

HEADLOAD WORKERS ACT 20 OF 1980

KERALA HEADLOAD ! WORKERS ACT, 1978 (ACT 20 OF 1980) (AMENDED BY ACT 8 OF 27 OF 2008, ACT 3 OF 2009 & ACT 13 OF 2013. An Act to Regulate the Employment of Head load Workers in the State of Kerala and to make provision for their Welfare, for the Settlement of Disputes in Respect of their Employment or Non-Employment and for matters connected therewith. Preamble:- WHEREAS it is expedient to regulate the employment of head load workers in the State of : Kerala and to make provision for their welfare, for the settlement of disputes in' respect of their employment or non-employment and for matters connected therewith; BE it enacted in the Twenty-ninth year of the Republic of India as follows:

CHAPTER I PRELIMINARY 1. Short Title, Extent and) This Act' may be called the Kerata Head Workers Act, 1978. (2) It extends to the whole df the State of Kerala. (3) It shall come irito force on such date as the Government may, by notification in the Gazette, appointment; and different dates may be appointed for different areas and for different provisions of this Act and for different establishment." 2. Definitions:-In this Act, unless the context otherwise requires,- (a) aadoEescent" means a pergon Who has completed his fifteenth year of age but has notiompleted his eighteenth year of age; (b) "adult" means a person who has completed his eighteenth year of age,; (c) Rappeuate authority' in relation to any area, means the appellate authority appointed under S. 4 for that area; 'Board" means a Regulatory and Welfare Board established under S. 14]; 'Committee" means a Regulatory and Welfare Authority appointed under (f) "Conci}iation Officed' in relation to any area, means the Conciliation Officer appointed under S. 3 for that area; UContractor" in relation to an establishment, means a person who undenakes to execute any work for such establishment by engaging head load workers on hire or otherwise, or who supplies head load workersl (for the purpose of, engaging them in such establishment and incudes a sub contractor and a broker. or a clearing and forwarding agent, or commission agent or mercantile agent or consignment agent or owner of a vehicle for a carriage of goods.) (h) "dispute" means any dispute or difference between empfoyers and employers or between employers and head load workers or between head load workers and head load workers, which is connected with the employnqen*t or non employment or the terms of employment or the conditions of employmentsy of any head load workers, Explanation: Where any employer discharges, dismisses, retrenches or otherwise terminates the services of, or denies employment of an individual head load worker, any dispute or difference between that head load worker and his employer connected with, or arising out of, such discharges, dismissal, retrenchment or otherwise termination or denial of employment Shati be deemed to be a dispute Substituted by Act 27 Of 2008 K.G notwithstanding that no other head load worker or any union of head load workers is a party to the dispute, (i) "employer" means, (i) in relation to a head load worker2 (employed or) engaged by or through a contractor, the principal employer' in relation to a head load worker who is not etnploved or engaged by any employer or contractor, the Committee appointed under S. 18 ** [Explanation: For the purpose of this sub clause "head load worked' means a person registered as head load worker under the Scheme, and whose wages are paid by the employer or contractor through the Committee concemed]. (iii) in relation to any other head load worker, the person who has ultimate contro} over the affairs of the establishment in or for which the head load worker is employed and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an agent, manager or by any other name prevailing in such establishment; (j) "establishment" means an establishment specified in the schedule and includes the precincts thereof: 3(k) "famiY' means 4(husband, wife, dependent parents. minor children* including legally adopted children) unmarried or widowed daughters, who are dependent mcnta}ty challenged children who ace dependant and wholly dependent unmarried sisters) (l) "funds" means a fund constituted under a Scheme; (m) "head load worker I means * [a person engaged or employed directly] or by 27 of in K.G.Ext,No.1757 dt 8.8.2008 Substituted by Act 13 of 2013 by DtlS.03.2D13.Pubii%hed in dt 5.3.2013 Substituted Act 27 of 2008 pjbiiished in K.G.No. 1757 dt 8.8.2008 through a contractor in or for an establishment* whether for wages or not, for loading or unloading or carrying on head or person or in a trotly any alticle or a!ticies in or from or to a vehicle or any place in such establishment or stacking articles excluding delicate or sophisticated articles in a vehicle or unloading by sliding using manuel tabour from a mechanically propelled vehicle or a person who does in connection with the work it) ports fthe works likes filling of fedilizers in sacks ,weighng and stiching of sacks, bundling, breaking seeks of

containers, stacking and includes any person not employed by any employer or contractor but engaged in the loading or unloading or carrying on head or person or in a trolley any article or articles for wages, but does not include a person engaged by an individual for domestic purposes. *Explanation: For the purpose of this clause, "a person engaged by an individual for domestic purposes" means any person engaged by an individual for (a) any article for construction of a building for his own residential purpose; (b) any article in connection with marriage or other family function in his residence or in places where marriage or other family functions are conducted; (c) any house-hold articles including furniture in connection with the shifting of a dwelling house of a person; (d) any article or articles for carrying out any agricultural operations in his land (e) any articles exclusively for his personal use and not for any industrial or commercial purposes] (n) "Inspector" means an Inspector appointed under Su 5 (o) "minor" means a person who has not completed his fifteenth year of age; (p) "principal employer" means an employer who engages a head load worker by or through a contractor in any establishment; (q) "prescribed" means prescribed by rules made under this Act; (r) means a scheme made under this Act (s) "wages" means all remunerations whether payable in cash or in kind which would, if the terms of employment, express or implied, were fulfilled, be payable to a head load worker employed in an establishment or for work done in such establishment, but does not include- (i) the value of (A) any house accommodation, supply of light, water or medical attendance; or (B) any other amenity or service excluded by general or special order of the Government; or (ii) any contribution paid by the employer to any pension fund or any scheme of social insurance and the interest which may have accrued thereon; or (iii) any travelling allowance or value of any travelling concession; or (iv) any sum paid to a head load worker to defray special expenses entailed on him by the nature of his employment; or (v) any gratuity payable on discharge; or (vi) any bonus

CHAPTER 11 CONCILIATION OFFICERS, APPELLATE AUTHORITIES AND INSPECTOR 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 Deputy Labour Officer to be a Conciliation Officer for the purpose of performing the functions entrusted to the Conciliation Officer by or under this Act.

4. Appellate Authorities:-The Government may, by notification in the Gazette, appoint for any area specified therein an officer of the Labour Department not below the rank of District Labour officer to be an appellate authority for the purpose of performing the functions of the appellate authority under this Act

5. Inspectors:-(1) The Government may, by notification in the Gazette, appoint- (a) such officers* (b) such persons as possess the prescribed qualifications, as they think fit to be Inspectors for the purposes of this Act and define the local limits within which 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 with such assistants, if any, being persons in the service of the Government or any local or public authority. as he thinks fit, any establishment wherein head load workers are employed or wherefrom work is given out to head load workers, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any scheme or rule made under this Act and require the production thereof either on the spot or in the office of the Inspector, Provided that the Inspector shall not enter any establishment at any time between 7 p.m. and 7 a.m. except when work is being carried on in such establishment: (b) examine any person found in any such establishment if he has reasonable cause to believe that such person is a head load worker employed therein or to whom work is given there from; (c) require any person giving any work to a head load worker or a group of Head load workers to give any information, which is in his power to give, in respect of the name and address of each of the person to whom the work is given and in respect of payments made or to be made for the said work. (d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant in respect of an offence under this Act or any scheme or rule made there under which he has reason to believe has been committed by an employer: and (e) exercise such other powers as may be prescribed. (3) Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or enquiry under this Act

CHAPTER III HOURS AND LIMITATIONS OF EMPLOYMENT AND WAGES 6. Hours Of work:- save as otherwise expressly provided in this Act, no adult Head load worker shall be required to work for more than eight hours in any day and no adolescent or minor head load worker shall be required to work for more than six hours in any day: Provided that nothing contained in this section shall be deemed to

prohibit an agreement between the employer and the head load 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 Eocacity under which the head load worker is required to work for less than eight hours or six hours, as the case may be. 7s Limitation of Employment:- (1) No head load worker shall be required to carry on his head or person at a time any article or articles weighing more than seventy-five kilograms. (2) Notwithstanding anything contained in this Act, no person who is more than sixty years of age shall be entitled to the benefits conferred on a head load worker under this Act, 8. Daily intervals for rest — The period of work on each day shall be so fixed that no period shall exceed three hours of continuous work and no head load worker shall work for more than three hours continuous!y before he had an interval for rest for at least half an hour

9. Wages Payable to Head load workers.- Every employer shall pay to head lÖoad worker employed by him such wages as may be prescribed; and different wages may be prescribed for diläkt•renl establishments and for kinds of work.3(Provided that every head load worker shall give a signed receipt to the employer in token of the amount received towards wages,) IO. Wages for work between 7 P.M. and 7 A.M. Where a head load worker is required by an employer to work at time between 7 p.m. and 7 am. he shall be paid for such work one and a half times the wages payable to him under SQ. Provided that nothing in this section shall apply to head load workers working in bus stands, boat jetties, ianding places of country crafts and such other places as may be specified by the Government in this behalf

11. Enforcement of payment of) If any employer pays less than the wages due to a head load worker or refuses to pay such wages, the head load 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-s.(2) (2) On receipt of an application under)fthe Conciliation Officer shall, after giving the applicant and the employer an opponunity of being heard and after such inquiry, if any, which he may consider necessary, direct:- to section g added by act 27 of 2008. in 8.s.2C08 (a) in the case of a claim arising out of the payment less than the wages, the Payment of wages due to the head load worker of the amount by which the wages payable to him exceeds the amount actually paid by the employer; (b) in the case of a claim arising out of non payment of less than the wages, the payment of wages due to the head load worker. (3) if, es a result of a direction under any amount of the wages becomes payable to a head load worker, the Conciliation Officer shall, if the amount is not paid in accordance with his direction, make a report to the Collector specifying the fulf particulars regarding the amount of the wages due to the head load worker, and on receipt of such report the Collector shall proceed to recover the same from the empfoyer as ifrit were an arrear of public revenue due on 'and. Explanation — In this sub-section and 536, "Collector • means the District Collector or any other officer appointed by the Government to exercise the powers and perform the function of a Collector under the Kerala Revenue Recovery Act. 196b (15 of 1968)

12. Appeal —(1) Against any order passed by a Conciliation Officer under S.1 an appeal shall lie to the appellate authority within a period of thitty days from the date of the order appealed against and the decision of the appellate authority On such appeal shali be final: Provided that the appellate authority may admit an appeal presented after the expiration of the said period of thilty days if it is satisfied that the appellant: had sufficient cause for not presenting the appeal within that period. Provided that the appellate authority may admit an appeal presented after the expiration of the said period of thirty days if it is satisfied that the appellant had sufficient cause. for not presenting the appeal within that period. (2) The appellate authority shall have no power to stay the operation of the order of the Conciliation Officer pending disposal of the appeal, except for good and sufficient reasons to be recorded in writing

CHAPTER IV SCHEMES 13. Scheme — (1) The Government may, by notification in the Gazette, make one or mare scheme or schemes for any empfoyment or group of employments in one or more area or areas spécified in the notification, and by similar notification add to amend or vary any such scheme or substitute another scheme for any such scheme. Provided that no such notification Shal! come into force unless a draft therefore is published in the Gazette and unless it is finalized after considering objections and suggestions received within one month of the publication of such draft in the Gazette, (2) Subject to the provisions of this Act and the rules made there under, a scheme made under sub-s. (1) may provide for all or any of the foliowing matters, namely. (a) for the welfare of head load workers; (b) for health and safety measures for head toad workers: for providing benefits under the Employees State insurance Act,

1948 (Central Act 34 of 1948) to head 'pad workers,) (c) for the constitution of any fund or funds including provident fund for the benefit of head load workers, the vesting of such funds, the payment of contributions to be made to such funds and all matters relating thereto; (d) for regulating the recruitment and entry into the scheme of head load workers, and the registration of head load workers and employers including the maintenance of registers, removal either temporarily or permanently, of names from the registers and the imposition of fee for registration; (e) for regulating the employment of head load workers and the terms and conditions of such employment* including maternity benefit leave v./ith wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect Clause (bb) inserted by Act 13 of 3 by 5/1 eg.C2/201ü/Law 3 thereof; (f) for pooling of head load workers who are not employed under any employer or contractor. (g) for the manner in which, and the persons by whom the cost of operating scheme is to be defrayed • [including any contribution or welfare levy to be paid by employers and head load workers and the rate of such contribution or welfare levy; (h) for appointing persons and authorities who or which are to be responsible for the administration of the scheme and for the administration of funds constituted for the purposes aforesaid; (i) for such incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of the scheme: (j) generally for making better provision as regards the terms and conditions of employment of head load workers. (3) if any question arises whether any scheme applies to any class of head load workers, the matter shall be referred to the Government whose decision thereon shall be final, (4) The Government may, [in consultation with the Board] by notification in the Gazette, add to the schedule any establishment in respect of the head load workers whereof they are of opinion that a scheme should be made under this Act, and thereupon the establishment so added shall be deemed to be an establishment specified in the Schedule for the purposes of this Act, (5) Every notification under sub-s (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, CHAPTER V BOARD 14. The Government may, by notification in the Gazette, establish a Board to be known by such name as may be specified in the notification for the purpose of exercising the powers and performing the functions of the Board under this Act and the schemes. (2) The Board shall be a body corporate with the name specified, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by that name sue and be sued, (3) The Board shall consist of members nominated from time to time by the Government representing the employers, the head load workers and the Government. (4) The members representing the employers, the head load workers and the Government shall be equal in number, (5) The Government shall appoint one of the members of the Board to be its Chairman. (6) After nominations of all the members of the Board and the appointment of the Chairman, the Government shall publish their names in the Gazette. (7) The term of office of the members of the Board shall be such as may be prescribed. (8) The Board shall exercise such powers and perform such functions and shall follow such procedure as may be specified in the scheme or in the rules made under this Act. (9) In the exercise of the powers and the discharge of its functions, the Board shall be bound by such directions as the Government may give to it from time to time. No person shall be nominated as, continue to be a member of the Board who, [except the person appointed as the (a) is a salaried officer of the Board? Chief Executive of the Board] or (b) is, or any time has been adjudged an insolvent; or (c) is found to be a lunatic or becomes of unsound mind; or (d) is or has been convicted by any offence involving moral turpitude; (e) ceases to represent the employers or head load workers, as the case may be. (2) The Government may remove from office any member who:- (a) is or has become subject to any of the disqualifications mentioned in sub-s (b) is absent without leave of the Board for more than three consecutive meetings of the Board. 1 The Government may appoint 16, A ointment of officers in the Board — such number of officers as they think fit for assisting the Board in exercise of its powers and the performance of its under this Act for Rules and the Schemes. (2) The Officers appointed under sub-s (1) shall exercise such powers and discharge such duties as may be prescribed

17. Supersession of Board: 1 If the Government are of (a) that the Board is unable to perform its functions; or Inserted by act 8 of as per dt 2.5.3.1Y94, Published in K G.Ext.No. 265 dt,25.3.1994 (b) that the Board has persistently made default in the performance of its functions or has exceeded or abused its powers. The Government may by notification in the Gazette, supersede the Board for such period as may be specified in the notification: Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the Government shall give a reasonable opportunity to the Board to show cause why it should not be and shall consider the explanation and objections, if any, of the Board. (2) Upon the publication of a notification under sub-s. (1) - (a) all the members of the Board shall, as from the date of such publication, vacate their office as such members; (b) all the powers and functions which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such person or persons as may be specified in the notification: (c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the Government. (3) On the expiration of the period of supersession specified in the notification issued under the Government may: - (a) extend the period of supersession for such further period as it may consider necessary: Provided that the total period of supersession shall not exceed one year or; (b) re-establish the Board in the manner provided in S. 14 CHAPTER VI COMMITTEES 18(1) The Government may by notification in the Gazette appoint a committee for every revenue district in the state and on the recommendation of the board appoint as many Special Committees as they deem fit in any area falling within any industrial township or other special areas of importance in the state to be known by such name as may be specified in the notification for the purpose of exercising the powers and performing the function of the Committee under the Act and the Scheme in relation to that area: Provided that if any Special Committee has been appointed, the committee appointed for the revenue district shall cease to exercise jurisdiction over the area of the special Committee. (2) Every such committee shall be a body corporate with the name specified having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may by that name sue and be sued. (3) The committee shall consist of such number of members, not exceeding fifteen nominated by the Government, of whom two thirds shall be persons representing the employers and the head load workers (4) The members representing the employers and the head load workers shall be equal in number. (5) The Government shall appoint one of the members of the Committee to be its Chairman and another members to be its, District secretary or as the case may be special area secretary (6) After nomination of all the members of the committee and the appointment Chairman and the District secretary or as the case may be special area secretary) the Government shall publish their names in the Gazette and in such other places as the Government may deem necessary. (7) The term of office of the members of the committee shall be such as may be prescribed. Substituted Act 3 of 2009 published in dt 5.1 2009 Substituted by Act of published in k.G.Ext.No.35 dt 5.1.2009 The functions of the committee shall be (a) to pool the head load workers who are not employed under any employer or contractor; (b) to arrange and regulate employment of such head load workers and to pay them wages (c) to take disciplinary action against them wherever necessary (d) to do all such acts as are necessary for the implementation of this Act and 'the Schemes'. (9). In the exercise of the powers and the discharge of its functions the committee shall be bound by such directions as the Board may give to it from time to time. 19.Appointment of Officers for assisting Committee: (1) The Govt may appoint such number of officers as they think fit for assisting the committee in the exercise of its powers and the performance of its functions under the act and the Scheme. (2) The officers appointed under subsection (1) shall exercise such powers and discharge such duties as may be prescribed (19 A) Appointment of Advisory Committee: - (1) The board may constitute as many Advisory Committees as are found necessary for any area in a revenue district, for the purpose of advising the committee on any matter pertaining to that area, (2). Every Advisory committee under sub-Sec(1) shall consist of seven, members nominated by the Board of whom three each shall represent the employers and the head load workers and one shall be an officer of the board. (3) The Officer of the board nominated, under sub-sec(2) shall be its Convener. (4) The term of office of the members of the Advisory Committee and the conduct of business of the Advisory committee shall be such as may be decided by the Board from time to time Added by act 3 of 2009 published in .Ext.No.3S dt 5.1 2009. Z@éypersession of committee: 1 If the Government are of the opinion - (a) that the committee is unable to perform its functions; or (b) that the committee has persistently made default in the discharge of its functions or has exceeded or abused its powers, the

Government may by notification in the Gazette, supersede the committee for such period as may be specified in the notification: Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b) the Government shall give a reasonable opportunity to the committee to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the committee. (2) Upon the publication of a notification under sub-s(1) (a) all the members of the committee shall, as from the date of such publication, vacate their offices as such members; (b) all the powers and functions, which may be exercised or performed by the committee, shall, during the period of supersession, be exercised or performed by such person or persons as may be specified in the notification; (c) all funds and other property vesting in the committee shall, during the period of supersession, vest in the Government. (3) On the expiration of the period of supersession specified in the notification issued under sub-s.(1), the Government may:- (a) extend the period of supersession for such further period as they may consider necessary: Provided that the total period of supersession shall not exceed one year, or (b) appoint another committee in the manner provided in 518 CHAPTER VII DISPUTES 21. Settlement of disputes - (1) Where a dispute which is connected with the employment or non-employment or the terms of employment or with the conditions of work, of any head load worker exists- or is apprehended, the Assistant Labour Officer, having jurisdiction may hold conciliation conferences for the purpose of bringing about a settlement of the dispute if such settlement is not arrived at, send a report of the dispute to the Conciliation Officer. (2) On receipt of a report under sub-5(1), 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 promoting a fair and amicable settlement of the dispute. (3) 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 appellate authority. (4) If a settlement of the dispute or any of the matters in dispute is not arrived at the Conciliation Officer shall take a decision on the dispute or, as the case may be, on the matters in respect of which no settlement has been arrived at and shall send a report of the dispute with a copy of his decision to the appellate authority. (5) The decision of the Conciliation Officer under sub-s(4) shall, subject to the decision of the appellate authority under be binding on all parties to the dispute. (6) Any person aggrieved by any decision of the Conciliation Officer under subs.(4) may, within such time as may be prescribed, appeal to the appellate authority against such decision. (7) On receipt of an appeal under sub-s(6), the appellate authority shall make such inquiries as it deems fit and after giving the parties an opportunity of being heard decide the appeal within a period of two weeks from the date of receipt of the appeal, (8) Notwithstanding anything contained in any law for the time being in force, the appellate authority shall not stay the operation of the decision of the Conciliation Officer pending its decision on the appeal except for good and sufficient reasons to be recorded in writing

22. Reference or decision of disputes by Notwithstanding anything contained in S.21, where any 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 appellate authority constituted for the area in which the dispute exists or is apprehended, for decision, or (b) decide the dispute themselves. (2) Where a dispute is referred to an appellate authority under clause (a) of subs. (1) that authority shall decide the dispute as if the reference by the Government were an appeal under sub-s. (6) of S.21 . (3) The decision of the Government referred to in clause (b) of sub-s. (1) shall be final and shall be given effect to by the parties to the dispute forthwith

23. Representation of parties - (1) A head load worker who is a party to a dispute shall be entitled to be represented, in any proceeding under this Act by:- (a) any member of the executive or other office bearer of a registered trade union of which he is a member. (b) any member of the executive or other office bearer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated: (c) where the head load worker is not a member of any trade union, by any member of the executive or other office bearer of any trade union connected with, or by any other head worker employed in the establishment under which the head load worker is employed and authorized in such manner as may be prescribed (2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by: (a) an officer of an association of employers to which he is a member. (b) an officer of a federation of association of employers to which the association referred to in clause (a) is affiliated; (c) where the employer is not a member of any association of employers, by an officer of any association of

employers connected with or by any other employer engaged in, the establishment similar to the one in which the employer is engaged and authorized in such manner as may be prescribed. (3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act, (4) In any proceeding before the appellate authority, or the Government, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the appellate authority or the Government, as the case may be

CHAPTER VIII (EMPLOYEES COMPENSATION) 24. Application of Employees Compensation Act to head load Workers:-The provisions of the Employees Compensation Act 1923 (Central Act 8 of 1923) and the rule made there under shall mutatis mutandis apply to the head Substituted by Nofn.No.107 dL5.3.2C13.Published in K.GeExkT'd No-649 dt 5 3.2013 load workers employed in any establishment, and, for that purpose, they shall be deemed to be I'(employees) within the meaning of that Act CHAPTER IX REGISTER AND RECORDS 25.Registration of Head load Workers:- (1) Such authority or officer referred to Sub-s(1) of §.25 shall maintain a register of head load workers within its or his jurisdiction. (2)The register shall contain such particulars as may be prescribed. (3) The register shall be maintained by the authority or officer as the case may be, in such manner as may be prescribe(i 26, Maintenance of Registers and Records of Employers:- Every employer or contractor who employ or engage in or for an establishment any head load worker registered under the Scheme, Shall register their name with the Committee concerned by paying such fees and in such manner as may be prescribed

CHAPTER X PENALTIES AND PROCEDURE 27. Penalty for VVhoever obstructs any Inspector or Assistant Labour Officer or Conciliation Officer or Appellate Authority in the discharge of his or Proviso added by act 13 of 2013 by Notfn.No.30715/E.eg.C2/20_10/.aw dt 5.3.2013.Published in K.G.Extra No,649 its duties under this Act or refuses or wilfully neglects to afford any Inspector reasonable facilities for making any inspection, examination or inquiry authorized by under this Actj shan be punishable with imprisonment for a term which may extend to six month* or with fine which may extend to one thousand rupees; or with both. (2) Whoever wilifuNy refuses to produce on the demand of an Inspector or a Conciliation Officer or an appellate authority 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 or a conciliation Officer or an appellate authority acting in pursuance of his or its 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 statement, etc.:- VVhoever for the purpose of avoiding any payment to be made by him under this Act or under a 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. Other penalties:-Whoever contravenes or makes default in complying with any of the provisions of this Act or a Scheme or of any rule made under this Act shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance, 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 any day during which such contravention continues after conviction for the first such contravention.

30. 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 may extend to one year or with fine which may extend to two thousand rupees or with both, 31. 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-s. (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

32. 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 authorized by the Government in that behalf, and no court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act, 33. 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 authorized under 832

CHAPTER MISCELLANEOUS 34. 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 35. 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 under 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; (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 Ss 193 and 228 and for the purposes of S. 196 of the Indian Penal Code (Central Act 45 of 1860) 36. Recovery of money due from) Where any money is due to a Head load worker under a settlement or decision referred to in sub-s. (3) or or sub-s.(7) of S. 21 or S. 22, the head load worker himself or any other person authorized by him in that behalf or, in the case of death of the head load assignees or heirs, may, without prejudice to any other mode of recovery, make an application to the appellate authority for the recovery of the money due to him and if the appellate authority is satisfied that any money is so due, it shall issue a certificate to the Collector for the recovery of amount and thereupon the Collector shall recover the amount 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 head load worker. (2) Any amount due from an employer as contribution to any fund and any other amount due from an employer under this Act or a Scheme or rule made under this Act may if the amount is in arrears, [the Chief Executive Officer or the Administrator of a committee may, without prejudice to any other mode of recovery, make an application to the Government or an officer authorized by the Government in this behalf for the recovery of the money due, and if the Government or the officer so authorized is satisfied that any money is so due, it or he shall, issue a certificate in the prescribed manner to the Chief Judicial Magistrate having jurisdiction and the Chief Judicial Magistrate shall proceed to realize the money as if it were a fine imposed by such Magistrate.] 37. Power to recover damages — Where an employer 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 38. Recovery of money due from Headload Workers:-Where any money is due to an employer by a head load worker under a settlement or decision referred to in sub-s. (3) or sub-s.(4) or sub-s. (7) of S. 21 or S. 22 the employer himself or any other person authorized by him in that behalf or, in the case of death of the employer, his assignees or heirs, may, without prejudice to any other mode of recovery, make an application to the appellate authority for the recovery, of the money due to him and if the appellate authority is satisfied that any money is so due, it shall order the payment of such money in such number of easy instalments as may be determined by it

39. Effect of laws and agreements inconsistent with this Act and Schemes:- (1) The provisions of this Act and the Schemes 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.(2) No authority other than the Government, other Board or a

committee shall be entitled to make any Scheme or do any other act conferring, or purporting to confer, any benefits on headload workers

40. Members of Board, etc. to be public servants:- Every member of the Board or of a committee and every officer appointed under this Act shall be deemed to be a public servant within the meaning of S. 21 of the Indian Penal Code (Central Act 45 of 1860) 41. Power to remove difficulties:- If any difficulty arises in giving effect to the provisions of this Act or a scheme or any settlement under this Act, the Government may, by order to anything not inconsistent with such provisions which appears to them necessary or expedient for the purpose of removing the difficulty

42. Protection of action taken in good faith:- No suit, prosecution or other legal proceedings 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 any Scheme, Rule or Order made under this Act. 43. Power to make Rules:- (1) The Government may, by notification in the Gazette, make rules prospectively or retrospectively 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 obligations of headload workers and employers; (b) regulating the employment of headload workers whether registered or not and the terms, and conditions of such employment which are not specifically provided in this Act; (c) regulating, restricting or otherwise controlling the employment by any employer of headload workers not registered in his establishment; (d) any other matter which has to be, or may be, prescribed. (3) Every rule made under this Act shall be laid as soon as may be after it is made before the legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however that any such modification or annulments shall be without prejudice to the validity of anything previously done under that rule. 015 5'2020/OS-Labour 316 ACT 8 OF 1994 THE KERALA HEADLOAD WORKERS' (AMENDMENT) ACT, 1994 The Kerala Headload Workers' Act, 1978. it is expedient to amend the Kerala Headload Workers' Act, 1978, for the purposes hereinafter appearing; BE it enacted in the Forty-fifth Year of the Republic of India (P: This Act may be called Short title any! come into force at once. (2) In section 15 of the Kerala Headload Workers' Act, 1978, in sub-section (1), the words "except the Chief Executive of the board or" shall be substituted. Amendment of section 18 of the principal Act after sub-section the following sub-section shall be inserted, namely— (Y) In the exercise of the powers and discharge of its functions the Committee shall be bound by such directions as the Board may give from time to time" Free supplement to Law of Headload Workers in Kerala 2008 Edition Published by Law Books Centre (This supplement contains amendments issued upto 2013) *THE KERALA HEADLOAD WORKERS (AMENDMENT) ACT, 2008 (Act 22 of 2008) An Act further to amend the Kerala Headload Act, 1978 and to repeal the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002, Preamble.— WHEREAS, It is expedient to amend the Kerala Headload Workers Act, 1978 and to repeal the Kerala Loading and Unloading (Regulation of Wages and Restriction of Practices) Act, 2002 for the purposes hereinafter appearing; BE it enacted in the Fifty-ninth Year of the Republic of India as follows:— 4. Short title and commencement.— (1) This Act shall come into force at once. 2. Amendment of Section 20 of the Kerala Headload Workers Act, 1978 (20 of 1980) (hereinafter referred to as the principal Act),— (a) groups for the purpose of engaging them in such establishment and includes a broker, a clearing and forwarding agent, commission agent, mercantile agent, consignment agent or the owner of a vehicle laden with goods" shall be substituted: (b) In clause (1) in sub-clause (i), after the words "headload worker, the words "employed" shall be inserted; (2) in sub-clause (i), after the words "not employed", the words "or engaged" shall be inserted: (3) in sub-clause (i), "Explanation" shall be inserted, namely.— "Explanation.— For the purpose of this sub-clause, a 'headload worker' means a person registered under the Scheme and paid wages either through employer or contractor. (c) for clause (c) shall be substituted, namely — "headload worker means a person employed or engaged directly through a

contractor in or for an establishment, Whether forwages Of not, for loading or unloading carrytng on head or person or in a trots' any a,'tk2e or articles in or from or to a vehicle qr any place in such establishment or stacking articles, Published oaW2008 n K G No.'757 ogtoa.t2(Kje assent o' the Governor FREE. SUPPLEMENT TO WORKERSACT & RULES excluding deticate or sophisticated in a or unloading by slk%ng using matguai (aboar from a vehicle at a petaan who does in connection with .the in ports, works Sike of (crtiizet\$ ian sacks, weqhtng and stitching of sacks, bundiing, breaking sea!s stacking and includes any person not employed by any employee but engaged ia the loading urticading c.ettying on head person - ot in a any atticte ertic\$es wages in orfrom or to vehic}et ot apy piace in such estabiShment Ot arjcks enlu\$tnng daicate sophsticated attkâes in a vehicle ot unloading by siding using mar,uaE labour from a mechan;caily propelled vehic!e but does aot include a petson engaged by an individil8i for domestic purposes. Explanation 1.— Fce the purpose cfth:s clauset person engaged by an irdividual for domestic purposes• means any person engaged by an inc&idual (i) shifting includngtransposâionoffurnâuq personal effectsand huse•hoid attdes for domestic use; 07 (ii) working in connection with the house 0fa person including work in connectioo with febgious sociat or public fundions; or (iii) cutting, removing and transpottatüno{trees and wood for petsonaluse;or W) con5YuctIng or repairing and maintenance house including the shifting and tansponation of construction or machinery for personat use and not for the purpose trade, or (v) dismantling. demolishing and shifting bui\$ding matena!s or equipnents that trgnspnafion w*ic.h is not forindustriac or commercial put-pose; or (v) shifting and transportation ofanima!\$for or (vii) shfihgandtrgasportauionofmaterial's aghcultuæ(machinery. rawmâteriats, agriculturat produces. O!her tnâte5ia}s related to agricultura! operations in such personas land,' or doing such other work or activity or process which the Gcvetnment may, by notifiatoin in the Gazette. to be a domestic purpose. ExplanaEon Fot the purpose this , 'defieate Of afliées" mean aficles which requite to be handled by Ya!ned o: skiiied persons;', 3, Ainendment of Section in Section 9 of the principa;Aâ me shall be added. namety:— 'P{ovided that every headload shag give signed rece#t to tha employer in token Of the amount received towards wages. , 4. Repeat and Kera;a Loadæ and Ufi!loadinö (Regulation ofWages and Restriction of Unlavduj Practices) Actt 2002 (IO of 2002) is hefeby tepea ked. (2) Notvdhstandingsuch repëaf. the provisions ofSedioa 4 Interpretation and General ClausesAct, 1125 (Act VI! of 1125) shall upon the repeei Of the Load:gg and Unloading (Regulation of Weges and Restriction of t.hlawfu' Pracocceg) Ad

2002. FREE SUPPLEMENT TO KERALA HEADLOAD WCRKERSACT RULES *THE KERALA HEADLOAD WORKERS {SECOND AMENDMENT) ACT, 2008 (Ad 3 of 2009) An Act further to amend the Kerala Headfoad WonemAct, 197B.13) Preamb}e.— WHEREAS, is expeqfien{ further to amend lthe Keta!a Headload Ad, 1978, for the pulposes hereinafter appearing; 'BE it enacted in the Fify.nhth Year of the Republic ot India as I. ThisAdmaYbecaUedtheKetaiaHeadbad • Workers (Second Amendment) Ad, 2008. (2) It shahbedeemedtohave come into force onthe 18thdayofAptil.20S

2. Amendment of Section 18.— Section 18 offhe Kerala HeadjoadWorkersAct, 1978 (20 of 1980) (hereinafter referred to as the ptinc\$pa'Act),— (t) for the followingsubsection shall be substituted, nn-tety:— The Government may. bynotificatlon in the appoint a Committee for every revenue district in the Sate and on the recommendation Of the Board, appoint, as many \$ecial Committees as they deem fit in any area faring wdhin any industtiattcwnship or other special areas cf in Sate, to be knwn bj such name as may be specified in (he notmcatbn for the purpose of exercfsing the powers acid performing the function Of the Committee under (he Aet and the Scheme in relation to that area: PTÆed that if any Special Committee, has been appointed, Cmmittee appointed for the revenue district shall cease to exercise over the area of the Special Committee.' (2) in sub-sections (5) and fortheword Convener", thewordS *Oistrict\$ecrétaryor as the case may be SpeccaiArea Secætätý' shaii be substituted, 3, Insertion ot new Section 19A.—ARetSeâton 19 offbe the folbwng secâion shall be inse<ed, namey.— • 19A Appointment of Advisory Committee,— (I) The Board may constitute as many Advisory Cotnmitlees as ace found necessary for any area in a revenue district, for the purpose of a&.tising the committee on any matter pertaining to that area: (2) Every Advisory Committee (i) shall consist of sevenmembet\$ nominated by the Board otwhom three each shag represent the employers gnd the headload workers and one Shatt be an officer of the Board. (3) TheofficeroffheBcard nominated (2) shalbeitsConvener. (4) The tem of office of the members of!heAdYisary Committee and the conduct of business of the Advisory Committee Shai! sudl as may the Board from time to 4. Special provision for d}ssofvlng the existing Committee.—

Notwithstanding anything to the contrary contained in the principal Act or in any Ordinance framed thereunder, soon after the date commencement of the Kerala Workers (Second Amendment) Act, 2003: the Government may reconstitute the Committee in accordance with Section 1B of the principal Act as amended by this Act and upon reconstitution of the existing Committees published under 05/01/2009 in Mo, 35 dt 0501h2009 (w eg. the assent of Govt on 0301'2009. FREE SUPPLEMENT HEADLOAD WORKERS ACT 8 RELATES prior of commencement of this Act shall be deemed to be dissolved and all the powers and functions hitherto exercised or performed by the existing Committees in a revenue district shall be deemed to be transferred to the respective Committees reconstituted in the revenue district in accordance with the provisions of this Act 5 The Kerala (Amendment) 200B (26 of 2006) 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 principal Act as amended by the said Ordinance shall be deemed to have been done taken under the principal Act as amended by this Act. •THE KERALA HEADLOAD WORKERS' (AMENDMENT) ACT, 2013 An Act further to amend the Kerala Headload Workers' Act. Preamble— to amend the Kerala Headload Workers' 1978 (20 of 1980) for the purposes hereinafter appearing; BE it enacted in the Sixty-fourth Year of the Republic of India as follows:— Short title and commencement. • Workers' (Amendment) Act 2013. (2) Sections 3 and 4 of this Act shall be deemed to have come into force on the 1st day of 2009 and the remaining sections shall be deemed to have come into force on the 1st day of June 2010 2. Amendment of Section 3 of the Kerala 1978 (20 of 1980) (hereinafter referred to as the principal Act), in Section 3, clause (k), the following shall be substituted, namely:— (k) husband (ii) minor children, including biological adopted children; mentally handicapped children; dependent parents, or widowed daughters who are dependent; physically handicapped children are dependent; and (v) wholly dependent unmarried sisters. • 3. Amendment of Section 13.— In Section 33 of the principal Act, after clause (b) of sub-section (2), the following shall be inserted, namely:— (bb) providing benefits under the Employees' State Insurance Act, 1948 (Central Act 34 of 1948) to headload workers 4. Amendment of Section 24 of the principal Act. Published on 03/01/2013 K G. Ext, FREE SUPPLEMENT TO KERALA HEADLOAD WORKERS ACT RULES (a) for the words "Employees' Compensation" marginal heading and in the opening sentence, the words "Employees Compensation" shall be substituted; (b) for the word "employees" shall be substituted; (c) to the provisor. the following shall be added, namely:— • Provided that the Employees' 4923 (Central Act of 1923) shall apply to the headload workers included in the Employees' State Act (Central Act 34 of 1948) • Amendment of Section 37.— In Section 37 of the principal Act, for the word "Board" shall be substituted

6. Repeal and (1) The Kerala Headload (Amendment) Ordinance, (2) Notwithstanding such repeal, done or deemed to have been or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by the said Ordinance 20) 2002 '4-00 axnr\$ em 34a6 (i) 2017-00' (mfl) (g) (mf) (b) (1) OtdGm ram' FREE SUPPLEMENT TO KERALA HEADLOAD WORKERS ACT & RULES mnqoo. mscagwrnc\$. •THE KERALA HEADLOAD WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) AMENDMENT SCHEME, 2011 S. R. O: No. 939/2011 to exercise powers conferred by sub-section (f) of Section 13 of the Kerala Headload Workers' Act, 1978 (20 of 1980). the Government Of Kerala, after B.M;sted the draft proposal for the draft and 91 Questions as per rwtMTbn 26th November, 2010. published in the Kerala Gazette Extraordinary No. 2758 dated 2nd 2010 and having received no objections or suggestions thereon. the provisions of the Kerala Headload Workers (Regulation of Employment and Welfare) "933, issued under Notification NO. 4795/E2J81/LBR dated 30th November, 1983 and published as S. R. O. No. 1682/83 in the Kerala Gazette Extraordinary No. 1435 dated 30th November. to the entire area of Palakkad and Kannur Districts including the areas where the provisions of Scheme was already extended by earlier notifications and make the consequential amendment to this said Scheme. namely:— SCHEME I. Short title and commencement.— (1) This Scheme may be called the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 2011. (2) It shall come into force at once. 2 Amendment of the Scheme. in the Kerala Headload Workers (Regulation of Welfare) Scheme, 1983. in following shall be added at the end, namely:— • Entire area of Palakkad and Kannur Districts the areas where the Scheme already THE KERALA HEADLOAD WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) SCHEME, 1983 - NOTIFICATION S. R. d. No: 440/2011 In exercise of powers conferred by paragraph 3 of the Kerala Headload Workers (Regulation of Employment and Welfare)

SctEme, f 983, the Government of Kerata hereby fix the date of publicatm cf the nottfication as the date•on
*ich the sad %eme Shati come hto In the entire area of Pataâad Kannut DSttiäs excluding the atear Miere
the provfsions of the Schomb was e,qended by earlier nottfications. • hK.G E", No. 1388 dL

