

KERALA FISHERMEN'S WELFARE FUND ACT 1985

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29. Short title, extent and commencement. Definitions. Fishermen's Welfare mmd Scheme. Contribution to the Fund. Amount to be accounted to the credit of each member. Modifications of Scheme. Constitution of Board. Power of the Board to borrow. Term of omce of non-official members. Removal of non-official members. Appointment of staff. Determination of contribution. Provisional assessment and collection of contribution. Exemption. advanceø Power to obtain copies of records etc., maintained by a Fishermen's Welfare Society. Mode of recovery of money due under the Act. Protection against attachment. Priority of payment of contributions over other debt. Penalty. Offences by Companies. Power to recover damages. Protection of acts done. in good faith. Direction by Government. Power to order inquiry. Power to supersede the Board. Audit of of the Board. Annual report. Power to make rules. Laying of rules and notifications before the Legislative Assembly. Schedule 195 KERALA FISHERMEN'S WELFARE FUND ACT, 19854 (Act 30 of 1985) An Act to proude for the constitution of welfare fund jor prmoteng the welfare of fishermen ün the State of Kerala and for matters inccidental thereto. Preamble.—WHEREAS it is expedient to provide for the constitution of a welfare fund for promotion of the welfare of fishermen in the State of Kerala and for cecum other matters incidental thereto. BE it enacted in the Thirty-sixth Year of the Republic of India as follows 1. Short titte, extent and commencement.—(1) This Act may be called the Kerala Fishermen's Welfare Fund Act, 1985. (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

2. Definitions.—In this Act, unless the context otherwise requires,— (a) "Board" means the Kerala Fishermen's Welfare Fund Board constituted under section 7; (b) "contribution" means the sum of money payable to the fund under section 4; (c) "Director of Fisheries" means the DII ector (If Fisheriee for the State of Kerala; (d) "dealer" means any person who carries an within the State of Kerala the business of buying and selling fish or processing fish for export or domestic marketing and includes,— (i) a comm.ission agent, a broker, or any other mercantile agent by whatever name called; and (Ili) a non-resident dealer or an agent of a non-resident dealer or a local branch of a firm or company or association situated outside the State of Kerala; (e) "fish" includes prawn; • Received the assent of the President on the 10th day of December, 1985 and published m the Kerala Gazette, Extraordinary No 1060 dated the 13th December, 1985 196 (f) "Fisheries Officer" means the Fisheries Officer appointa under clause (d) of section 2 of the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981) ; (g) "fisherman" means a fisherman as defined in clause (e) of section 2 of the Kerala Fishermen Welfare Societies Acts 1980 (7 of 1981) ; (h) "fishing vessel" means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in fishing for profit a.nd includes,— (i) a catamaran; and (ii) a country craft, Imown by the name "vanchi" oz "vallom" or by any other local variations thereof , (i) "fund" means the Kerala Fishermen's Welfare Fund established under section 3 and the scheme; (j) "member" means a member of the fund; (k) ' 'scheme" means the Kerala Fishermen's Welfare Fund Scheme framed under this Act; (l) "schedule" means the schedule to this Act

3. Fishermen's Welfare Fund Scheme.—(1) The Government may, by notification in the Gazette, fraxne a scheme to be called the Kerala Fishermen's Welfare Fund Scheme for the establishment of a fund under this Act by name "the Kerala Fishermen's Welfare Fund" for the welfare of fishermen and there shall be established, as soon as may be after the framing of the scheme, the fund in accordance with the provision of this Act and scheme. (2) There shall be credited to the fund,— (a) the contributions specified in section 4; (b) fee levied under the scheme; (c) damages realised under section 21 , (d) grants or loans or advances made by the Government of India or the State Government, (e) any voluntary donations: (f) any penalty levied under the provisions of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) : (g) any amount raised by the Board from other sourceo to augment the resources of the Board. (3) The fund shall vest in and be admiDigfered by the Board. (4) The fund may be utilised ali or any of the following purposes, namely • (a) to provide for distress relief to fishermen in times of natural calamities ; 197 (b) for payment of financial assistance to fishermen who suffer permanent or temporary disablement; (c) for payment of loans or grants to fishermen to meet the expenses for the marriage of children, or expenses in

connection with disease or death of dependants, or any unexpected expenditure or the day to day expenditure during lean months ; (d) to provide for the fishermen and the members of their families,— (i) education, vocational training and part-time employment ; (ii) social education centres including reading rooms and libraries ; (iii) sports, games and medical facilities; (iv) nutritious food for children, and (v) employment opportunities to the handicapped; (e) for payment of financial assistance to fishermen who suffer loss of houses or fishing Implements or any other damage due to natural calamities or other unexpected causes; (f) to provide old age assistance to fishermen; (g) for the implementation of any other purpose specified in the scheme. (5) Every fisherman who is a member of a Fishermen's Welfare Society constituted under section 4 of the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981), shall be a member of the fund. (6) 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. 4 Contribution to the Fund.—(1) A fisherman shall contribute to the fund three per cent of the value of fish caught by him during a year or three per cent of the wages earned by him in a year: Provided that the contribution by a fisherman for a period of three years from the commencement of the Act shall be at the rate of Rs. 30 per year. (2) A dealer shall contribute every year to the fund one per cent of his sale proceeds in the year: 198 Provided that the Board shall fix, upon such principles as may be specified in the scheme, the amount which a dealer shall contribute every year to the fund, for a period of three years from the commencement of this Act: Provided further that the amount fixed under the preceding proviso shall not exceed one per cent of the sale proceeds of the dealer. (3) The owner of a fishing vessel shall contribute to the fund every year an amount calculated at the following rates, namely:— (a) traditional craft,— (i) catamaran (non-motorised) catamaran (motorised) (ii) country craft upto 9 metre size (non-motorised) country craft upto 9 metre size (motorised) (iii) country craft above 9 metre size (non-motorised) country craft above 9 metre size (motorised) (b) Mechanised boat,— — Re. 1 per month per catamaran for nine months; — Rs. 2 per month per catamaran for nine months; — Rs. 3 per month per country craft for nine months; — Rs. 5 per month per country craft for nine months; — Rs. 5 per month per country craft for nine months; Rs. 7 per month per country craft for nine months; (i) (ii) an (iv) (4) one rupee below 15 GRT — Rs. for of 15 GRT and above — Rs. for but below 25 GRT Of 25 GRT and above — Rs. upto 35 GRT for above 35 GRT — Rs. for 100 per month per boat nine months; 200 per month per boat nine months; 400 per month per boat nine months; 1000 per month per boat nine months: The owner of a fishing net shall contribute to the fund per net per month for nine months every year. 199 Explanation.—For the purposes of this sub-section, "fishing net" means a china net or a stakenet or a free net used for catching fish. (5) The owner of a prawn filtration area or a fish farm shall contribute every year to the fund two per cent of the value of the prawn and other fish caught from the prawn filtration area or the fish farm during the year: Provided that the Board shall fix upon such principles as may be specified in the scheme, the amount which the owner of a prawn filtration area shall contribute every year to the fund for a period of three years from the commencement of the Act: Provided further that the amount fixed under the preceding proviso shall not exceed two per cent of the value of the prawn and other fish caught during a year: Provided also that no contribution shall be payable by the owner of a fish farm for the first three years from the formation of the fish farm. Explanation.—For the purposes of this sub-section, "prawn filtration area" means any water-logged area where prawn filtration is carried on during the whole or any part of the year, but does not include any area where paddy is cultivated at any time during a year. (6) A person who employs a fisherman in a fishing vessel shall be liable to pay under sub-section (7) the contribution payable by that fisherman under sub-section (1) after deducting that amount from the wages or other remuneration due to such fisherman. (7) The contributions shall be paid to the Fisheries Officer or to any officer of the Board authorised by the Board in this behalf. (8) The amount of contribution shall be rounded off to the nearest rupee and, where such amount contains part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

5. Amount to be accounted to the credit of each member.— Each member shall be entitled to such amount in the fund as may be fixed in accordance with the formula specified in the scheme and entered in the accounts of the fund to his credit. 6 Modifications of Scheme.—The Government may, by notification in the Gazette, add to, amend or vary the scheme. 200 7. Constitution of The Government may, by notification in the Gazette, constitute with effect from such date as may be specified therein, a Board to be named the Kerala Fishermen's Welfare Fund Board for the administration of the fund and to supervise and

to carry out the activities financed from 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 the following members, namely,— (a) Secretary to Government in charge of fisheries; (b) the Director of Fisheries; (c) the Chairman and Managing Director of the Kerala State Co-operative Federation for Fisheries Development; (d) the Law Secretary or an officer of Law Department nominated by him; (e) a member of the Finance Department to be nominated by the Government; and (f) three representatives of the fishermen to be nominated by the Government. (4) The Government shall nominate one of the members of the Board as its Chairman. (5) The Board shall administer the fund in such manner as may be specified in the scheme. (6) The Board may, with the previous approval of the Government, delegate to the Director of Fisheries or to the Managing Director of the Kerala State Co-operative Federation for Fisheries Development or to any officer of the Government or of the Board, such of its powers and functions under this Act or 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.

8. Power of the Board to borrow—The Board may, from time to time, with the previous approval of the Government and subject to such terms and conditions as may be specified by the Government, borrow money for the purposes of the scheme. 9. Term of office of non-officials—A member nominated under clause (f) of sub-section (3) of section 7 shall hold office for a term of five years from the date of his nomination, and shall be eligible for renomination. *Any nominated member 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.

10. Removal of non-official members.— (1) The Government may, by notification in the Gazette, remove any non-official member of the Board from office,— (a) if he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three consecutive months or if within the said period less than three meetings have been held, he has absent himself from three consecutive meetings; or (b) if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a member or has so neglected his position as to render his continuance as such member detrimental to the public interest: Provided that before removing a member under this sub-section, he shall be given an opportunity to show cause why he should not be removed. (2) A non-official member of the Board removed under clause (a) of sub-section (1) shall be disqualified for nomination as a member of the Board for a period of three years from the date of his removal. (3) A non-official member of the Board removed under clause (b) of sub-section (1) shall not be eligible for re-nomination until he is by an order of the Government to be no longer ineligible. 11. Appointment of staff—The Board may, with the previous approval of the Government, appoint such staff as it may consider necessary. (2) Subject to the provisions of sub-section (3), the method of recruitment, salary and allowances and other conditions of service of the staff appointed by the Board shall be such as may be specified by the Board with the previous approval of the Government. (3) In the case of posts in the service under the Board to which appointment is made by direct recruitment,— (a) fifteen per cent shall be reserved for appointment from candidates belonging to families of fishermen; (b) ten per cent shall be reserved for appointment from candidates belonging to scheduled castes and scheduled tribes; and (c) twenty-five per cent shall be reserved for appointment from candidates belonging to other backward classes. Explanation.—For the purposes of this sub-section, the "scheduled tribes" and "other expressions, "scheduled castes", backward classes" shall have the meanings respectively assigned to them in the Kerala State and Subordinate Services Rules, 1958.

12. Determination of The Fisheries Officer or any officer of the Board not below the rank of a Sub Inspector of Fisheries authorised by the Board in this behalf may, after making such inquiry as may be necessary and after giving every person liable to pay contribution under section 4 an opportunity to be heard, by order, determine the amount due from such person under that section. (2) The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:— (a) enforcing the attendance of any person or examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavit; (d) issuing commissions for the examination of witnesses. (3) Any inquiry under this section

shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, 1860 (Central Act 45 of 1860). (4) Any person aggrieved by an order under sub-section (1) may prefer an appeal to the Director of Fisheries within sixty days from the date of receipt of the order and the Director of Fisheries may, after making such inquiry, pass such orders thereon as he thinks fit. (5) The Government may, either suo-motu or on application of the aggrieved person, call for the record of any proceeding taken by the Director of Fisheries under sub-section (4) and make such enquiry and pass such orders, as they deem fit: Provided that an application for revision under this sub-section shall be made within thirty days from the date on which the order was communicated to the applicant: Provided further that no order shall be passed under this sub-section without giving the person who may be affected thereby, an opportunity to be heard

13. Proportional assessment and collection of advance contribution.— (1) Every person liable to pay contribution under section 4 shall, pending determination under section 12 of the amount due from him, pay every month by way of advance contribution an amount equivalent to one-twelfth of the amount annually by him according to the latest determination under the said section : Provided that the provisions of this sub-section shall not apply to the payment of contribution by a fisherman or a dealer or the owner of a prawn cultivation area or a fish farm for the period of three years from the commencement of this Act under the proviso to sub-section (1) or sub-section (2) or sub-section (5) of section 4, as the case may be. (2) The advance contribution for a month shall become payable on or before the 5th day of the succeeding month. (3) Where the advance contribution is not paid on or before the due date, the Fisheries Officer or any officer of the Board authorised by it in this behalf, shall issue a notice to the defaulter showing the amount of arrears, and if the amount is not paid within fifteen days of the receipt of such notice, it may be recovered in the same manner as arrears of Public revenue due on land under the Revenue Recovery Act for the time being in force. (4) The amount paid under this section for an year shall be adjusted against the amount determined under section 12 for that year

14. Exemption.—Government may, by notification in the Gazette, exempt any dealer, whose annual turnover from fish does not exceed ₹ 24,000 per annum, from all or any of the provisions of this Act; subject to such condition as may be in the notification

15. Power to obtain copies of records etc., maintained by a Fishermen's Welfare Board. Any officer of the Board, not below the rank of an Officer authorised by it in that behalf shall have power to peruse the books or registers or other records maintained by a Fishermen's Welfare Society constituted under the Kerala Fishermen Welfare (7 of 1981) or to requisition the custody of any account book or register or other record or of any entry therein as may be specified in such requisition. (2) The Fisheries Officer shall provide all facilities for the perusal of any book or register or other records by an officer under sub-section (1) and shall comply with any requisition made under that sub-section

16. Mode of recovery of money due under this Act.—Any amount due from any person under the provisions of this Act or the scheme may be recovered in the same manner as an arrear of public revenue due on land under the Revenue Recovery Act for the time being in force

17. Protection against the attachment of any member's interest 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 of any debt or liability incurred by the member and no receiver appointed under the Insolvency Act, 1955 (2 of 1956), shall be entitled to, or have any claim on, any such amount. Any amount standing to the credit of a member in the fund (at the time of his death and payable to his nominee under the scheme shall, subject to any deduction authorised by the vest in the nominee and shall be free from any debt or liability incurred by the deceased or the nominee before the death of the member

18. Priority of payment of contributions over other debt.— Where any person liable to contribution under section 4 is adjudicated insolvent or, in case such person is a partner in a company, an order for winding up is made, the amount due from such person under the scheme shall, where the liability therefor has accrued before the order of or winding up is made, be deemed to be included among the debts which under section 64 of the Insolvency Act, 1955 (2 of 1956) or under section 530 of the Companies Act, 1956 (Act 64 of 1956) are to be paid in priority to all other debts in the distribution of the property of the company being wound up, as the case may be. 19. for the

purpose of avoiding any payment to him. If a person makes or- ta.be..nadA false representa- tiön shall - be• puniéhabable with imprisonment for a term which. may extend to three months or with fine which may extend to one (2): Whæyer contravene& nukes• default in compljäng,with any orthe provision* of thiå.Äc.t.:on of. the scheme shall, if. no»other penalty is elsewhere. providöd by or •under this Act for such (Snt&mærrtioT nor•cmplfmæ,• be- mmishable with imprisonment for term whiey may extend to' three months or with fie which mayeextErrd)to• witli both. (S) Nö court shall take cognisance of any offence under this Act except on a report in writing of the facts constituting sanction of the Board, by the Dhector• of the Kérala • Dbvelopment' or by- such officer of the Boaoorl)bpgmment.' ctfFisheries not below• the•rank of Fisheriß,as may. be specrfied• in this behalf by.. the BÖard.

20. If the person committing' an offence under this. Aot.isa, cormnny, every: officer of, the company who iE. in. défaut' as væll as the mmpany,- shah be deemed! tor guilty of tye ana shalFbe liableto,be proæeded pgainst and punished accordingly: that' iMI proeæ&ing• against' an of the cummty int ræogct offéncem tmd&rp this A'ct ita apnears to the court hearing Che case that the ofÆnee• is• not attributable to the neNiFnce,, default•, of duby',•. or breach of' trust by thg ofceÄ. bab tätafi hay ac&d honestly and reasonably and that. having the of • tfie ca.*. including, those connected. with. a-ppphltment, he ought faifrly. ta be. excused; the- court. may rdieve him either whollyr or nart19,. frcmj liability on such, terms- ag: it may think fit. (2) Notwithstanding anything contained int sub section where an offence under. this Aot been. committed. by a company andi it" is•nmved that- the offéncé- has. been committed, withi the conent* of, or is attributable to any ',vilful negligence,

