

Twelfth Kerala Legislative Assembly

Bill No. 192

**THE KERALA HEADLOAD WORKERS (SECOND AMENDMENT)
BILL, 2008**

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further to amend the Kerala Headload Workers Act, 1978.

Preamble.— WHEREAS, it is expedient further to amend the Headload Workers Act, 1978 for the purposes hereinafter appearing;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Kerala Headload Workers (Second Amendment) Act, 2008.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Kerala Headload Workers Act, 1978 (20 of 1980) (hereinafter referred to as the principal Act),—

(a) in clause (g) for the words “or in groups for the purpose of engaging them in such establishment and includes a sub-contractor and a broker”, the words “for the purpose of engaging them in such establishment and includes a sub-contractor, a broker, a clearing and forwarding agent or the owner of a vehicle laden with goods” shall be substituted:

(b) in clause (i),—

(1) in sub-clause (i), after the words “headload worker”, the words “employed or” shall be inserted;

(2) in sub-clause (ii), after the words “not employed”, the words “or engaged” shall be inserted;

(3) after sub-clause (ii), the following “Explanation” shall be inserted, namely:—

“*Explanation.*— For the purpose of this sub-clause, a ‘headload worker means a person who is registered under the Scheme and paid wages by the Committee either through employer or contractor.’”

(c) for clause (m), the following clause shall be substituted, namely:—

“(m) “headload worker” means a person employed or engaged directly or 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 trolley any article or articles in or from or to a vehicle or any place in such establishment or stacking articles in a vehicle or unloading by sliding from a mechanically propelled vehicle 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 in or from or to a vehicle, or any place in such establishment or stacking articles in a vehicle or unloading by sliding from a mechanically propelled vehicle 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,—

(i) shifting including transportation of furniture, personal effects and other household articles for domestic use; or

(ii) working in connection with the shifting of articles of a dwelling house of a person including work in connection with religious or social or public functions; or

(iii) cutting, removing shifting and transportation of trees and wood for personal use; or

(iv) constructing or repairing and maintenance of house not exceeding plinth area of one hundred square metres and the cost of which does not exceed rupees ten lakhs, including the shifting and transportation of construction materials, equipments or machinery for personal use and not for the purpose of trade; or

(v) dismantling, demolishing and shifting of such person’s old building materials or equipments, the value of which does not exceed rupees five lakhs including their transportation which is not for industrial or commercial purpose; or

(vi) shifting and transportation of animals for personal use; or

(vii) shifting and transportation of materials including agricultural implements, agricultural machinery, raw-materials, other materials related to agricultural operations in such person’s land not exceeding one hectare in respect of dry land and not exceeding two hectares in respect of wet land, as the case may be; or

(viii) doing such other work or activity or process which the Government may, by notification in the Gazette, specify to be a domestic purpose;”.

3. *Amendment of section 9.*— In section 9 of the principal Act, the following proviso shall be added, namely:—

“Provided that every headload worker shall give a signed receipt to the employer in token of the amount received towards wages.” .

4. *Repeal and savings.*— (1) The Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002 (10 of 2002) is hereby repealed.

(2) Notwithstanding such repeal, the provisions of section 4 of the Kerala Interpretation and General Clauses Act, 1125 (Act VII of 1125) shall apply upon the repeal of the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002.

STATEMENT OF OBJECTS AND REASONS

With a view to regulate the wages and to restrict unlawful practices connected with loading and unloading and transportation of goods and articles and for matters connected therewith, the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002 was enacted by the State Legislature. As per section 5 thereof an employer shall have the right to carry out loading and unloading work for non-domestic purposes either by himself or employing the workers of his own choice in any industrial park, export processing zone, industrial or commercial area, tourism project area, agricultural market as the Government may, by notification in the official gazette, declare as such from time to time. In such notified areas the provisions of the Kerala Headload Workers Act, 1978 will not be applicable. As such employers can employ the workers of their choice for loading and unloading work. This will deprive the job of the workers in the area who depends on the loading and unloading work for their livelihood. Also as per section 11 (4) of the said Act, police can interfere in labour issues directly without any complaints. From the day on which the legislature has passed the above Act protests were raised and major trade unions in the sector had been demanding the withdrawal of the said Act.

2. Provisions exist in the Kerala Headload Workers Act, 1978 for restricting the unlawful practices of headload workers. It is proposed to restrict the unlawful practices in the loading and unloading sector and to regulate the wages by making suitable amendments in the definition of the term “headload worker”, and in section 9 of the said Act. Along with that it is proposed to repeal the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002.

3. The Bill seeks to amend the Kerala Headload Workers' Act, 1978 and to repeal the Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices) Act, 2002 for the above purpose.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation would not involve any expenditure from the Consolidated Fund of the State.

P. K. GURUDASAN

EXTRACT FROM THE KERALA HEAD LOAD WORKERS ACT, 1978
(20 of 1980)

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2. *Definitions.*— In this Act, unless the context otherwise requires.—

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

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(g) “Contractor” in relation to an establishment, means a person who undertakes to execute any work for such establishment by engaging headload workers on hire or otherwise, or who supplies headload workers as individuals or in groups for the purpose of engaging them in such establishment and includes a sub-contractor and a broker;

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(i) “employer” means,—

(i) in relation to a headload worker engaged by or through a contractor, the principal employer;

(ii) in relation to headload worker who is not employed by any employer or contractor, the committee constituted under section 18; and

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(m) “headload worker” means a person engaged directly or 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 trolley any article or articles in or from or to a vehicle or any place in such establishment, 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;

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9. *Wages Payable to Headload Workers.*— Every employer shall pay to any headload worker employed by him such wages as may be prescribed; and different wages may be prescribed for different establishments and for different kinds of work.

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