submit its award to the District Collector.

(6) The District Collector shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5), cause the same to be published in his office and in the office of the Agricultural Tribunal in such manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(7) An award referred to in sub-section (5) shall, subject to any order of the Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(8) Every memorandum of settlement referred to in sub-section (2)

and, subject to any order of the Government under section 26, every award of an Agricultural Tribunal shall be final and shall be given effect to by the parties to the agricultural dispute.

23. Appeal :-

(1) Against any order passed by a Conciliation Officer under section 20, an appeal shall lie to the Agricultural Tribunal within a period of thirty days from the date of the order appealed against, and the decision of the Agricultural Tribunal on such appeal shall be final.

(2) The Agricultural Tribunal shall have no power to stay the operation of the order of the Conciliation Officer pending disposal of the appeal.

24. Decision In Appeal In Respect Of Prescribed Wages To Be Given Effect To :-

(1) Where the amount of prescribed wages paid to an agricultural worker under section 18 or recovered under section 20 for payment to an agricultural worker is less than the amount of prescribed wages payable as a result of the decision in appeal, the balance shall be recovered from the landowner concerned as if it were an arrear of public revenue due on land and paid to the agricultural worker concerned.

(2) Where the amount of prescribed wages paid to an agricultural worker under section 18 or recovered under section 20 for payment to an agricultural worker is in excess of the amount of prescribed wages payable as a result of the decision in appeal, such excess shall be recovered from the agricultural worker concerned for payment to the landowner concerned and the provisions of section 39 shall apply to such recovery.

25. Reference Or Decision Of Disputes By Government :-

(1) Notwithstanding anything contained in section 22, where any agricultural dispute exists or is apprehended, the Government may, by order in writing and for reasons to be stated therein,-

(a) refer the dispute to the Agricultural Tribunal constituted for the area in which the dispute exists or is apprehended, for adjudication; or

(b) decide the dispute themselves and pass an award.

(2) Where a dispute is referred to an Agricultural Tribunal under clause (a) of sub-section (1), the provisions of sub-sections (5),

(6), (7) and (8) of section 22 shall apply as if the reference to the Tribunal were made by the District Collector under sub-section (4) of that section.

(3) The Government shall cause every award passed by them under clause (b) of sub-section (1) to be published in the Gazette and in such other manner as may be prescribed.

(4) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Gazette.

26. Power Of Government As Respects Awards :-

(1) If the Government are of opinion that it is inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of an award referred to in sub-section (5) of section 22, they may, by notification in the Gazette, declare that the award shall not become enforceable on the expiry of the period mentioned in sub-section (7) of the said section.

(2) Where any declaration has been made in relation to an award under sub-section (1), the Government may, within thirty days from the date of publication of the award under sub-section (6) of section 22, make an order rejecting or modifying the award, and such order shall be published in the gazette.

(3) Where no order has been passed by the Government under sub-section (2), the award shall become enforceable on the expiry of the period of thirty days mentioned in that sub-section.

(4) Where an order has been made by the Government under sub-section (2), the award shall not be enforceable or, as the case may be, the award as modified shall be enforceable on the expiry of a period of five days from the date of publication of such order in the gazette.

CHAPTER 6

PENALTIES AND PROCEDURE

27. Penalty For Obstructions, Etc. :-

(1) Whoever obstructs any Inspector or Conciliation Officer in the discharge of his duties under this Act or refuses or wilfully neglects to afford any Inspector reasonable facilities for making an inspection, examination or inquiry authorised by or under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one

thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before, or being examined by, an Inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

28. Penalty For Making False Statements, Etc. :-

Whoever for the purpose of avoiding any payment to be made by him under this Act, or under the Scheme or for 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 six months, or with fine which may extend to one thousand rupees, or with both.

29. Penalty For Breach Of Settlement Or Award :-

Any person who commits a breach of any term of any settlement or award shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and, where the breach is a continuing one, with a further fine which may extend to one hundred rupees for every day during which the breach continues after conviction for the first such breach, and the court trying the offence may direct that the whole or any part of the fine realised from him shall be paid by way of compensation to any person who in its opinion has been injured by such breach.

30. Other Penalties :-

Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme or of any rule mad under this Act 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 six months, or with fine which may extend to one thousand rupees; or with both, and, in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during

which such contravention continues after conviction for the first such contravention.

31. Enhanced Penalty After Previous Conviction :-

If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which shall not be less than one month, but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Provided that for the purposes of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence which is being punished.

32. Offences By Companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished 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 Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to 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.

33. Cognizance Of Offences :-

No court shall take cognizance of any offence punishable under this Act, except on complaint made by, or with the previous sanction in writing of, the Government or an officer authorised by the Government in this behalf by notification in the Gazette, and no court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

34. Limitation Of Prosecutions :-

No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within three months from the date on which the alleged commission of the offence comes to the knowledge of the Government or the officer authorised under section 33.

CHAPTER 7 **MISCELLANEOUS**

35. Register Of Agricultural Workers :-

(1) The executive authority of every local authority shall prepare a register of agricultural workers residing within the jurisdiction of that local authority.

(2) The Register shall contain such particulars as may be prescribed.

(3) The register shall be maintained by the executive authority in such manner as may be prescribed.

36. Maintenance Of Registers And Records By Landowners :-

(1) Every landowners shall maintain such registers and records as may be prescribed.

(2) The registers and records referred to in sub-section (1) shall contain such particulars and shall be kept in such place, as may be prescribed.

37. Bar Of Jurisdiction Of Civil Courts :-

No civil court shall entertain any suit or other proceedings to set aside or modify any order or decision passed by any authority or officer under this Act in respect of any of the matters falling within its or his scope.

38. Power To Take Evidence On Oath, Etc. :-

Any authority or officer, exercising powers under this Act shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, in respect of the following matters, namely:-

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

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and

(e) such other matters as may be prescribed;

and any proceeding before such authority or officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196, of the Indian Penal Code (Central Act 45 of 1860).

39. Recovery Of Money Due From Landowners :-

(1) Where any money is due to an agricultural worker from a landowner under a settlement referred to in sub-section (2) of section 22, or an award under sub-section (5) of that section or under clause (b) of sub-section (1) of section 25 or an award as modified by the Government under sub-section (2) of section 26, the agricultural worker himself or any other person authorised by him in writing in that behalf or, in the case of the death of the agricultural worker, his assignees or heirs may without prejudice to any other mode of recovery make an application to the District Collector for the recovery of the money due to him and if the District Collector is satisfied that any money is so due, he shall proceed to recover the same as if it were an arrear of public revenue due on land:

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural worker from the landowner:

Provided further that any such application may be entertained after the expiry of the said period of one year if the District Collector is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Any amount due from a landowner as contribution to the Fund and any other amount due from a landowner under this Act or the Scheme may, if the amount is in arrear, be recovered as if it were an arrear of public revenue due on land.

40. Power To Recover Damages :-

Where a landowner makes default in the payment of any contribution to the Fund, the Government may recover from him such damages, not exceeding twenty-five per cent of the amount of arrears, as they think fit.

41. Effect Of Laws And Agreements Inconsistent With This Act And Scheme :-

(1) The provisions of this Act and the Scheme shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this section:

Provided that where under any such award, agreement, contract of service custom or otherwise, any agricultural worker was enjoying immediately before the commencement of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agriculture worker shall be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any agricultural worker from entering into an agreement with a landowner for granting him rights or privileges in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act.

(3) For the avoidance of doubts, it is hereby declared that nothing contained in sub-section (1) or sub-section (2) shall be deemed to enable a landowner to enter into any agreement in contravention of the provisions of section 7.

42. Exemption :-

(1) Nothing contained in this Act, other than (sub-section (1) of section 9, sections 18,20,23,24, clause (b) of sub-section (1), sub-sections (3) and (4) of section 25, sub-section (2) of section 39, section 40) and sub-section (1) of section 41 shall apply in relation to a landowner who does not hold more than one hectare in extent of land.

Explanation .-Where the landowner is a member of a family, the extent of land held individually by any member of his family or

jointly by some or all of the members of such family shall, for the purposes of this sub-section, be deemed to be held by the landowner.

(2) The Government may, by notification in the Gazette, for reasons to be recorded in writing, exempt any landowner or class of landowners or any agricultural land or class of agricultural lands from all or any of the provisions of this Act.

43. Delegation Of Powers :-

The Government may, by notification in the gazette, direct that any power exercisable by them under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

44. Members Of Board, Etc., To Be Public Servants :-

Every member of the Board and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

45. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act or the Scheme or any award or settlement under this Act, the Government may, by order, do anything not inconsistent with such provisions which appears to them necessary or expedient for the purpose of removing the difficulty.

46. Protection Of Action Taken In Good Faith :-

No suit, prosecution or other legal proceeding shall lie against the Government or any authority or officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act.

47. Power To Make Rules :-

(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;
- (b) the fees to be paid for applications and appeals under this Act;
- (c) the powers of the Conciliation Officer necessary for the effective enforcement of the provisions of this Act;
- (d) the manner of estimating the cash value of the prescribed wages in kind;
- (e) the procedure to be followed by the Government under sections 25 and 26;
- (f) any other matter which has to be, or may be, prescribed under the provisions of this Act.

(3) Every rule made under this section and every notification issued under section 45 shall be laid, as soon as may be after it is made or issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides 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 such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

SCHEDULE 1

THE SCHEDULE

(See sub-section (3) of section 8)

1. The time and manner in which the contributions shall be paid to the Fund (by the landowners;)
2. The manner of registration of the agricultural workers and the manner in which the agricultural workers shall pay contribution to the Fund;)
3. The number of members of (the Agricultural Workers Welfare Fund Board) and their term of office.
4. The manner in which the members are to be appointed and removed.
5. The manner in which the Chairman of the Board is to be appointed.
6. The constitution of committees for assisting the working of the Board.
7. (The manner in which accounts shall be kept, the investment of money belonging to the Fund in accordance with any direction issued or conditions specified by the Government, the preparation of the Budget, the audit of accounts and the submission of reports of Government.)
8. Conditions under which withdrawal from the Fund and any deduction or forfeiture therefrom may be made and the maximum amount of deduction or forfeiture.
9. The fixation of annual rate of interest payable to the members of the Fund by the Board in consultation with the Government.
10. The form in which the employees shall furnish particulars of himself and his

family.

11. The nomination of any person or persons to receive the amount at the credit of a member on his death and the cancellation or alteration of such nomination.

12. Registers and records to be maintained by the employers and the returns to be furnished by them.

13. The powers, if any, which may be exercised by the officers appointed under this Act for the administration of the Scheme.

14. The conditions of service, duties and remuneration of officers working under the Board.

15. The form or design of any identity card, token, disc or pass book for the purpose of identifying any member of the Fund and for issue, custody and replacement thereof

16. The fee to be levied for any of the purposes specified in the schedule.

17. The manner in which the sums transferred under explanation to section 8 are to be brought and credited to the Fund.

18. The manner in which any unclaimed amount standing to the credit of a member is to be dealt with.

19. The further powers, if any, which may be exercised by the officers appointed under this Act.

20. The conditions under which any amount due to the Board may be written off.

21. The purposes for and the conditions under which the Fund may be utilised for the Welfare of Agricultural Workers or their dependents such as superannuation, benefit, death benefit, maternity benefit, medical assistance, educational assistance to dependent children, house construction advance, advances for renovation and expansion of house or for maintenance or repair to house, advance for purchase of agricultural land, advance for marriage expenses of a member or his daughter/daughters, payment of insurance premium for the members, payment of old age pension etc.

22. The conditions under which and the manner in which any compensation is payable to any member in cases of accident.

23. Provision for payment of pension to the agricultural workers and the conditions and procedure relating thereto.

24. Any other matter not inconsistent with this Act, which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing this Act and Scheme.)