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SCHEDULE 1 :- SCHEDULE I**Kerala Infrastructure Investment Fund Act, 1999****4 Of 2000**

An Act to provide for the constitution of a fund for investments in the infrastructure projects in the State and for matters connected therewith or incidental thereto. Whereas it is expedient to constitute a fund for investments in the infrastructure projects in the State and for matters connected therewith or incidental thereto. BE it enacted in the Fiftieth Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Kerala Infrastructure Investment Fund Act, 1999.

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

(b). It shall be deemed to have come into force on the 11th day of November, 1999.

2. Definitions :-

In this Act, unless the context otherwise requires, -

(a). Board means the Kerala Infrastructure Investment Fund Board constituted under section 4;

(b). Financial assistance means the types of assistance specified in the Scheme;

(c). Fund means the Kerala Infrastructure Investment Fund, established under section 3 and the scheme;

(d). Fund Manager means the Fund Manager of the Board;

(e). Government means the Government of Kerala;

(f) Infrastructure projects includes projects in the sectors of electric power, roads, irrigation, ports, airports, water supply, inland navigation, solid waste management and drainage or a multipurpose project in any one or more of these areas;

(g) Local Self Government Institution means a Panchayat at any level constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994), or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(h) Other undertakings means Public Companies established in the State under the Companies Act, 1956 (Central Act 1 of 1956) in joint sector, where the investment of the Government is not less than forty per cent of the total paid up share capital, or societies established under Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 (XII of 1955) or the Societies Registration Act, 1860 (Central Act 21 of 1860) and where Government, Local Self Government Institutions or any Public Sector Undertaking, as the case may be, have not less than fifty percent of interest in its assets, ownership and management;

(i) Public Sector Undertakings means any Government Company established in the State under the Companies Act, 1956 (Central Act 1 of 1956) or a Co-operative Society registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) where the Government holds not less than fifty per cent of the share capital, and substantial control over its

management and includes public undertakings established under a statute;

(j) Schedule means the Schedule to this Act;

(k) Scheme means the scheme framed under this Act;

(1) State means the State of Kerala ;

(m) Undertakings means public sector undertakings or other undertakings;

(n) Year means the financial year;

3. Kerala Infrastructure Investment Fund Kerala Infrastructure Investment Fund Scheme :-

(1) The Government may, by notification in the Gazette, frame a scheme to be called the Kerala Infrastructure Investment Fund Scheme for the establishment of a fund under this Act for investments in the infrastructure projects of the State 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 contribution specified in section 7;

(b). the amount borrowed by the Board under section 8;

(c) grants or loans or advances made by the Government or any institution;

(d). any amount raised by the Board from other sources to augment the resources of the Board;

(e) any other amount which, under the provisions of the scheme, shall be credited to the fund.

(3) The fund shall vest in, and be administered by the Board constituted under section 4.

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

(a) to finance investments in infrastructure projects in the State;

(b) to provide financial assistance to public sector undertakings and other undertakings for their investments in infrastructure projects;

(c) to redeem the bonds and debentures used to raise resources for the fund; and

(d) for implementation of and other purpose specified in the scheme.

(e). All moneys specified in sub-section (2) shall be deposited into the public account of the Government or with the approval of the

Government in any Nationalized Bank and the said account shall be operated by the Fund Manager.

(f). 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.

(7) 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 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. 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 Infrastructure Investment 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 afore said, having perpetual succession and a common seal and shall by the said name sue or be sued.

(3) The Board shall consist of the following members, namely:-

(a) the Chief Secretary to Government of Kerala;

(b) the Principal Secretary (Finance);

(c) the Secretary (Public Works);

(d) the Secretary (Irrigation);

(e) the Secretary (Planning);

(f) the Secretary (Revenue);

(g) the Secretary (Finance Resources);

(h) two persons who have proven experience in development banking nominated by the Government.

(4) The Chief Secretary shall be the Chairman of the Board.

(5) The Secretary (Finance Resources) shall be the Fund Manager 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 Fund Manager such of its powers and functions

under this Act of 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.

5. Term Of Office Of Members :-

(1) A member appointed under clause (h) of sub-section (3) of section 4 shall hold office during the pleasure of the Government.

(2) Any member appointed under clause (h) of sub-section (3) of section 4 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.

6. Powers And Functions Of The Board :-

Subject to the provisions of this Act, the Board shall have the following powers and functions, namely: -

- (a). to mobilise resources for the utilisation of the fund;
- (b) to sanction financial assistance to the undertakings as per the scheme;
- (c) to recover the amounts due to the Board from the assisted undertakings as per the recovery schedule;
- (d) to modify, revise or reschedule the recoveries from any of the appropriate;
- (e) to opt for revenue recovery procedures, if found necessary and appropriate, against any of the assisted undertakings in the interest of the Board;
- (f) to disburse all expenses relating to the administration of the fund including travel, interest on borrowings, fees, professional charges and other expenses;
- (g) to invest any surplus fund of the Board, as may be available from time to time, in such manner as may be specified in the scheme and also to realise such investments;
- (h) to review the performance of any undertaking receiving any assistance or loan from the fund on a periodic basis;
- (i) to enter into memorandum of undertakings or performance contract with any undertaking under the purview of this Act, on behalf of the Government;
- (j) to enter into contracts on behalf of the Board;
- (k) to exercise such of the powers and functions as may be specified in the scheme;
- (1) to exercise such other powers and perform such other functions as may be conferred on or entrusted to it by the Government for

carrying out the purposes of this Act;

(m) to do all acts necessary for, and incidental to, the carrying out of the functions entrusted or delegated to it.

7. Contribution To The Fund :-

The Government may, after due appropriation by law of the State Legislature, from time to time make such grants, advances and loans to the fund for the purposes of this Act on such terms and conditions as the Government may determine.

8. Power Of The Board To Borrow And Lend :-

(1) The Board may, from time to time, with the previous sanction of the Government subject to such conditions as the Government may, by general or special order determine, borrow any sum required for the purposes of this Act whether, by the issue of bonds or debentures or otherwise or by making arrangements with Banks or Institutions approved by the Government in that behalf.

(2) Bonds or debentures issued by the Board under this section shall be issued, transferred, dealt with or redeemed in such manner as the Government, may, by general or special order, direct.

(3) Subject to the provisions of this Act and such conditions and limitations as may be specified in the scheme, the Board may, out of its funds, grant loans and advances to any public sector undertakings or other undertakings for the time being in force in the State.

9. Guarantee By Government Of Loans :-

(1) The Government may guarantee, in such manner as they think fit, the payment of the principal and interest of any loan proposed to be raised by the Board under section 8:

Provided that the total guarantee issued by the Government under this Act shall not exceed a sum of [rupees one thousand crores].

(2) The Government shall, so long as any such guarantee is in force lay before the State Legislature in every year during the budget session, a statement of the guarantee, if any, given during the current financial year and up to date accounts of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said fund towards repayment of any moneys so paid out.

10. Appointment Of Officers And Staff :-

(1)The Government may appoint such number of staff as they consider necessary to assist the Board in the discharge of its functions and duties under this Act on deputation or through the Public Service Commission.

(2) The method of appointment, salary and allowances discipline and other conditions of service of the staff appointed under sub-section (1) shall be such as may be specified in the scheme.

11. Mode Of Recovery Of Money Due To Board :-

All sums payable by any person to the Board or recoverable by it under this Act or the scheme and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as arrears of public revenue due on land under the provisions of the Revenue Recovery Act for the time being in force.

12. Members Of Board Etc. To He Public Servant :-

Every member of the Board, the Fund Manager and staff of the Board appointed under sub-section (1) of section 10 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

13. Protection For Acts Done In Good Faith :-

No suit or other legal proceeding shall lie against any member of the Board or any other person i n respect of anything which is done in good faith or intended to be done in good faith under this Act or under the scheme.

14. Power Of Government To Issue Directions :-

(1) Notwithstanding anything contained in this Act it shall be lawful for the Government to issue directions to the Board in matters relating to State and National Policies and such directions shall be binding on the Board.

(2) The Government may, after consultation with the Board, give to the Board general directions to be followed by the Board.

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

15. Accounts And Audit :-

(1) The Board shall cause to be maintained such books of accounts and other books in relation to its accounts and prepare an annual statement of accounts and balance sheet in such form and in such manner as may be specified in the scheme.

(2) The accounts of the Board shall be audited by such auditor in such manner and at such time as the Government may, by general or special order, direct and the auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information in respect of such matters.

(3) The accounts of the Board as certified by the auditor together with the audit report thereon shall be forwarded annually to the Government who may issue such directions to the Board as they may deem fit and the Board shall comply with such directions.

16. 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 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.

17. 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 require.

18. Dissolution Of The Board :-

(1) If the Government for any reason are of opinion that it is not necessary to continue the Board they may, by notification in the Gazette, dissolve the Board from such date as may be specified therein.

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

dissolving the Board,

(a). the Chairman and all the other Members of the Board shall, as from the date of dissolution, vacate their offices as such;

(b). all the powers and functions which may, by or under the provisions of this Act be exercised and performed by or on behalf of the Board and the Chairman shall, as from the date of dissolution, be exercised and performed by the Government or such authority or person as they may appoint in this behalf.

(c). all funds and other property vested in the Board shall vest in the Government; and

(d). all liabilities legally subsisting and enforceable against the Board shall be enforceable against the Government to the extent of the funds and properties vested in them.

(3) Nothing in this section shall affect the liability of the Government in respect of bonds or debentures guaranteed by the Government.

19. Bar Of 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 scheme required to be settled, decided or dealt with or to be determined by the Government or the Board or any officer authorised by the Government or the Board.

20. Removal Of Difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with this Act or the scheme made thereunder, which appears to them necessary for the purpose of removing the difficulty.

(2) Every order made under sub-section (1) shall be laid before the State Legislature.

21. Modification Of The Scheme :-

(1) The Government may, by notification in the Gazette, add to, amend or vary the scheme 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 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.

22. Repeal And Saving :-

(1) The Kerala Infrastructure Investment Fund Ordinance, 1999 (5 of 1999), is hereby repealed.

(2) Notwithstanding such repeal anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.

SCHEDULE 1

SCHEDULE I

[See Section 3 (6)]

Matter For Which Provisions May Be Made In The Scheme

- (1). Eligibility of undertakings for assistance
- (2). The purposes for which the assistance may be given
- (3). Modes of assistance
- (4) Interest and penal charges
- (5) Security for the assistance
- (6) Appraisal and sanction procedure
- (7) Disbursement procedure
- (8) Guidelines for memorandum of understanding/performance Contract
- (9) Recovery procedure
- (10) Monitoring system
- (11) Investment of surplus funds
- (12) Board meetings, quorum, fees and allowances to members of the Board
- (13) The method of keeping accounts shall be kept, the preparation of the budget, the audit of accounts and the submission of reports to the Government
- (14) The procedure for defraying the expenditure incurred in the administration