

**Twelfth Kerala Legislative Assembly**  
**Bill No. 233**

[Translation in English of “2008-ലെ കേരള സംസ്ഥാന ഭാഗ്യക്കുറി ഏജന്റുമാരുടെയും വിൽപനക്കാരുടെയും ക്ഷേമനിധി ബിൽ” published under the authority of the Governor.]

THE KERALA STATE LOTTERY AGENTS' AND SELLERS'  
WELFARE FUND BILL, 2008

A

*BILL*

*to provide for the constitution of a Fund for promoting the welfare of and to grant relief to Agents and Sellers of the paper lottery of the Government of Kerala in the State of Kerala and for other matters connected therewith or incidental thereto.*

*Preamble.*— WHEREAS, it is expedient to provide for the constitution of a Fund for promoting the welfare of and to grant relief to the Lottery Agents and Sellers of the paper lottery of the Government of Kerala in the State of Kerala and other matters connected therewith or incidental thereto;

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 State Lottery Agents' and Sellers' Welfare Fund Act, 2008;

(2) It shall be deemed to have come into force on the 12th day of July, 2008.

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

(a) “Certificate of Identity” means the identity card issued to the Lottery Agents/Sellers by the Chief Executive Officer of the Lottery Agents and Sellers Welfare Fund Executive Committee;

(b) “Chief Executive Officer” means the Chief Executive Officer under sub-section (5) of section 6;

(c) “Contribution” means the sum of money payable to the Fund under sub-sections (1) and (2) of section 4;

(d) “Director of Lotteries” means the Director of the Kerala State Lotteries Department;

(e) "District Lottery Officer" means the District Lottery Officer of the Kerala State Lotteries Department for the concerned Revenue District;

(f) "District Welfare Officer of Lottery" means the officer designated for the District level administration of the Scheme appointed under section 11;

(g) "Executive Committee" means the committee constituted under sub-section (1) of section 6;

(h) "Family" means, wife or husband, minor sons and unmarried daughters of a lottery agent/seller and includes his father, mother, mentally or physically disabled child who are dependent on the Lottery Agent/Seller;

(i) "Fund" means the Kerala State Lottery Agents' and Sellers' Welfare Fund established under section 3;

(j) "Government" means the Government of Kerala;

(k) "Lottery Agent" means an individual to whom an agency has been issued by the District Lottery Officer of the State of Kerala for sale of the paper lottery tickets of the Government of Kerala and holds a valid identity card issued under the Scheme and does not include a company, a firm, an association of individuals or a co-operative society;

(l) "Lottery Seller" means, a person who sells such quantum of paper lottery tickets of the Government of Kerala, as may be prescribed;

(m) "Member" means a lottery agent or lottery seller enrolled in the Fund, who hold a pass book issued under the Scheme;

(n) "Notification" means a notification published in the Kerala Gazette;

(o) "Paper Lottery" means any lottery other than on-line lottery, conducted by the Government of Kerala in accordance with the provisions of the Lotteries (Regulation) Act, 1998 (Central Act, 17 of 1998);

(p) "Prescribed" means prescribed by the Rules made under this Act;

(q) "Scheme" means the Kerala State Lottery Agents' and Sellers' Welfare Fund Scheme framed under section 3;

(r) "Specified" means specified in the Scheme;

(s) "State Welfare Officer of Lottery" means the officer appointed under section 11 to assist the Chief Executive Officer;

(t) “Year” means the financial year.

3. *The Kerala State Lottery Agents’ and Sellers’ Welfare Fund Scheme.*—

(1) As soon as after the commencement of this Act, the Government may, by notification in the Gazette, frame a Scheme to be called the “the Kerala State Lottery Agents’ and Sellers’ Welfare Fund Scheme” and establish a Fund by name “The Kerala State Lottery Agents’ and Sellers’ Welfare Fund” in accordance with the provisions of this Act and the Scheme.

(2) Subject to the provisions of this Act, the Scheme may provide for all or any of the matters specified in the Schedule.

(3) Only those lottery agents and sellers who sell a prescribed minimum number of Kerala State Lottery tickets in a month, are entitled to become a member of the Fund.

(4) There shall be credited to the Fund,—

(a) the contributions specified in section 4;

(b) the amount borrowed by the Executive Committee under section 12;

(c) grants or advances made by the Government or an Institution;

(d) any donation or remittance from whatever source;

(e) any amount raised by the Executive Committee from other sources to augment the resources of the Fund;

(f) any fee levied under the Scheme;

(g) any other amount available on the date of establishment of the Fund under the provisions of the Scheme as provided in the Kerala State Lottery Welfare Fund Scheme, 1991;

(h) any other amount to be credited to the Fund under the provisions of the Scheme.

(5) The Fund shall vest in, and be administered by the Executive Committee.

(6) The Fund may be utilized for all or any of the purposes, specified in the Scheme.

(7) The Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any

modification in the Scheme, the Scheme shall, thereafter have effect only in such modified form, so however, that any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

4. *Contribution to the Fund.*—(1) Every Lottery Agent and Lottery Seller, as the case may be, who is entitled to become a member shall contribute rupees fifty per month as subscription to the Fund.

(2) The Government shall contribute one per cent of the total sale proceeds of lottery tickets collected through the Kerala State Lotteries Department to the Fund every year. The Government may modify the rate of contribution from time to time and recommend the due appropriation in the Budget proposals.

(3) The contribution shall be paid to the Chief Executive Officer or other officers authorised in this behalf in the manner specified in the Scheme.

(4) Non-payment of contribution by any member for a continuous period of six months will entail termination of membership automatically.

5. *Modification of the Scheme.*—(1) The Government may, by notification in the Gazette, add to, amend or vary the Scheme framed under this Act, 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 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 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.

6. *Constitution of Executive Committee.*—(1) The Government may, by notification constitute with effect from such date as may be specified therein, an Executive Committee for the administration of the Fund and for the implementation of the Scheme and to supervise and to carry out the connected activities.

(2) The Executive Committee shall be a body corporate by the name “Lottery Agents and Sellers Welfare Fund Executive Committee” having perpetual succession and a common seal and shall by the said name, sue and be sued;

(3) The Executive Committee shall consist of four official members representing the Government and seven non-official members representing the beneficiaries of the Scheme as may be nominated by the Government as hereinafter provided:—

- (a) The Secretary to Government, Taxes Department;
- (b) The Director of State Lotteries, Kerala;
- (c) A representative from Finance Department, Secretariat not below the rank of a Joint Secretary as nominated by the Government;
- (d) A representative from Labour Department not below the rank of a Joint Secretary as nominated by the Government;
- (e) Seven non-official members representing the Lottery Agents and Sellers as nominated by the Government.

(4) Government shall nominate a member from among the members of the Executive Committee as Chairman;

(5) The Director of State Lotteries shall be the Chief Executive Officer.

(6) The Executive Committee shall administer the Fund vested in it in such manner as may be specified in the Scheme;

(7) The Executive Committee may with the previous approval of the Government, delegate to the Chairman or to the Chief Executive Officer such of its powers and functions under this Act or the Scheme as it may consider necessary, for the effective administration of the Fund, subject to such restrictions and conditions, as it may deem fit.

7. *Meeting of the Committee.*— (1) The Committee shall meet at least once in three months to transact its business.

(2) Six members of the Committee including at least two official members shall form the quorum for a meeting of the Committee.

(3) The Chairman or in his absence, a member elected by the members present at the meeting, shall preside over the meeting of the Committee.

(4) Any matter coming up before a meeting of the Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of any equality of votes, the Chairman or the member presiding over the meeting shall have and exercise a casting vote.

8. *Term of office of the members of the Executive Committee.*—(1) The non-official members appointed under sub-section (3) of section 6 shall hold office for a period of three years.

(2) Any non-official member may resign his membership by giving notice in writing to the Government, but shall continue to hold office until his resignation is accepted by the Government.

(3) Government may at any time, for reasons to be recorded in writing, remove from office any official member, if the Government are of the opinion that, in public interest, it is not fair to allow such member to continue in office.

9. *Disqualification and removal of non-official members.*—(1) The Government may remove any non-official member of the committee from office,—

(a) if he is of unsound mind;

(b) if he is adjudged as insolvent;

(c) if he has, without the permission of the Executive Committee, been absent in three consecutive meetings; and

(d) if in the opinion of the Government, he is not suitable or has become incapable of acting as a member or has so abused his position as a member 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 a reasonable opportunity to show cause why he should not be removed.

(2) A non-official member of the Executive Committee removed under clause (c) of sub-section (1), shall be disqualified for re-appointment as a member of the Executive Committee for a period of three years from the date of his removal unless otherwise ordered by the Government.

(3) A non-official member of the Executive Committee removed under clause (d) of sub-section (1) shall not be eligible for reappointment until he is declared by an order of the Government to be no longer ineligible.

10. *Travelling and daily allowance to members of Committee.*—The nominated members of the Committee shall be eligible to get sitting fee, travelling allowance and daily allowance at such rate as may be prescribed.

11. *Appointment of Officers and Staff.*—(1) Government may appoint a State Welfare Officer of Lottery, such number of District Welfare Officers of

Lottery and other staff on deputation from the Kerala State Lotteries Department for assisting the Chief Executive Officer in implementing the provisions of this Act.

(2) The Chief Executive Officer of the Executive Committee shall be responsible for implementing the decisions of the Executive Committee.

12. *Power of the Executive Committee to borrow.*—The Executive Committee 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.

13. *Non-official Members of Executive Committee to be public servants.*—Every non-official Member of the Executive Committee shall be deemed to be a public servant within the meaning of section 21 of Indian Penal Code (Central Act 45 of 1860).

14. *Protection of action taken in good faith.*—No suit or other legal proceeding shall lie against any member of the Executive Committee or any other person assisting the Committee in the discharge of its functions and duties in respect of anything which is in good faith done or intended to be done under this Act or under the Scheme.

15. *Directions by Government.*—The Government may give to the Executive Committee, such directions, as they deem fit to be followed by the Executive Committee, which shall be binding on it.

16. *Power to order inquiry.*—(1) The Government may at any time, appoint an officer not below the rank of an Additional Secretary to Government to inquire into the working of the Executive Committee and to submit a report to the Government.

(2) The Executive Committee shall give the person so appointed, all facilities for the proper conduct of the enquiry and furnish to him such documents, accounts and information in the possession of the Executive Committee, as he may require.

17. *Power to supersede Executive Committee.*—(1) If on consideration of the report under section 16 or otherwise, the Government are of opinion that the Executive Committee has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or the Scheme or has exceeded or abused its powers, the Government may, by notification in the Gazette, supersede the Executive Committee for such period not exceeding six months as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Executive Committee to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Executive Committee.

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

(a) all the members of the Executive Committee shall, from the date of such publication, vacate their offices as such members;

(b) all the powers and duties which may be exercised or performed by the Executive Committee shall, during the period of supersession be exercised or performed by such officer or officers as may be specified in the notification;

(c) all funds and other properties vested in the Executive 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-section (1), the Government shall constitute the Executive Committee in the manner provided in section 6.

18. *Audit of Accounts of the Fund and appointment of auditors.*—

(1) The Executive Committee shall appoint such auditors to audit the accounts of the Fund in such manner as may be prescribed.

(2) The accounts of the Fund/Scheme shall be audited once in every year by such auditors.

19. *Annual report and audited statement of accounts.*—(1) The annual report of the Fund/Scheme shall be prepared under the direction of the Executive Committee and after approval by the Executive Committee, a copy of the report together with audited statement of accounts 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.

20. *Bar on 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 the Scheme required to be settled, decided or dealt with or to be determined by the Government or the Executive Committee or the Chief Executive Officer or any officer authorised by the Executive Committee.



21. *Power to summon witness and take evidence.*—The Committee shall, for the purposes of enquiry under this Act 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; and
- (d) issuing Commission for the examination of witnesses.

22. *Special provisions for transfer of fund from Welfare Funds established by any other Act or agreement.*—(1) Notwithstanding anything contained in any other law for the time being in force on the date of coming into force of this Act, the sum standing to the credit of a member in any Welfare Fund established either by any law or agreement shall stand transferred to and credited to the Fund established under this Act and the liability of such member to pay contribution to such welfare funds shall cease from such date.

(2) All claims in respect of such fund shall be determined and disbursed by the Executive Committee constituted by this Act.

23. *Power to make rules.*—(1) The Government, may, by notification, make rules either prospectively or retrospectively for the purpose of carrying into effect the provisions of this Act.

(2) 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 annulment shall be without prejudice to the validity of anything previously done under that rule.

24. *Repeal and Saving.*—(1) The Kerala State Lottery Agents' and Sellers' Welfare Fund Ordinance, 2008 (33 of 2008) is hereby repealed.

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

## SCHEDULE

[(See Section 3 (2)]

## MATTERS FOR WHICH PROVISIONS MAY BE MADE IN THE SCHEME

1. The manner in which the Fund is to be administered by the Executive Committee.
2. Registration of lottery agents and sellers.
3. The time and manner in which contribution shall be made to the Fund by or on behalf of the lottery agents and sellers.
4. The manner in which the contribution may be recovered from different sectors.
5. The constitution of any committee for assisting the Executive Committee.
6. The manner in which accounts shall be kept, the investment of money belonging to the Fund in accordance with any directions issued or conditions specified by the Government, the preparation of the budget, the audit of accounts and the submission of reports to Government.
7. The conditions under which withdrawal from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
8. The form in which a member of the Fund shall furnish particulars about himself and his family, whenever required.
9. The nomination of a person to receive the benefits of a member from the Fund on his death and verification and cancellation of such nomination.
10. The registers and records to be maintained with respect to members.
11. The form and design of the identity card for the purpose of identifying any member of the Fund and for the issue, custody and replacement thereof.
12. The fees to be levied for any of the purposes specified in the Schedule.
13. The manner in which the sum transferred under section 22 is to be brought and credited to the Fund.

14. The purpose for which the Fund may be utilized for the welfare of members or their dependants.

15. The procedure for defraying the expenditure incurred in the administration of the Fund.

16. The procedure for paying the benefits, grants, advances etc., from the Fund.

17. Any other matter which is necessary or proper for implementing the Scheme.

#### STATEMENT OF OBJECTS AND REASONS

In para 134 of the Budget speech 2007-08, Government have announced its intention to constitute a new Welfare Fund for the benefit of the Lottery Agents and Sellers. This has become necessary as the existing Kerala State Lottery Agents Welfare Fund Scheme, 1991 announced as per G.O.(P) No.69/1991/PD dated 30th March,1991 is limited to lottery agents alone. Sellers do not come within its ambit. Hence Government have decided to constitute a new Welfare Fund for promoting the welfare of and to grant relief to agents and sellers of the paper lottery of the Government of Kerala in the State of Kerala.

As the Legislative Assembly of the State of Kerala was not in session and the proposals had to be given effect to immediately, the Kerala State Lottery Agents' and Sellers' Welfare Fund Ordinance, 2008 (19 of 2008) was promulgated by the Governor on the 9th day of June, 2008 and was published in the Kerala Gazette Extraordinary No. 1166 dated, 10th June, 2008.

A Bill to replace the said Ordinance by an Act by the State Legislature could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 23rd day of June, 2008 and ended on the 24th day of July, 2008. Therefore, the Kerala State Lottery Agents' and Sellers' Welfare Fund Ordinance, 2008 (33 of 2008) was promulgated by the Governor on the 1st day of August, 2008 and published in the Kerala Gazette Extraordinary No. 1689 dated 2nd August, 2008.

The Bill seeks to replace Ordinance No. 33 of 2008 by an Act of the State Legislature.

## FINANCIAL MEMORANDUM

The Kerala State Lottery Agents' and Sellers' Welfare Fund Bill, 2008, if enacted and brought into operation would involve an expenditure of rupees five crores from the Consolidated Fund of the State towards the Government contribution, being one percent of the total sale proceeds of lottery tickets collected through the Kerala State Lotteries Department to the Fund as per sub-clause (2) of clause 4 of the Bill, since the expected annual turn over is rupees five hundred crores for the current year. The amount required for the payment of such contribution may vary from year to year with reference to the sale proceeds of lottery tickets.

Hence the recurring expenditure in this regard cannot be calculated with any degree of accuracy at this stage.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to empower the Government to frame a Scheme to be called the Kerala State Lottery Agents' and Sellers' Welfare Fund Scheme and to establish a Fund by the name Kerala State Lottery Agents' and Sellers' Welfare Fund.

2. Sub-clause (3) of Clause 4 of the Bill seeks to empower the Government to specify in the Scheme the manner in which the contribution to the Fund shall be paid to the Chief Executive Officer or other officers authorised in this behalf.

3. Clause 5 of the Bill seeks to empower the Government to add, amend or vary the Scheme.

4. Sub-clause (1) of Clause 6 of the Bill seeks to empower the Government to constitute an Executive Committee for the administration of the Fund.

5. Sub-clause (6) of Clause 6 seeks to empower the Government to specify the manner in which the Fund shall be administered by the Executive Committee.

6. Clause 10 of the Bill seeks to empower the Government to prescribe the rate of sitting fee, travelling allowance and daily allowance, which nominated members of the Committee are eligible to get.

7. Clause 12 of the Bill seeks to empower the Government to specify the terms and conditions, subject to which the Executive Committee may borrow money for the purposes of the Scheme.

8. Clause 17 of the Bill seeks to empower the Government to supersede the Executive Committee if it makes any default in the performance of the duties imposed on it.

9. Clause 18 of the Bill seeks to empower the Government to prescribe the manner in which accounts of the Fund are to be audited.

10. Clause 23 of the Bill seeks to empower the Government to make rules either prospectively or retrospectively.

11. The matters in respect of which notification may be issued or rules or schemes may be made are matters of procedure or of administrative nature. Further, the rules or schemes after they are made are subject to scrutiny by the Legislative Assembly. Therefore the delegation of legislative power is, of a normal character.

DR. THOMAS ISSAC.

(True Translation)