

Twelfth Kerala Legislative Assembly
Bill No. 283

**THE KERALA TODDY WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2009**

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BILL

further to amend the Kerala Toddy Workers' Welfare Fund Act, 1969.

Preamble.— WHEREAS, it is expedient further to amend the Kerala Toddy Workers' Welfare Fund Act, 1969 for the purposes hereinafter appearing ;

BE, it enacted in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Toddy Workers' Welfare Fund (Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 19th day of January, 2009.

2. *Amendment of section 2.*—In section 2 of the Kerala Toddy Workers' Welfare Fund Act, 1969 (22 of 1969) (hereinafter referred to as the principal Act) ;

(i) after clause (a), the following clause shall be inserted, namely :—

“(aa) “Compensation” means an amount payable in lumpsum to a member for his treatment for injuries sustained during the course of his employment or to his legal heirs in the event of his death as a result of the injuries so sustained.”.

3. *Amendment of section 4.*—In section 4 of the principal Act.—

(1) in sub-section (1), for the words “eight per cent of the wages”, the words “ten per cent of the wages” shall be substituted ;

(2) after sub-section (3), the following sub-section and explanation shall be added, namely :—

“(4) Every employer shall pay to the fund ten rupees each for every half year in the case of every coconut tree and twenty rupees each for every year in the case of every palmirah tree tapped under his control to be utilized for the payment of compensation.

Explanation:— The employee shall not be liable to pay contribution equal to the amount payable by the employer under sub-section (4).”

4. *Amendment of the Schedule.*—In the schedule to the principal Act, after item 16AA, the following item shall be inserted, namely:—

“16AAA. Eligibility for and the manner of payment of compensation from the fund.”.

5. *Repeal and Saving.*—(1) The Kerala Toddy Workers’ Welfare Fund (Amendment) Ordinance, 2009 (7 of 2009) is hereby repealed.

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

STATEMENT OF OBJECTS AND REASONS

The employer’s contribution under sub-section (1) of section 4 of the Kerala Toddy Workers’ Welfare Fund Act, 1969 is eight per cent of the wages for the time being payable to each of the employees and the employee’s contribution is equal to the contribution payable by the employer in respect of him.

There is no separate provision for payment of compensation to the toddy workers for injury sustained during the course of employment or to his legal heirs in the event of his death as a result of the injuries so sustained. Government have examined the matter and decided to amend the Kerala Toddy Workers’ Welfare Fund Act by enhancing the said contribution from eight per cent to ten per cent by amending sub-section (1) of section 4 and by inserting sub-section (4) to that section for levying from the employer ten rupees each for every half year in the case of every coconut tree and twenty rupees each for every year in the case of every palmirah tree tapped for payment of compensation.

As the Legislative Assembly of the State of Kerala was not in session and the above proposal had to be given effect to immediately, the Kerala Toddy Workers’ Welfare Fund (Amendment) Ordinance, 2009 (5 of 2009) was promulgated by the Governor on the 18th day of January, 2009 and was published in the Kerala Gazette Extraordinary No.142 dated 19th January, 2009 for the above said purpose.

A Bill to replace Ordinance No. 5 of 2009 could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session

which commenced on the 13th day of February, 2009 and ended on the 3rd day of March, 2009. Therefore, the Kerala Toddy Workers' Welfare Fund (Amendment) Ordinance, 2009 (7 of 2009) was promulgated by the Governor on the 26th day of March, 2009 and the same was published in the Kerala Gazette Extraordinary No. 673 dated 26th March, 2009.

The Bill seeks to replace the Ordinance No. 7 of 2009 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The employer's contribution under sub-section (1) of section 4 of the Kerala Toddy Workers' Welfare Fund Act, 1969 is eight per cent of the wages for the time being payable to each of the employees and the employee's contribution is equal to the contribution payable by the employer in respect of him.

As per clause (3) of the Bill, it is proposed to enhance the contribution from eight per cent to ten per cent by amending sub-section (1) of section 4 and it is also proposed to insert sub-section (4) to that section for levying from the employer ten rupees each for every half year in the case of every coconut tree and twenty rupees each for every year in the case of every palmirah tree tapped for payment of compensation.

The quantum of compensation to be paid to the employees vide sub-section (4) of section 4 will be met by Kerala Toddy Workers' Welfare Fund's own resources and there will not be any expenditure for the said purpose from the Consolidated Fund of the State.

As the contribution under sub-section (1) of section 4 of the Act is proposed to be enhanced from eight per cent to ten per cent, the Government contribution as per sub-section (3) of the said section stands increased. For that purpose an additional amount of Rs. 40.10 lakhs per annum is required to be met from the consolidated fund of the State.

P. K. GURUDASAN.

EXTRACT FROM THE KERALA TODDY WORKERS
WELFARE FUND ACT, 1969 (22 OF 1969)

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

(a) “Board” means the Kerala Toddy Workers’ Welfare Fund Board constituted under section 6 ;

(b) “contribution” means a contribution payable in respect of a member under the scheme ;

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4. *Contributions and matters which may be provided for in the scheme.*—

(1) The contribution which shall be paid by the employer to the fund shall be eight per cent of the wages for the time being payable to each of the employees, and the employee’s contribution shall be equal to the contribution payable by the employer in respect of him.

(2) The employer shall, in addition to the contribution payable under sub-section (1), contribute to the fund as gratuity an amount equal to five per cent of the wages for the time being payable to each of the employees:

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

(3) The Government shall contribute to the fund every year an amount not less than 7.5 per cent of the employees’ contribution to the fund by way of grant.

4A. *Power of exemption.*—(1) Notwithstanding anything contained in section 4, where the Government, on the recommendation of the Board, are of opinion that it is necessary in the public interest so to do, they may, by notification in the Gazette, exempt any class of employers, either prospectively or retrospectively, from the payment of contribution under that section for such period as may be specified in the notification.

(2) For the removal of doubt it is hereby declared that an employee shall not be liable to pay his contribution under sub-section (1) of section 4 for the period for which his employer is exempted from payment of contribution.

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SCHEDULE
[see section 3(3)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN THE SCHEME

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16. The manner in which any welfare fund vested under section 18 is to be brought and credited to the accounts of the employees entitled thereto in the fund.

16A. The rate of gratuity payable to members and the conditions for such payment.

16AA. Eligibility for, and the manner of payment of, pension from the fund.

16B. The conditions under which any amount due to the Board may be written off.

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