

**THE KERALA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT
(AMENDMENT) BILL, 2023**

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further to amend the Kerala Industrial Infrastructure Development Act, 1993 (3 of 1993).

***Preamble.*-WHEREAS, it is expedient further to amend the Kerala Industrial Infrastructure Development Act, 1993 (3 of 1993). For the purposes hereinafter appearing;**

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement.*- (1)This Act may be called the Kerala Industrial Infrastructure Development (Amendment) Act,2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 30.*- In the Kerala Industrial Infrastructure Development Act, 1993 (3 of 1993) (hereinafter referred to as the Principal Act), for section 30 the following section shall be substituted, namely:-

“30. Penalty for construction or use of land and buildings contrary to terms of holding.- (1) Any person who, whether at his own instance or at the instance of any other person, undertakes or carries out construction of or alterations to any building in an Industrial Estate or Industrial Area contrary to the terms under which he holds such building or land under this Act shall be liable to a penalty of one lakh rupees.

(2) Any person who uses any land or building in an Industrial Estate or Industrial Area contrary to the terms under which he holds such land or building under this Act or in contravention of the provisions of any regulations made in this behalf shall be liable to a penalty of fifty-thousand rupees.”.

3. ***Omission of section 42.-*** Section 42 of the principal Act shall be omitted.
4. ***Omission of section 43.-*** Section 43 of the principal Act shall be omitted.
5. ***Amendment of section 45.-*** For section 45 of the principal Act, the following section shall be substituted, namely:-

“45. Penalty for obstruction of entry etc.- Any person who obstructs the entry of a person authorized under Section 32 to enter into or upon any land or building or who obstructs the lawful exercise by him of any power conferred by or under this Act shall be liable to a penalty of fifty thousand rupees.”.

6. ***Amendment of section 46.-*** For section 46 of the principal Act, the following section shall be substituted, namely:-

“46. *Penalty for obstructing persons from performing duty under contract.*– If any person obstructs any person with whom the Corporation has entered into a contract in the performance or execution by such person of his duty or anything which he is empowered or required to do under this Act, he shall be liable to a penalty of fifty thousand rupees.”.

7. ***Amendment of section 47.*– For section 47 of the principal Act, the following section shall be substituted namely:–**

“47. *Penalty for removing marks etc.*– If any person removes any marks set up for the purpose of indicating any level, boundary line or direction necessary to the execution of works authorized under this Act, he shall be liable to a penalty of twenty five thousand rupees.”.

8. ***Amendment of section 48.*– For section 48 of the principal Act, the following section shall be substituted namely:–**

“48. *Penalty for obstructing exercise of powers under Chapter VI.*– Any person who obstructs the lawful exercise of any power conferred by or under Chapter VI shall be liable to a penalty of twenty five thousand rupees.”.

9. ***Insertion of new sections 48A and 48B .*– After section 48 of the principal Act, the following sections shall be inserted, namely:–**

“48A. *Power of Officers of Government to impose penalty.*– (1) For the purpose of imposing penalty provided under sections 30, 45, 46, 47 and 48 of this Act, the Government may appoint an officer and he shall

impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer, may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, he shall impose the penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in the manner with such fee as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against, within a period of sixty days from the date of receipt of the appeal.

48 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may

be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Industrial Infrastructure Development Act, 1993 (3 of 1993) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value, appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act.

The Bill seeks to achieve the above object.

THE KERALA REGISTRATION OF TOURIST TRADE (AMENDMENT)

BILL, 2023

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further to amend the Kerala Registration of Tourist Trade Act, 1991 (17 of 1991).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Registration of Tourist Trade Act, 1991 (17 of 1991) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.* - (1)This Act may be called the Kerala Registration of Tourist Trade (Amendment) Act,2023.**
(2)It extends to the whole of the State of Kerala.
(3)It shall come into force at once.
2. ***Amendment of section 28.-* In the Kerala Registration of Tourist Trade Act, 1991 (17 of 1991) (hereinafter referred to as the Principal Act), for section 28, the following section shall be substituted, namely:-**

“28. *Penalty for default in registration.*.- (1) Any person carrying on the business of a dealer, hotel-keeper or travel agent without a proper registration under this Act or in violation of any of the provisions of this Act shall be liable to a penalty of fifty thousand rupees.

(2) If the violation or breach is a continuing one, penalty of one thousand rupees for each such day.

***Explanation.*- A person who has made an application within the prescribed period and is pending disposal shall not be a defaulter for the purposes of this section.”.**

3. *Amendment of section 29.*- For section 29 of the principal Act, the following section shall be substituted, namely:-

“29. *Penalty for false statement.*.- If any person required to make a statement under this act willfully makes a false statement or suppresses a material fact with an intention to mislead the prescribed authority, he shall be liable to a penalty of fifty thousand rupees.”.

4. *Amendment of section 30.*- In section 30 of the principal Act, for the word and figures, “rupees 2000”, the words “fifty thousand rupees” shall be substituted.

5. *Amendment of section 31.*- In section 31 of the principal Act, in sub-section (2), for the words and figures, “ liable to punishment with fine not exceeding Rupees 500”, the words “liable to a penalty of ten thousand rupees” shall be substituted.

6. *Amendment of section 32.*- For section 32 of the principal Act, the following section shall be substituted, namely:-

“32. *Penalty for malpractice.*– Any dealer, hotel keeper, travel agent or any other person to whom this Act may be made applicable, who commits a malpractice or contravenes any other provision of this Act in the tourist area for which no specific penalty has been provided, shall be liable to a penalty of fifty thousand rupees.”.

7. *Amendment of section 33.*- For section 33 of the principal Act, the following section shall be substituted, namely:-

“33. *Obstructing lawful authorities.*– If any person willfully obstruct or offers any resistance to or otherwise interferes with the discharge of the functions of the prescribed authority or any officer authorized by him, exercising any power or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the Rules made thereunder, shall be liable to a penalty of ten thousand rupees.”.

8. *Omission of section 34.*- Section 34 of the principal Act shall be omitted.

9. *Amendment of section 36.*- For section 36 of the principal Act, the following section shall be substituted, namely:-

“36. *Institution of prosecution.*– No prosecution shall be initiated against any person for any offence under section 30 of this Act except on a complaint made by the prescribed authority.”.

10. *Amendment of section 38.*- For section 38 of the principal Act, the following section shall be substituted, namely:

“38. *Compounding of Offences*.- (1) The offence under section 30 may be compounded either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub -section (1) and on such notice the person against whom the offence is so compounded shall be discharged.”.

11. *Amendment of section 47*.- In section 47 of the principal Act, in sub-section (2), for the words “ shall be punishable with a fine which may extend to one thousand rupees”, the words “ shall be liable to a penalty of twenty five thousand rupees.” shall be substituted.

12. *Insertion of new sections 47A and 47B* .- After section 47 of the principal Act, the following sections shall be inserted, namely:-

"47A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 28, 29, 31,32,33 and 47 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, he shall impose the penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

47 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the

State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago, the

fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Registration of Tourist Trade Act, 1991 (17 of 1991) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA TAX ON LUXURIES (AMENDMENT) BILL, 2023

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further to amend the Kerala Tax on Luxuries Act, 1976 (32 of 1976).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Tax on Luxuries Act, 1976 (32 of 1976) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.***- (1) This Act may be called Kerala Tax on Luxuries (Amendment) Act, 2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. ***Amendment of section 17.***- In the Kerala Tax on Luxuries Act, 1976 (32 of 1976), (hereinafter referred to as the Principal Act), for section 17 the following section shall be substituted, namely:-

“17. *Penalties.*- (1) Any person who, knowingly submits an untrue return or fails to submit a return as required by this Act or the rules made thereunder or willfully act in contravention of any of the provisions of this Act or the Rules made thereunder shall be liable to a penalty of fifty thousand rupees.

(2) Any person who prevents or obstructs inspection, entry, search or seizure by the assessing authority or fraudulently evades the payment of luxury tax or other amount due from him under this Act or the Rules made thereunder shall be liable to a penalty of one lakh rupees.”.

3. ***Insertion of new sections 17C, 17D and 17E*** .- After section 17B of the principal Act, the following sections shall be inserted, namely:-

“17C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 17 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, he shall impose the penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in the manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

17D. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

17E. Prior opportunity before imposing Penalty.- Notwithstanding anything contained in this chapter, the assessing authority or the officer authorized by the Government to impose penalty shall, before imposing penalty under sections 17 or 17A , afford an opportunity to such person to comply with the aforesaid provisions by a written direction fixing a stipulated time limit for such compliance and if the employer complies with the direction within such time limit, no further proceedings shall be initiated against him.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Tax on Luxuries Act,1976 (32 of 1976) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the

Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA LIMESHHELLS (CONTROL) AMENDMENT BILL, 2023

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further to amend the Kerala Lime shells (Control) Act, 1957 (18 of 1957).

***Preamble.*-WHEREAS, it is expedient further to amend the Kerala Lime shells (Control) Act, 1957 (18 of 1957) for the purposes hereinafter appearing;**

BE it enacted in the seventy fourth year of the Republic of India as follows:-

- 1. *Short title, extent and commencement.* - (1) This Act may be called Kerala Lime shells (Control) Amendment Act, 2023.**
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
- 2. *Amendment of section 10.*- In the Kerala Lime shells (Control) Act, 1957 (18 of 1957) (hereinafter referred to as the Principal Act), in section 10,-**

(a) in sub -section (1), for the words “ shall be punishable with imprisonment for a term which may extend to six months or with fine or with both”, the words “ shall be liable to a penalty of fifty thousand rupees” shall be substituted;

(b) sub section (2) shall be omitted.

3. *Insertion of new sections 10A and 10B* .- After section 10 of the principal Act, the following sections shall be inserted, namely:-

“10A. Power of Officers of Government to impose penalty. - (1) For the purpose of imposing penalty provided under section 10 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, he shall impose the penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in the manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

10B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

4. ***Omission of section 12.***- Section 12 of the principal Act shall be omitted.
5. ***Omission of section 13.***- Section 13 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time

consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Lime Shells (Control) Act,1957 (18 of 1957) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences, fine etc, enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA WAREHOUSES (AMENDMENT) BILL, 2023

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further to amend the Kerala Warehouses Act, 1960 (2 of 1960).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Warehouses Act, 1960 (2 of 1960) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.*** - (1) This Act may be called the Kerala Warehouses (Amendment) Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. ***Amendment of section 35.***- In the Kerala Warehouses Act, 1960 (2 of 1960) (hereinafter referred to as the Principal Act), for section 35 the following section shall be substituted, namely:-

"35. Penalty and Procedure.- Whoever acts or holds himself out as a licensed warehouse man without having obtained a license under this Act or knowingly contravenes or fails to comply with any of the

provisions or requirements of this Act or the Rules shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lack rupees or with both.” .

3. *Insertion of new section 35A* .- After section 35 of the principal Act, the following section shall be inserted, namely:-

“35A. Compounding of Offence.- (1) The offence under section 35 may be compounded either before or after institution of prosecution by an officer authorized by the Government in this behalf in such manner as may be prescribed on an application made to such officer by the person alleged to the offence on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in the manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub-section (1) and on such notice the person against whom the offence is so compounded shall be discharged.”.

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The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Warehouses Act,1960 (2 of 1960)for enhancement of penalty in the light of central Labour Codes and present money value , provision for compounding of

offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act.

The Bill seeks to achieve the above object.

**THE KERALA BEEDI AND CIGAR INDUSTRIAL PREMISES
(REGULATION AND CONDITIONS OF WORK) AMENDMENT BILL,
2023**

A

BILL

further to amend the Kerala Beedi and Cigar Industrial Premises (Regulation and Conditions of Work) Act, 1961 (8 of 1962).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Beedi and Cigar Industrial Premises (Regulation and Conditions of Work Act, 1961 (8 of 1962) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.*** - (1) This Act may be called the Kerala Beedi and Cigar Industrial Premises (Regulation and Conditions of Work) Amendment Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. ***Amendment of section 30.***- In the Kerala Beedi and Cigar Industrial Premises (Regulation and Conditions of Work) Act, 1961 (8 of 1962) (hereinafter referred to as the Principal Act), for section 30, the following section shall be substituted, namely:-

“30. *Penalty for obstructing Inspector.*– Whoever willfully obstructs an Inspector in the exercise of any power conferred on him or under this Act or fails to produce on demand by an Inspector, any register or other documents in his custody kept in pursuance of this Act or of any Rules made thereunder or conceals or prevents any employee in a Beedi and Cigar Industrial Premises from appearing before, or being examined by an Inspector, shall be liable to a penalty of twenty five thousand rupees .”.

3. ***Amendment of section 31.*– For section 31 of the principal Act, the following section shall be substituted, namely:–**

“31. *General Penalty for offences.*– (1) Save as otherwise provided under this Act, if, in or in respect of any Beedi and Cigar Industrial premises, there is any contravention of any of the provisions of this Act or any Rules made thereunder by the employer of any Beedi and Cigar Industrial Premises shall be liable to a penalty of twenty five thousand rupees.

(2) If any person against whom penalty has been imposed for committing any offence under sub- section (1) has again committed an offence involving contravention of the same provision, he shall on conviction be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both:

Provided that no cognizance shall be taken under this sub section for an offence committed more than five years after the commission of the offence under sub-section (1).”.

4. *Insertion of new sections 31A,31B and 31C.*- After section 31 of the principal Act, the following sections shall be inserted, namely:-

“31A Power of Officers of Government to impose penalty.-(1) For the purpose of imposing penalty provided under sections 30 and subsection (1) of section 31 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, he shall impose the penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if such authority is satisfied that

the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

31 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for time being in force.”.

31 C. Compounding of Offences.- (1) The offence under sub-section(2) of section 31 may be compounded either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub-section (1) and on such notice the person against whom the offence is so compounded shall be discharged.”.

5. *Omission of section 33.- Section 33 of the principal Act shall be omitted.*

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and

to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the

respective funds.. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Beedi and Cigar Industrial Premises (Regulation and Conditions of work) Act,1961 (8 of 1962)for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act.

The Bill seeks to achieve the above object.

THE KERALA BUILDING TAX (AMENDMENT) BILL, 2023

A

BILL

further to amend the Kerala Building Tax Act, 1975 (7 of 1975).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Building Tax Act, 1975 (7 of 1975) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.*** - (1) This Act may be called the Kerala Building tax (Amendment) Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. ***Amendment of section 21.*** - In the Kerala Building Tax Act, 1975 (7 of 1975) (hereinafter referred to as the Principal Act), for section 21, the following section shall be substituted, namely:-
“21. Penalty for false statement in declaration. - If any person makes a statement in a verification mentioned in section 7 or sub-section (2) of section 11 which is false and which he either knows or believes to be false or does not believe to be true, he shall on conviction be punished with

imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.”.

3. *Amendment of section 22.*- In sub-section (1) of section 22 of the principal Act, for the words “ may impose a penalty which may extend to five rupees for every day during which the default continues” , the words “ shall impose a penalty of ten thousand rupees.” shall be substituted.
4. *Amendment of section 23.*- For sub-section (2) of section 23 of the principal Act, the following sub-section shall be substituted, namely:-

“ (2) Any person who obstructs the Assessing Authority or other Officer authorized in the exercise of the powers conferred on it or him by sub - section(1) shall be liable to a penalty of twenty five thousand rupees.”.
5. *Insertion of new sections 23A and 23B.*- After section 23 of the principal Act, the following sections shall be inserted, namely:-

“23A. *Power of Officers of Government to impose penalty.*- (1) For the purpose of imposing penalty provided under sub- section(1) of section 22 and sub-section (2) of section 23 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the

subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, he shall impose the penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The penalty so ordered under this Act may be recovered in the same manner as arrears of Building Tax.”.

“23 B. Compounding of Offences.- (1) The offence under section 21 may be compounded either before or after instituting prosecution by an officer authorized by the Government in this behalf in such manner as may be prescribed on an application made to such officer by the person alleged of the offence on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub-section (1) and on such notice the person against whom the offence is so compounded shall be discharged.

6. *Omission of section 24.*- Section 24 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman,

Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work

pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Building Tax Act,1975 (7 of 1975)for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA WATER SUPPLY AND SEWERAGE (AMENDMENT)
BILL, 2023**

A

BILL

**further to amend the Kerala Water Supply and Sewerage Act, 1986
(14 of 1986).**

Preamble.-WHEREAS, it is expedient further to amend the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.* - (1) This Act may be called the Kerala Water Supply and Sewerage (Amendment) Act,2023.**
(2) It extends to the whole of the State of Kerala.
(3)It shall come into force at once.
2. ***Amendment of section 40A.-* In the Kerala Water Supply and Sewerage Act,1986 (14 of 1986) (hereinafter referred to as the Principal Act), for section 40A, the following section shall be substituted, namely:-**

“40A. Penalty for illegal use of public hydrants.- Any person who unlawfully draw off or take or use water from a public hydrant shall be liable to a penalty of twenty five thousand rupees .”.

3. *Amendment of section 43A.-* For section 43A of the principal Act, the following section shall be substituted, namely:-

“43A. Offences by Licensed Plumbers.- Whoever, being a licensed plumber, contravenes sub-section (4) or sub-section (6) of section 43 shall be liable to a penalty of fifty thousand rupees.”.

4. *Amendment of section 46B.-* For section 46B of the principal Act, the following section shall be substituted, namely:-

“ 46 B Punishment for tapping or making illegal connection.- whoever with intent to draw water, taps or makes or causes to be made any connections with the mains or service fights of the authority without obtaining prior permission of the Authority shall,-

(i) for the first offence with a penalty of twenty five thousand rupees and in the case of second or subsequent offence, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both , if water is intended to be used for domestic purpose;

(ii) for the first offence with a penalty of fifty thousand rupees and in the case of second or subsequent offence, on conviction be punished with imprisonment for a term which may extend to

two years and with fine which may extend to one lakh rupees , if water is intended to be used for non-domestic purpose.”.

5. *Amendment of section 46C.*- For section 46C of the principal Act , the following Section shall respectively be substituted, namely:-

“46 C. Punishment for certain other illegal activities.- Whoever, being a consumer with an intention to get unlawful game or tampers a water meter or causes any device or method which interfere with the accurate and proper metering of the water supply shall,-

(i) for the first offence with a penalty of twenty fine thousand rupees and in the case of second or subsequent offence, on conviction be punished with imprisonment for a term not exceeding six months or with fine which may extend to fifty thousand rupees , if he is a domestic consumer;

(ii) for the first offence with a penalty of fifty thousand rupees and in the case of second or subsequent offence, on conviction be punished with imprisonment for a term which may extend to two years and with fine which may extend to one lakh rupees , if he is a non-domestic consumer.”.

6. *Amendment of section 52A.*- For section 52A of the principal Act, the following section shall be substituted, namely:-

“52A. Penalty for Violations of the provisions of this Chapter.- Any person who contravenes any provision of this Chapter shall be liable to a penalty

of twenty five thousand rupees for the first offence and in the case of second or subsequent offence, he shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.”.

7. *Amendment of section 60.-* For section 60 of the principal Act, the following section shall be substituted, namely:-

“60. General Penalty.- (1) Whoever, in any case in which a penalty is not expressly provided by this Act or any Rules or regulations made thereunder, contravenes the provisions of this Act or any Rules or Regulations made thereunder or fails to comply with any notice, order or requisition issued under this Act, Rules or Regulations made thereunder, shall be liable to a penalty of twenty five thousand rupees and in the case of second or subsequent contravention of the same provision, he shall be liable to a penalty of fifty thousand rupees.

(2) All penalties and fines realized under this Act, Rules or Regulations made thereunder shall be credited to the Fund of the Authority.”.

8. *Amendment of section 62.-* For section 62 of the principal Act, the following section shall be substituted, namely:

“62. Compounding of Offences.- (1) In the case of second or subsequent offences provided under sections 46B, 46C and 52A may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on

payment of seventy five percent of the total amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .”.

9. *Insertion of new sections 62A and 62 B* .- After section 62 of the principal Act, the following sections shall be inserted, namely:-

“62A. Power of Officers of Government to impose penalty.-(1) For the purpose of imposing penalty provided under sections 40A, 43A , 60 and in the case of commission of first offence under sections 46B,46C and 52A of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

62 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Regulations made thereunder may be recovered with interest in the same manner as arrears of public

revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Water Supply and Sewerage Act,1986 (14 of 1986)for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA GROUND WATER SUPPLY (CONTROL AND
REGULATION) AMENDMENT BILL, 2023**

A

BILL

further to amend the Kerala Ground Water (Control and Regulation) Act, 2002 (19 of 2002).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Ground Water (Control and Regulation) Act, 2002 (19 of 2002) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement.* - (1) This Act may be called the Kerala Ground Water (Control and Regulation) Amendment Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 21.*- In the Kerala Ground Water (Control and Regulation) Act, 2002 (19 of 2002) (hereinafter referred to as the Principal Act), for section 21, the following section shall be substituted, namely:-

“21. *Penalties*.- (1) If any owner or user of a well contravenes any of the provisions of this Act or Rules made thereunder or fails to comply with the Rules, in furnishing any information in the manner prescribed, he shall be liable for the first offence with a penalty of twenty five thousand rupees and for the second or subsequent offence with a penalty of fifty thousand rupees.

(2) If any person digs or constructs or uses wells in contravention of the provisions of this Act or Rules made thereunder or any user of ground water or the owner of a well, contravenes any of the provisions of this Act or Rules made thereunder or fails to comply with the same or obstructs the authority or any other person authorized by it in exercising any of the powers under this Act, he shall be liable to a penalty of twenty five rupees for the first offence and for second or subsequent offences under the same provisions shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.”.

3. ***Amendment of section 22*.- For section 22 of the principal Act, the following section shall be substituted, namely:-**

“22. *Compounding of Offences*.- (1) In the case of second or subsequent offence under sub-section (2) of section 21 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on

payment of seventy five percent of the total amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice the person against whom the offence is so compounded shall be discharged .”.

4. *Insertion of new sections 22A and 22 B* .- After section 22 of the principal Act, the following sections shall be inserted, namely:-

“22A. Power of Officers of Government to impose penalty.-(1) For the purpose of imposing penalty provided for the commission of offences under sub-section (1) and for the commission of first offence under sub section (2) of section 21 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

22 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue

due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also

included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provide for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Ground Water (Control and Regulation) Act,2002 (19 of 2002)for providing provisions for replacement of penalty instead of imprisonment in procedural

violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA FIRE FORCE (AMENDMENT) BILL, 2023

A

BILL

further to amend the Kerala Fire Force Act, 1962 (20 of 1962).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Fire Force Act, 1962 (20 of 1962) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement.* - (1) This Act may be called the Kerala Fire Force (Amendment) Act, 2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 21.*-In the Kerala Fire Force Act, 1962 (20 of 1962), (hereinafter referred to as the Principal Act), for section 21, the following section shall be substituted, namely:-

“21. *Failure to take Precautions.*- Whoever fails, without reasonable cause, to comply with any of the requirements specified in a notification issued under sub-section(1) of section 13 or of a direction issued under sub-section (2) of that section shall be liable to a penalty of twenty five thousand rupees.”.

3. *Amendment of section 22.-* For section 22 of the principal Act, the following section shall be substituted, namely:-

“22. Willfully obstructing firefighting operations.- Any person who willfully obstructs or interferes with any member of the Force who is engaged in fire -fighting operations shall be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 22A and 22B .-* After section 22 of the principal Act, the following sections shall be inserted, namely:-

“22A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 21 and 22 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be

appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

22B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time

consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Fire Force Act, 1962 (20 of 1962) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences, fine etc. Enhancement of penalty in the light of central Labour Codes and present money value, appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) .

***Preamble.*-WHEREAS, it is expedient further to amend the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) for the purposes hereinafter appearing;**

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement* .- (1)This Act may be called the Kerala Shops and Commercial Establishments (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.**
2. **Amendment of section 29.-In the Kerala Shops and Commercial establishments Act, 1960 (34 of 1960), (hereinafter referred to as the Principal Act), in section 29, -**

(a) for sub-section (1) the following sub- section shall be substituted, namely:-

“(1) Whoever commits any breach of the provisions of sections 5A and 5C of Chapter 1A of this Act shall be liable, for the first offence, to a penalty of ten thousand rupees and for the second or subsequent offence ,to a penalty of twenty five thousand rupees .”;

(b) for sub-section (1A) the following sub- section shall be substituted, namely:-

“(1A) Whoever contravenes any of the provisions of sections 6,8,9 to 11,13 ,13A,14,18,21 and 22 of this Act shall be liable, for the first offence, to a penalty of ten thousand rupees and for the second or subsequent offence, to a penalty of twenty five thousand rupees.”;

(c) for sub-section (2) the following sub- section shall be substituted, namely:-

“(2) Who ever contravenes any of the provisions of sections 7,19,20,28 and 30 of this Act shall be liable, to a penalty of ten thousand rupees.”;

(d) Sub-section (4) shall be omitted.

3. *Insertion of new sections 29A and 29B* .- After section 29 of the principal Act, the following sections shall be inserted, namely:-

“29A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 29 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming,

modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

29 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and

Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very

meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1964) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences, fine etc. Enhancement of penalty in the light of central Labour Codes and present money value, appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA LIFTS AND ESCALATORS (AMENDMENT) BILL,

2023

A

BILL

Further to amend the Kerala Lifts and Escalators Act,2013 (18 of 2013).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Lifts and Escalators Act,2013 (18 of 2013) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement* .-** (1)This Act may be called the Kerala Lifts and Escalators (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. ***Amendment of section 15.*-** In the Kerala Lifts and Escalators Act,2013 (18 of 2013) (hereinafter referred to as the Principal Act), for section 15, the following section shall be substituted, namely:-

“15. *Penalties*.- Who ever contravenes any of the provisions of this Act or Rules made thereunder or the terms and conditions of a permission or of a license or a direction given by the Inspector or any person appointed under section 14 to assist him shall,-

- (i) for the first offence, be liable to a penalty of twenty five thousand rupees; and**
- (ii) for the second or subsequent offence, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to fifty thousand rupees or with both.”.**

3. *Insertion of new sections 15A, 15B and 15C* .- After section 15 of the principal Act, the following sections shall be inserted, namely:-

“15A. *Power of Officers of Government to impose penalty*.- (1) For the purpose of imposing penalty provided under clause (i) of section 15 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under subsection (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

15 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.

15 C. Compounding of Offences.- (1) In the case of second or subsequent offence under clause (ii) of section 15 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on

payment of seventy five percent of the total amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice the person against whom the offence is so compounded shall be discharged .”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-

Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work

pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Lifts and Escalators Act,2013 (18 of 2013)for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND
FESTIVAL HOLIDAYS) AMENDMENT BILL, 2023**

A

BILL

further to amend the Kerala Industrial Establishments (National and Festival Holidays) Act, 1958 (47 of 1958).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Industrial Establishments (National and Festival Holidays) Act, 1958 (47 of 1958) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Industrial Establishments (National and Festival Holidays) Amendment Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 8.*- In the Kerala Industrial Establishments (National and Festival Holidays) Act, 1958 (47 of 1958) (hereinafter referred to as the Principal Act), for section 8, the following section shall be substituted, namely:-

“8. Penalties.- Any employer who contravenes any of the provisions of section 3 or section 5 of this Act shall be liable to a penalty of ten thousand rupees.”.

- 3. Amendment of section 9.- For section 9 of the principal Act, the following section shall be substituted, namely:-***

“9. Penalty for obstructing Inspector.- Whoever willfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act or fails to produce on demand in writing by an Inspector any register, record or notice in his custody which may be required to be kept in pursuance of this Act or of any Rules made thereunder shall be liable to a penalty of fifteen thousand rupees.”.

- 4. Insertion of new sections 9A and 9B .- After section 9 of the principal Act, the following sections shall be inserted, namely:-***

“9 A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 8 and 9 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that

the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

9 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Industrial Establishments (National and Festival Holidays) Act, 1958 (47 of 1958) for providing provisions for enhancement of penalty in the light of central Labour Codes and present money value , appointment of an

Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA PAYMENT OF SUBSISTENCE ALLOWANCE
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Payment of Subsistence Allowance Act, 1973 (27 of 1973) .

Preamble.-WHEREAS, it is expedient further to amend the Kerala Payment of Subsistence Allowance Act, 1973 (27 of 1973) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Payment of Subsistence Allowance (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 8.*- In the Kerala Payment of Subsistence Allowance Act, 1973 (27 of 1973) (hereinafter referred to as the Principal Act), for section 8, the following section shall be substituted, namely:-

“8. *Penalties*.- Who ever contravenes any of the provisions of this Act or any Rules made thereunder shall be liable to a penalty of ten thousand rupees .”.

3. Insertion of new sections 8A and 8B .- After section 8 of the principal Act, the following sections shall be inserted, namely:-

“8A. *Power of Officers of Government to impose penalty*.- (1) For the purpose of imposing penalty provided under section 8 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is

satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

8 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

4. ***Omission of Section 11.***- Section 11 of the Principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission

as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Payment of Subsistence Allowance Act, 1973 (27 of 1973) for providing provisions for enhancement of penalty in the light of central Labour Codes and present money value , appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA MOTOR TRANSPORT WORKERS' PAYMENT OF
FAIR WAGES (AMENDMENT) BILL, 2023**

A

BILL

Further to amend the Kerala Motor Transport Workers' Payment of Fair wages Act,1971 (23 of 1971).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Motor Transport Workers' Payment of Fair wages Act,1971 (23 of 1971) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Motor Transport Workers' Payment of Fair Wages (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 4.*- In the Kerala Motor Transport Workers' Payment of Fair Wages Act,1971 (23 of 1971) (hereinafter referred to as

the Principal Act), for section 4, the following section shall be substituted, namely:-

“4. Penalty for nonpayment of fair wages.- Any employer who refuses to pay fair wages as provided in this Act to any motor transport worker without reasonable cause, shall be liable to a penalty which shall be equal to the amount due as defaulted fair wages to the employee as provided under this Act.

Explanation.- The amount so received or recovered shall be paid to the Motor transport worker to whom the amount is due .”.

3. ***Insertion of new sections 4A and 4B.-*** After section 4 of the principal Act, the following sections shall be inserted, namely:-

“4A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 4 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

***4 B. Mode of Recovery of money due from any person.*– Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.**

4. *Omission of Section 6.*– Section 6 of the Principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also

included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Motor Transport Workers' Payment of Fair Wages Act,1971 (23 of 1971) for providing provisions for replacement of penalty instead of

imprisonment in procedural violations, minor offences , fine etc.
Enhancement of penalty in the light of central Labour Codes and present
money value, appointment of an Authority by the Government for
imposing penalty and recovery of arrears under the provisions of
Revenue Recovery Act.

The Bill seeks to achieve the above object.

THE KERALA RECOGNITION OF TRADE UNIONS (AMENDMENT) BILL,
2023

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BILL

further to amend the Kerala Recognition of Trade Unions Act, 2010 (16 of 2010) .

Preamble.-WHEREAS, it is expedient further to amend the Kerala Recognition of Trade Unions Act, 2010 (16 of 2010) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Recognition of Trade Unions (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 12.*- In the Kerala Recognition of Trade Unions Act, 2010(16 of 2010) (hereinafter referred to as the Principal Act), for section 12, the following section shall be substituted, namely:-

“12. Failure to submit returns.- If default is made on the part of any recognized Trade Union in giving any notice or sending any statement or other document as required by or under any of the provision of this Act, every office bearer or other person bound by the rule of the Trade union to give or send the same, or if there is no such person, every member or the executive of the Trade Union ,shall be liable to a penalty of one thousand rupees and in the case of continuing default with an additional penalty of five hundred rupees for each week after the first week during which the default continues:

Provided that the aggregate penalty shall not exceed five thousand rupees.”.

3. ***Amendment of section 13.-*** For section 13 of the principal Act, the following section shall be substituted, namely:-

“13. Penalty for failure or refusal to grant recognition.- If any employer fails or refuses to grant recognition to a trade union as required under section 9, he shall be liable to a penalty of twenty five thousand rupees .”.

4. ***Insertion of new sections 13A and 13B .-*** After section 13 of the principal Act, the following sections shall be inserted, namely:-

“13 A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 12 and 13 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

13 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue

due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Recognition of Trade Unions Act,2010 (16 of 2010)for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value, appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA CASUAL, TEMPORARY AND BADLI WORKERS
(WAGES) AMENDMENT BILL, 2023**

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BILL

further to amend the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989 (1 of 1990) .

Preamble.-WHEREAS, it is expedient further to amend the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989 (1 of 1990)

for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement* .- (1)This Act may be called the Kerala Casual, Temporary and Badli Workers (Wages) Amendment Act,2023.**

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. ***Amendment of section 7.-* In the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989 (1 of 1990) (hereinafter referred to as the**

Principal Act), for section 7, the following section shall be substituted, namely:-

“7. *Penalties*.- (1) If any employer contravenes any provisions of section 3, he shall be liable to a penalty of twenty five thousand rupees .

(2) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be liable to a penalty of ten thousand rupees.

(3) If any employer or other person obstructs any Inspector in the discharge of his duties under this Act, he shall be liable to a penalty of fifteen thousand rupees.

(4) If any employer refuses or willfully neglects to afford an inspector reasonable facilities for making an entry, inspection, examination or investigation under this Act, he shall be liable to a penalty of rupees fifteen thousand rupees

(5) If an employer, being required by or under this Act so to do, refuses to give any evidence or prevents his agent, servant or any other person in charge of the establishment, factory, plantation, motor transport undertaking or other undertakings, as the case may be, or any worker, from giving evidence, he shall be liable to a penalty of ten thousand rupees.

(6) If any person makes default in complying with the provisions of any rule or order made under this Act, he shall, if no other penalty is provided

for such contravention by this Act, be liable to a penalty of five thousand rupees.”.

3. *Insertion of new sections 7A and 7B* .- After section 7 of the principal Act, the following sections shall be inserted, namely:-

“7 A. Power of Officers of Government to impose penalty.-(1) For the purpose of imposing penalty provided under section 7 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is

satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

7 B. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or the Rules made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

4. ***Omission of Section 9.***- Section 9 of the Principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission

as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989 (1 of 1990) for providing provisions for enhancement of penalty in the light of central Labour Codes and present money value, appointment of an Authority by the Government for imposing penalty and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA HEAD LOAD WORKERS (AMENDMENT) BILL, 2023

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BILL

further to amend the Kerala Head Load Workers Act,1978 (20 of 1980).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Head Load Workers Act, 1978 (20 of 1980) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.* - (1) This Act may be called the Kerala Head Load Workers (Amendment) Act,2023.**
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. **Amendment of section 27.-In the Kerala Head Load workers Act, 1978 (20 of 1980) (hereinafter referred to as the Principal Act), for section 27, the following section shall be substituted, namely:-**
“27. *Penalty for obstructions.*- (1) Whoever obstructs any Inspector or Assistant Labour Officer or Conciliation Officer or Appellate Authority in the discharge of his or its duties under this Act or refuses or willfully

neglects to afford any inspector reasonable facilities for making any inspection , examination or inquiry authorized by or under this Act, shall be liable to a penalty of twenty five thousand rupees .

(2) Whoever willfully refuses to produce on 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 Conciliation Officer or an Appellate Authority acting in pursuance of his or its duties under this Act, shall be liable to a penalty of twenty five thousand rupees. ”.

3. *Amendment of section 28.-* For section 28 of the principal Act, the following section shall be substituted, namely:-

“28. Penalty for making false statements,etc..- Whoever for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or for enabling any person to avoid such payment, knowingly makes or cause to be made any false statement or false representation, shall be liable to a penalty of double the amount due by him under this Act.”.

4. *Insertion of new sections 28A and 28B.-* After section 28 of the principal Act, the following sections shall be inserted, namely:-

“28A. Punishment for non- payment of penalty under section 28.- Who ever fails to pay the penalty so imposed under section 28 within a period of ninety days from the date of receipt of the copy of the order, shall be

punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

28 B. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Chapter, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 28 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer. ”.

5. ***Amendment of section 29.***- For section 29 of the principal Act, the following section shall be substituted, namely:-

“29. Other Penalties.- Whoever contravenes or makes default in complying with any of the provisions of this Act or Scheme or Rules made thereunder shall, if no other penalty is elsewhere provided by or under the Act for such contravention or no compliance, be liable to a penalty of twenty five thousand rupees”.

6. ***Amendment of section 30.***- For section 30 of the principal Act , the following section shall be substituted, namely:-

“30. Enhanced Punishment for second or subsequent offence.- If any person has been imposed with penalty for any offence under this Act has again committed an offence involving contravention of the same provision shall, on conviction, be punished with imprisonment for a term

which may extend to six months or with fine which may extend to fifty thousand rupees or with both.”.

7. *Insertion of new sections 32A, 32B and 32C.*- After section 32 of the principal Act, the following sections shall be inserted, namely:-

“32A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 27,28 and 29 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is

satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

“32B. Compounding of Offences.- (1) The Offences provided under sections 28A and 30 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

32C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act , Scheme, Rules or Regulations made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as

Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Head Load Workers Act ,1978 (20 of 1980) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences, fine etc. Enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA AGRICULTURAL WORKERS (AMENDMENT) BILL,
2023**

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BILL

Further to amend the Kerala Agricultural Workers Act,1974 (18 of 1974).

Preamble.- WHEREAS, it is expedient further to amend the Kerala Agricultural Workers Act,1974 (18 of 1974) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Agricultural Workers (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 27.*- In the Kerala Agricultural Workers Act,1974 (18 of 1974) (hereinafter referred to as the Principal Act), for section 27, the following section shall be substituted, namely:-

"27. Penalty for obstructions, etc. .- (1) Whoever obstructs any Inspector or Conciliation Officer in the discharge of his duties under this Act or rules shall be liable to a penalty of twenty thousand rupees

(2) Whoever, willfully refuses to produce on demand of an Inspector 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 acting in pursuance of his duties under this Act, shall be liable to a penalty of twenty five thousand rupees .".

3. ***Amendment of section 28.-*** For section 28 of the principal Act, the following section shall be substituted, namely:-

"28. Penalty for making false statements, etc..- Whoever , for the purpose of avoiding any payment to be made by him under this Act or under the 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 liable to a penalty of twenty thousand rupees.".

4. ***Insertion of new sections 28A and 28B.-*** After section 28 of the principal Act, the following sections shall be inserted, namely:-

"28A. Punishment for non-payment of penalty under section 28.- Whoever fails to pay the penalty so imposed under section 28 with in a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

28B. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Chapter, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 28 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer. ”.

5. ***Amendment of section 29.-*** For section 29 of the principal Act, the following section shall be substituted, namely:-

“29. Penalty for breach of settlement or award,- The person who commits a breach of any term of any settlement or award shall be liable to a penalty of fifty thousand rupees:

Provided that half of the amount so received may be directed to be paid, by way of compensation, to the person who had been injured by such breach.”.

6. ***Amendment of section 30.-*** For section 30 of the principal Act, the following section shall be substituted, namely:-

“30. Other Penalties.- Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme or of any Rules made under this Act shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non- compliance , be liable to a penalty of twenty five thousand rupees.”.

7. ***Amendment of section 31.-*** For section 31 of the principal Act, the following section shall be substituted, namely:-

“31. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing any offence under this Act has again committed an offence involving contravention of the same provision of this Act, he shall, on conviction, be punished with imprisonment for a term which may not be less than one month but which may extend to six months and with fine which may extend to double the amount imposed as penalty for the first offence :

Provided that for the purpose of this section no cognizance shall be taken of an offence committed more than five years before the commission of the offence which is being punished.”.

7. *Insertion of new sections 31A, 31B and 31C.-* After section 31 of the principal Act, the following sections shall be inserted, namely:-

“31A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 27, 28, 29 and 30 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

“31B. Compounding of Offences.- (1) The Offences provided under sections 28A and 31 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

31 C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act, Scheme, Rules or Regulations made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Agricultural Workers Act,1974 (18 of 1974)for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc. Enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for

non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA BEEDI AND CIGAR WORKERS WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Beedi and Cigar Workers Welfare Fund Act,1995 (18 of 1995).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Beedi and Cigar Workers Welfare Fund Act,1995 (18 of 1995) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Beedi and Cigar Workers Welfare Fund (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 19*.-In the Kerala Beedi and Cigar Workers Welfare Fund Act,1995 (18 of 1995) (hereinafter referred to as the Principal Act), in section 19, for sub sections (1) and (2) the following sub sections shall, respectively, be substituted, namely:-

“(1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid any payment to be made under this Act or the Scheme, knowingly makes or causes to be made any false statement or false representation, shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be liable to a penalty of twenty five thousand rupees.”.

3. ***Insertion of new sections 19A and 19B.***- After section 19 of the principal Act, the following sections shall be inserted, namely:-

“19A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Chapter, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 19 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer.

19 B. Punishment for non- payment of penalty under section 19.- Whoever fails to pay the penalty so imposed under section 19 within a period of ninety days from the date of receipt of the copy of the order, shall, on conviction, be punished with imprisonment for a term which

may extend to six months and with fine which may extend to double the amount imposed as penalty.”.

4. *Amendment of section 20.*- For sub-section (1) of section 20 of the principal Act, the following sub- section shall be substituted, namely:-

“(1) Whoever makes default in the payment of the employees’ share of contribution to the fund after having deducted it from the wages of the employees in accordance with the provisions of this Act or the Scheme, shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to fifty thousand rupees.”.

5. *Amendment of section 21.*- For section 21 of the principal Act, the following section shall be substituted, namely:-

“21. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing any offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

6. *Insertion of new sections 21A, 21B and 21C.*- After section 21 of the principal Act, the following sections shall be inserted, namely:-

“21A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 19 of this Act, the

Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

21 B. Compounding of Offences.- **(1) The Offences provided under section 19B, sub- section(1) of section 20 and 21 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.**

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

21C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago , the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Beedi and Cigar Workers Welfare Fund Act, 1995 (18 of 1995) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA CONSTRUCTION WORKERS WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Construction Workers Welfare Fund Act, 1989 (20 of 1989).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Construction Workers Welfare Fund Act, 1989 (20 of 1989) for the purposes hereinafter appearing;

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Construction Workers Welfare Fund (Amendment) Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 25*.-In the Kerala Construction Workers Welfare Fund Act, 1989 (20 of 1989), (hereinafter referred to as the Principal Act), for section 25 the following section shall be substituted, namely:-

“25. *Penalties*.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid any payment to be made under this Act or the Scheme , knowingly makes or causes to be made any false statement or false representation, shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever refuses to make the entries in the identity card of the members as required under section 5 and whoever defaults in maintaining the registers required under section 7, shall be liable to a penalty of twenty five thousand rupees.

(3) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 25A and 25B*.- After section 25 of the principal Act, the following sections shall be inserted, namely:-

“25A. *Prior Opportunity before imposing Penalty*.- Notwithstanding anything contained in this Chapter, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 25 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

25B. Punishment for non- payment of penalty.- Whoever fails to pay the penalty so imposed under section 25 within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.”.

4. ***Amendment of section 26.-*** For section 26 of the principal Act, the following section shall be substituted, namely:-

“26. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing any offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

5. ***Insertion of new sections 26A, 26B and 26C.-*** After section 26 of the principal Act, the following sections shall be inserted, namely:-

“26A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 25 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

26 B. Compounding of Offences.- (1) The Offences provided under sections 25B and 26 may be compounded, either before or after

institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

26C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Schemes made thereunder may be recovered with interest in the same manner as arrears of public

revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary , time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Construction Workers Welfare Fund Act,1989 (20 of 1989) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA ABKARI WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

**further to amend the Kerala Abkari Workers' Welfare Fund Act,1989
(19 of 1989).**

***Preamble.-WHEREAS*, it is expedient further to amend the Kerala Abkari Workers' Welfare Fund Act, 1989 (19 of 1989) for the purposes hereinafter appearing;**

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement* .- (1)This Act may be called the Kerala Abkari Workers' Welfare Fund (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.**
2. ***Amendment of section 17.-*In the Kerala Abkari Workers' Welfare Fund Act,1989 (19 of 1989), (hereinafter referred to as the Principal Act),for section 17, the following section shall be substituted, namely:-**

“17. Penalty.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 17A and 17B.-* After section 17 of the principal Act, the following sections shall be inserted, namely:-

“17A. *Prior Opportunity before imposing Penalty.-* Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17, afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

***17 B. Punishment for non- payment of penalty under section 17.-* Whoever fails to pay the penalty so imposed under section 17 with in a period of ninety days from the date of receipt of the copy of the order, shall, on conviction be punished with imprisonment for a term which may**

extend to six months and with fine which may extend to double the amount ordered as penalty.”.

4. *Amendment of section 18.-* For section 18 of the principal Act, the following section shall be substituted, namely:-

“18. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing any offence under this Act, has again committed on offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

5. *Insertion of new sections 18A, 18B and 18C.-* After section 18 of the principal Act, the following sections shall be inserted, namely:-

“18A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 17 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that

the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

18 B. Compounding of Offences.- (1) The Offences provided under sections 17B and 18 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

18 C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Abkari Workers' Welfare Fund Act,1989 (19 of 1989) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non

payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA KHADI WORKERS WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

**further to amend the Kerala Khadi Workers Welfare Fund Act,1989
(1 of 1989).**

***Preamble.*-WHEREAS, it is expedient further to amend the Kerala Khadi Workers Welfare Fund Act, 1989 (1 of 1989) for the purposes hereinafter appearing;**

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement.* - (1) This Act may be called the Kerala Khadi Workers Welfare Fund (Amendment) Act,2023.**
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. ***Amendment of section 16.*-In the Kerala Khadi Workers Welfare Fund Act,1989 (1 of 1989) ,(hereinafter referred to as the Principal Act), for section 16 the following section shall be substituted, namely:-**

“16. Penalty.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment , knowingly makes or causes to be made any false statement or false representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be liable to a penalty of twenty five thousand rupees.”.

3. ***Insertion of new sections 16A, 16B,16C,16D and 16E.-*** After section 16 of the principal Act, the following sections shall be inserted, namely:-

“16A. *Prior Opportunity before imposing Penalty.-* Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 16 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

16 B. Punishment for non- payment of penalty .- Whoever fails to pay the penalty so imposed under section 16 with in a period of ninety days from the date of receipt of the copy of the order, shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

16 C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 16 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming,

modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

16 D. Compounding of Offence.-(1) The Offence provided under section 16B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the offence shall be credited to the Fund constituted under this Act.

16E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare

and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very

meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Khadi Workers Welfare Fund Act,1989 (1 of 1989) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA MOTOR TRANSPORT WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Motor Transport Workers' Welfare Fund Act, 1985 (21 of 1985).

***Preamble.-WHEREAS*, it is expedient further to amend the Kerala Motor Transport Workers' Welfare Fund Act, 1985 (21 of 1985) for the purposes hereinafter appearing;**

BE it enacted in the seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Motor Transport Workers' Welfare Fund (Amendment) Act,2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 15.-*In the Kerala Motor Transport Workers' Welfare Fund Act, 1985 (21 of 1985), (hereinafter referred to as the

Principal Act), for section 15, the following section shall be substituted, namely:-

“15. Penalties.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid any payment to be made under this Act or the Scheme, knowingly makes or causes to be made any false statement or false representation, shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non- compliance , be liable to a penalty of twenty five thousand rupees.”.

3. *Amendment of section 16.-* For section 16 of the Principal Act, the following section shall be substituted, namely:-

“16. Enhanced punishment for default in payment of employees' contributions already deducted.- (1) whoever makes default in the payment of the employees' share of contribution to the fund after having deducted it from the wages of the employees in accordance with the provisions of this Act or Scheme, shall, on conviction, be punished with imprisonment for a term which may extend to one year, but shall not be less than three months and with fine which may extend to double the amount of penalty provided under sub section (1) of section 15.”.

4. *Amendment of section 17.-* For section 17 of the Principal Act, the following section shall be substituted, namely:-

“17. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing any offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

5. ***Insertion of new section 17A,17B,17C,17D and 17E.-*** After section 17 of the principal Act, the following sections shall be inserted, namely:-

“17A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Chapter, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 15 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

17 B. Punishment for non- payment of penalty .- Whoever fails to pay the penalty so imposed under section 15 with in a period of ninety days from the date of receipt of the copy of the order, shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.”.

17 C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 15 of this Act, the

Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

17 D. Compounding of Offences.- **(1) The Offences provided under sections 16 , 17 and 17B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.**

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted further with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

17E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and

Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very

meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Motor Transport Workers' Welfare Fund Act,1985 (21 of 1985) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA HANDLOOM WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Handloom Workers Welfare Fund Act, 1989 (2 of 1989).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Handloom Workers Welfare Fund Act, 1989 (2 of 1989).

for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Handloom Workers' Welfare Fund (Amendment) Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 17.*-In the Kerala Handloom Workers' Welfare Fund Act, 1989 (2 of 1989), (hereinafter referred to as the Principal Act), for section 17, the following section shall be substituted, namely:-

“17. Penalty.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 17A,17B,17C,17D and 17E.*- After section 17 of the principal Act, the following sections shall be inserted, namely:-

“17A. *Prior Opportunity before imposing Penalty.*- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17, afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

17 B. *Punishment for non- payment of penalty .*- Whoever fails to pay the penalty so imposed under section 17 with in a period of ninety days from the date of receipt of the copy of the order, shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

17 C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 17 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal afford an opportunity of being heard pass such order as he thinks fit,

confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

17D. Compounding of Offence.- (1) The Offence provided under section 17B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

***17 E. Mode of Recovery of money due from any person.* - Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.**

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

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and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago , the fine amount provided for violation of the provisions of the Acts is very

meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Handloom Workers' Welfare Fund Act,1989 (2 of 1989) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA HANDLOOM WORKERS' WELFARE CESS
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Handloom Workers' Welfare Cess Act, 2007 (10 of 2007).

Preamble.-WHEREAS, it is expedient further to amend the Kerala handloom Workers' Welfare Cess Act, 2007 (10 of 2007) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Handloom Workers' Welfare Cess (Amendment) Act, 2023.

(2) It extends to the whole of the State of Kerala.

(3)It shall come into force at once.

2. **Amendment of section 15.**-In the Kerala handloom Workers' Welfare Cess Act, 2007 (10 of 2007), (hereinafter referred to as the Principal Act), for section 15, the following section shall be substituted, namely:-

“15. Penalty.- (1) Any dealer, who is under an obligation to furnish a return under this Act furnishes any return, knowing or having reason to

believe the same to be false , shall be liable to a penalty of twenty five thousand rupees.

(2) Whoever, being liable to pay Cess under this Act, willfully or intentionally evades or attempts to evade the payment of such Cess, shall be liable to a penalty of twenty five thousand rupees.

(3) Whoever contravenes any of the provisions of this Act or the Rules made thereunder shall, if no other penalty is elsewhere provided by this Act or the Rules for such contravention , be liable to a penalty of twenty thousand rupees.”.

3. *Insertion of new sections 15A, 15B, 15C, 15D and 15E.*- After section 15 of the principal Act, the following sections shall be inserted, namely:-

“15 A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 15 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

15 B. Punishment for non- payment of penalty .- Whoever fails to pay the penalty so imposed under section 15 within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

15 C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 15 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming,

modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

15D. Compounding of Offence.- (1) The Offence provided under section 15B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of the prosecution, no prosecution shall be instituted further with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

16E. Mode of Recovery of money due from any person. - Any amount due from any person under this Act or Rules or made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

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Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

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and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is

very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Handloom Workers' Welfare Cess Act,2007 (10 of 2007) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA COIR WORKERS' WELFARE FUND (AMENDMENT)

BILL, 2023

A

BILL

further to amend the Kerala Coir Workers' Welfare Fund Act, 1987 (34 of 1987).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Coir Workers' Welfare Fund Act, 1987 (34 of 1987) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement.* - (1) This Act may be called the Kerala Coir Workers' Welfare Fund (Amendment) Act, 2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 17.*-In the Kerala Coir Workers' Welfare Fund Act, 1987 (34 of 1987), (hereinafter referred to as the Principal Act), for section 17, the following section shall be substituted, namely:-

“17. Penalty.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any

other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation, shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 17A, 17B, 17C, 17D and 17E.* - After section 17 of the principal Act, the following sections shall be inserted, namely:-

“17A. Prior Opportunity before imposing Penalty. - Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17, give an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer.

17 B. Punishment for non-payment of penalty . - Whoever fails to pay the penalty so imposed under section 17 within a period of ninety days from the date of receipt of the copy of the order, shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

17 C. Power of Officers of Government to impose penalty. - (1) For the purpose of imposing penalty provided under sections 17 of this Act, the

Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

17 D. Compounding of Offence. - (1) The Offence provided under section 17B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before the institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

17 E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the

field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is

very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Coir Workers' Welfare Fund Act,1987 (34 of 1987) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non-payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

THE KERALA COIR WORKERS' WELFARE CESS (AMENDMENT)

BILL, 2023

A

BILL

further to amend the Kerala Coir Workers' Welfare Cess Act,2008 (20 of 2008).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Coir Workers' Welfare Cess Act, 2008 (20 of 2008) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Coir Workers' Welfare Cess (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 16*.-In the Kerala Coir Workers' Welfare Cess Act, 2008 (20 of 2008), (hereinafter referred to as the Principal Act), for section 16, the following section shall be substituted, namely:-

“16. Penalty.- (1) Any dealer, who is under an obligation to furnish a return under this Act , furnishes any return knowing or having reason to believe , the same to be false , shall be liable to a penalty of twenty five thousand rupees.

(2) Whoever, being liable to pay Cess under this Act, willfully or intentionally evades or attempts to evade the payment of such Cess, shall be liable to a penalty of twenty five thousand rupees.

(3) Whoever contravenes any of the provisions of this Act or the Rules made thereunder shall, if no other penalty is elsewhere provided by this Act or the Rules for such contravention, be liable to a penalty of twenty thousand rupees.”

3. *Insertion of new sections 16A, 16B, 16C, 16D and 16E.*- After section 16 of the principal Act, the following sections shall be inserted, namely:-

“16 A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 16 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

16 B. Punishment for non- payment of penalty .- Whoever fails to pay the penalty so imposed under section 16 within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with

imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

16 C. Power of Officers of Government to impose penalty. - (1) For the purpose of imposing penalty provided under sections 16 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

16D. Compounding of Offence.-(1) The Offence provided under section 16B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of the prosecution, no prosecution shall be instituted further with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in

sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

16 E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Schemes or Regulations made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens

and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the

respective funds.. Since most of these Acts were passed long ago , the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Coir Workers' Welfare Cess Act,2008 (20 of 2008) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA CASHEW WORKERS RELIEF AND WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Cashew Workers Relief and Welfare Fund Act, 1979 (19 of 1984).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Cashew Workers Relief and Welfare Fund Act, 1979 (19 of 1984) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Cashew Workers Relief and Welfare Fund (Amendment) Act, 2023.
 - (2) It extends to the whole of the State of Kerala.
 - (3) It shall come into force at once.
2. *Amendment of section 13.*-In the Kerala Cashew Workers Relief and Welfare Fund Act, 1979 (19 of 1984), (hereinafter referred to as the Principal Act), for section 13, the following section shall be substituted, namely:-

“13. Penalties.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid any payment to be made under this Act or the Scheme, knowingly makes or causes to be made any false statement or representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance, be liable to a penalty of twenty five thousand rupees.”

3. ***Insertion of new sections 13A and 13B.-*** After section 13 of the principal Act, the following sections shall be inserted, namely:-

“13 A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 13 , give an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer.

13 B. Punishment for non- payment of penalty.- Whoever fails to pay the penalty so imposed under section 13 within a period of ninety days from the date of receipt of the copy of the order, shall be punished with

imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.”.

4. *Amendment to section 14.*- For sub section (1) of section 14 of the principal Act, the following sub section shall be substituted, namely:-

“14. Enhanced punishment for default in payment of employees’ contributions already deducted.- whoever makes default in payment of the employees’ share of contribution to the fund after having deducted it from the wages of the employees in accordance with the provisions of this Act or the Scheme, shall, on conviction, be punished with imprisonment for a term which may extend to one year, but shall not be less than three months and with fine which may extend to double the amount of penalty provided under sub section (1) of section 13:

Provided that the Court may, for an adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than three months.”

5. *Amendment of section 15.*- For section 15 of the principal Act, the following section shall be substituted, namely:-

“15. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing an offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence or with both.”.

6. *Insertion of new sections 15A, 15B and 15C.*- After section 15 of the principal Act, the following sections shall be inserted, namely:-

“15 A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 13 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

15B. Compounding of Offences.- (1) The Offences provided under sections 13B, 14 and 15 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of the prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub

section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

15 C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Regulations made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and

to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the

respective funds.. Since most of these Acts were passed long ago , the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Cashew Workers' Relief and Welfare Fund Act,1979 (19 of 1984) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA JEWELLERY WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Jewellery Workers' Welfare Fund Act, 2009 (26 of 2009).

Preamble.- WHEREAS, it is expedient further to amend the Kerala Jewellery Workers' Welfare Fund Act, 2009 (26 of 2009) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1) This Act may be called the Kerala Jewellery Workers' Welfare Fund (Amendment) Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 26.*-In the Kerala Jewellery Workers' Welfare Fund Act, 2009 (26 of 2009), (hereinafter referred to as the Principal Act), for section 26, the following section shall be substituted, namely:-

“26. *Penalties*.- (1) A person who, for the purpose of avoiding any payment to be made by him under this Act or Rules or the Scheme or of assisting any other person to avoid such payment , knowingly makes or causes to be made any false statement or misrepresentation or false representation, shall be liable to a penalty of double the amount due by him under this Act.

(2) Any person who, contravenes or makes default in complying with any of the provisions of this Act or the Rules or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance , be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 26A and 26B*.- After section 26 of the principal Act, the following sections shall be inserted, namely:-

“26A. *Prior Opportunity before imposing Penalty*.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 26 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

26B. *Punishment for non- payment of penalty*.- Whoever fails to pay the penalty so imposed under section 26 within a period of ninety days from the date of receipt of the copy of the order, shall be punishable with

imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.”.

4. *Amendment of section 27.-* For section 27 of the principal Act, the following section shall be substituted, namely:-

“27. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing an offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

5. *Insertion of new sections 27A, 27B and 27C.-* After section 27 of the principal Act, the following sections shall be inserted, namely:-

“27A. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 26 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that

the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

27B. Compounding of Offences.- (1) The Offences provided under sections 26B and 27 may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

27C. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Schemes or Regulations made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also

included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary , time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Jewellery Workers' Welfare Fund Act,2009 (26 of 2009) for providing provisions for replacement of penalty instead of imprisonment in procedural

violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA BAMBOO,KATTUVALLI AND PANDANUS LEAF
WORKERS' WELFARE FUND (AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Bamboo, Kattuvalli, Pandanus Leaf Workers' Welfare Fund Act,1998 (17 of 1998).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Bamboo, Kattuvalli, Pandanus Leaf Workers' Welfare Fund Act,1998 (17 of 1998) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Bamboo, Kattuvalli, Pandanus Leaf Workers' Welfare Fund (Amendment) Act,2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. *Amendment of section 17*.-In the Kerala Bamboo, Kattuvalli, Pandanus Leaf Workers' Welfare Fund Act,1998 (17 of 1998), (hereinafter referred

to as the Principal Act), for section 17, the following section shall be substituted, namely:-

“17. Penalty.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment , knowingly makes or causes to be made any false statement or false representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance , be liable to a penalty of twenty five thousand rupees.”.

3. ***Insertion of new sections 17A,17B,17C,17D and 17E.-*** After section 17 of the principal Act, the following sections shall be inserted, namely:-

“17 A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer.

17 B. Punishment for non- payment of penalty .- Whoever fails to pay the penalty so imposed under section 17 within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with

imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

17 C. Power of Officers of Government to impose penalty. - (1) For the purpose of imposing penalty provided under section 17 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under subsection (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

17D. Compounding of Offence.- (1) The Offence provided under section 17B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in

sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

17 E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to

enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago, the fine

amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Bamboo, Kattuvalli and Pandanus Leaf Workers Welfare Fund Act 1998 (17 of 1998) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA LABOUR WELFARE FUND (AMENDMENT) BILL,
2023**

A

BILL

further to amend the Kerala Labour Welfare Fund Act,1975 (2 of 1977).

Preamble.- WHEREAS, it is expedient further to amend the Kerala Labour Welfare Fund Act, 1975 (2 of 1977) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Labour Welfare Fund (Amendment) Act,2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 28.*-In the Kerala Labour Welfare Fund Act, 1975 (2 of 1977), (hereinafter referred to as the Principal Act), for section 28 the following section shall be substituted, namely:-

“28. Penalty for obstructing Inspector or for failure to produce documents, etc..- Any person who willfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any register, record or

other documents maintained in pursuance of the provisions of this Act or the Rules made thereunder or to supply to him, on demand, true copies of any such document shall,-

- (i) for the first offence, be liable to a penalty of twenty five thousand rupees ; and
- (ii) for the second or subsequent offence, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.”.

3. *Amendment of section 28A.*- For section 28A of the principal Act, the following section shall be substituted, namely:-

“28A. *Penalty for other offences.*- Whoever contravenes or makes default in complying with any of the provisions of this Act or any Rules or Regulations made thereunder shall, if no penalty is provided in section 28 , be liable to a penalty of twenty five thousand rupees.”.

4. *Amendment of section 33.*- For section 33 of the principal Act, the following section shall be substituted, namely:-

“33. *Penalty for non-compliance with the direction of the Board.*- Any person who willfully fails to produce any document required by the Board or to furnish any information called for by the Board or willfully fails to comply with any directions issued by the Board under section 32,shall,-

- (i) for the first offence ,be liable to a penalty of twenty five thousand rupees; and
- (ii) for the second or subsequent offence, on conviction , be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.”.

5. *Insertion of new sections 33A ,33B, 33C, 33D and 33E.*- After section 33 of the principal Act, the following sections shall be inserted, namely:-

“33 A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under clause (i) of section 28 , section 28A or clause (i) of section 33, afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer.

33 B. Punishment for non- payment of penalty.- Whoever fails to pay the penalty so imposed under clause (i) of section 28 , section 28A or clause (i) of section 33, within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount ordered as penalty.

“33 C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under clause (i) of section 28 ,

section 28A or clause (i) of section 33 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

33D. Compounding of Offences.- **(1) The Offences provided under clause (ii) of section 28 , clause (ii) of section 33 and section 33B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those sections.**

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

33E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme or Regulations made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Labour Welfare Fund Act,1975 (2 of 1977) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA TODDY WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

**further to amend the Kerala Toddy Workers' Welfare Fund Act,1969
(22 of 1969)**

Preamble.-WHEREAS, it is expedient further to amend the Kerala Toddy Workers' Welfare Fund Act, 1969 (22 of 1969) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. ***Short title, extent and commencement .- (1)This Act may be called the Kerala Toddy Workers' Welfare Fund (Amendment) Act,2023.***
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. ***Amendment of section 14.-In the Kerala Toddy Workers' Welfare Fund Act, 1969 (22 of 1969), (hereinafter referred to as the Principal Act), for section 14, the following section shall be substituted, namely:-***
"14. Penalties.- (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment , knowingly makes or causes to

be made any false statement or false representation, shall be liable to a penalty of double the amount due by him under this Act.

(2) Whoever, contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance , be liable to a penalty of twenty five thousand rupees.”.

3. *Amendment of section 14A.*- For sub-section (1) of section 14A, the following sub-section shall be substituted, namely:-

“ (1) whoever makes default in the payment of the employees' share of contribution to the fund after having deducted it from the wages of the employees in accordance with the provisions of this Act or the Scheme, shall, on conviction, be punished with imprisonment for a term which may extend to one year, but shall not be less than three months and with fine which may extend to double the amount of penalty provided under sub section (1) of section 14.”

4. *Amendment of section 14B.*- For section 14B of the principal Act, the following section shall be substituted, namely:-

“14B. Enhanced Punishment for second or subsequent offence.- If any person against whom penalty has been imposed for committing an offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

5. *Insertion of new sections 14C,14D,14E,14F and 14G.-* After section 14B of the principal Act, the following sections shall be inserted, namely:-

“14 C. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 14 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

14 D. Punishment for non- payment of penalty.- Whoever fails to pay the penalty so imposed under section 14 within a period of ninety days from the date of receipt of the copy of the order, shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.”.

14 E. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under section 14 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the

subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

14F. Compounding of Offences.- (1) The Offences provided under sections 14A,14B and14D may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment

of seventy five percent of the maximum amount of fine provided under those sections.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

14G. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Schemes made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary , time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago , the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Toddy Workers' Welfare Fund Act,1969 (22 of 1969) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity

before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA SMALL PLANTATION WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Small Plantation Workers' Welfare Fund Act, 2008 (17 of 2008).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Small Plantation Workers' Welfare Fund Act, 2008 (17 of 2008) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Small Plantation Workers' Welfare Fund (Amendment) Act,2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 17*.-In the Kerala Small Plantation Workers' Welfare Fund Act, 2008 (17 of 2008), (hereinafter referred to as the Principal Act), for section 17, the following section shall be substituted, namely:-

“17. Penalty.- (1) A person, who for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment , knowingly makes or causes to be made any false statement or false representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Any person, Who contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance , be liable to a penalty of twenty five thousand rupees.”.

3. *Insertion of new sections 17A,17B,17D and 17E.-* After section 17 of the principal Act, the following sections shall be inserted, namely:-

“17 A. *Prior Opportunity before imposing Penalty.*- Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17 , afford an opportunity to the employer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction with in such period, then, no such proceedings shall be initiated against the employer.

17 B. *Punishment for non- payment of penalty .*- Whoever fails to pay the penalty so imposed under section 17 within a period of ninety days from the date of receipt of the copy of the order, shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

17 C. Power of Officers of Government to impose penalty.- (1) For the purpose of imposing penalty provided under sections 17 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming,

modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

17D. Compounding of Offence.- (1) The Offence provided under section 17 B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under that section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of prosecution, no prosecution shall be instituted with respect to that offence against whom the offence is so compounded.

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17E. Mode of Recovery of money due from any person.- Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.

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and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

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Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds.. Since most of these Acts were passed long ago , the fine amount provided for violation of the provisions of the Acts is very

meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Small Plantation Workers' Welfare Fund Act,2008 (17 of 2008) for providing provisions for replacement of penalty instead of imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

**THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS
WORKERS' WELFARE FUND (AMENDMENT) BILL, 2023**

A

BILL

further to amend the Kerala Shops and Commercial Establishments Workers' Welfare Fund Act, 2006 (24 of 2006).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Shops and Commercial Establishments Workers' Welfare Fund Act, 2006 (24 of 2006) for the purposes hereinafter appearing;

BE it enacted in the Seventy fourth year of the Republic of India as follows:-

1. *Short title, extent and commencement* .- (1)This Act may be called the Kerala Shops and Commercial Establishments Workers' Welfare Fund (Amendment) Act,2023.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 17.*-In the Kerala Shops and Commercial Establishments Workers' Welfare Fund Act, 2006 (24 of 2006), (hereinafter referred to as the Principal Act), for section 17, the following section shall be substituted, namely:-

“17. Penalty.- (1) A person, who for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment , knowingly makes or causes to be made any false statement or false representation , shall be liable to a penalty of double the amount due by him under this Act.

(2) Any person, Who contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance, be liable to a penalty of twenty five thousand rupees.”.

3. *Amendment of section 18.-* For section 18 of the principal Act, the following section shall be substituted, namely:-

“18. *Enhanced Punishment for second or subsequent offence.-* If any person against whom penalty has been imposed for committing an offence under this Act, has again committed an offence involving contravention of the same provision, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to double the amount imposed as penalty for the first offence.”.

4. *Insertion of new sections 18A,18B,18C,18D and 18E.-* After section 18 of the principal Act, the following sections shall be inserted, namely:-

“18 A. *Prior Opportunity before imposing Penalty.-* Notwithstanding anything contained in this Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17, afford an opportunity to the employer to comply with the

aforesaid relevant provisions by written direction laying down a time period for such compliance and if the employer complies with the direction within such period, then, no such proceedings shall be initiated against the employer.

18 B. Punishment for non- payment of penalty.– Whoever fails to pay the penalty so imposed under section 17 within a period of ninety days from the date of receipt of the copy of the order, shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine which may extend to double the amount imposed as penalty.

18 C. Power of Officers of Government to impose penalty.– (1) For the purpose of imposing penalty provided under section 17 of this Act, the Government may appoint an officer and he shall impose the penalty as provided under this Act after holding an enquiry in the manner as may be prescribed.

(2) While holding enquiry, the officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the officer may be useful or relevant to the subject matter of the enquiry and if on such enquiry he is satisfied that the person has committed the offence, the officer shall impose such penalty as provided under this Act.

(3) Any person aggrieved by an order made by the officer under sub section (2) may prefer an appeal in such form and in such manner with

such fee, as may be prescribed before the appellate authority to be appointed by the Government in this behalf within thirty days from the date on which such order is communicated to him:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days, if the appellate authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) The appellate authority may after giving the parties to the appeal an opportunity of being heard pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against within a period of sixty days from the date of receipt of the appeal.

(5) The amount of penalty received shall be credited to the Fund constituted under this Act.

18 D. Compounding of Offences.- (1) The Offences provided under sections 18 and 18B may be compounded, either before or after institution of prosecution by an officer authorized by the Government in this behalf, in such manner as may be prescribed, on an application made to such officer by the person alleged of the offence, on payment of seventy five percent of the maximum amount of fine provided under those section.

(2) Every officer referred to in sub-section (1) shall exercise the powers to compound the offence as may be prescribed.

(3) Every application for compounding the offence shall be made in such Form and in such manner as may be prescribed.

(4) Where the compounding of the offence is made before institution of prosecution, no prosecution shall be instituted further with respect to that offence against whom the offence is so compounded.

(5) Where the compounding of the offence is made after institution of the prosecution, such compounding shall be brought to the notice of the Court where the prosecution is pending by the officer referred to in sub section(1) and on such notice, the person against whom the offence is so compounded shall be discharged .

(6) The amount received on compounding of the Offence shall be credited to the Fund constituted under this Act.

***18 E. Mode of Recovery of money due from any person.* - Any amount due from any person under this Act or Rules or Scheme made thereunder may be recovered with interest in the same manner as arrears of public revenue due on land as per the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), for the time being in force.”.**

STATEMENT OF OBJECTS AND REASONS

Government of Kerala have initiated steps to make the State a top investment destination in the country and as a part of this process simplification of procedures, speedy and easy disposals have been initiated years back.

Government have earlier constituted a Committee vide G.O(Rt) No.770/2021/ID dated 26th July, 2021 consisting of Dr.K.C.Sunny, Vice-Chancellor, National University of Advanced Legal Studies as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman, Kerala Law Reforms Commission as Member and Sri.T.Nandakumar IAS (Rtd) as Special Invitee to scrutinize all Acts and Rules that are relevant to business community and citizens and to suggest measures for de-criminalising the provisions and to enable the effective implementation of Ease of Doing Business in the State and accordingly the Committee proposes modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts, particularly in the field of minor offences and violations of various provisions of the Act and Rules.

The Central Government recently enacted Labour Codes by repealing or subsuming around 29 Central Labour Acts whereby the penal provisions have been replaced with fine or penalty and also

included provision for compounding of the offences provided under the Acts.

The Law reforms Commission considered the proposals in detail in the light of the report submitted by the aforesaid Committee and also provisions of the Labour Codes of the Union Government.

The existing penal provisions in the Industrial, Labour and Welfare Laws are not favourable to those who are intended to participate in the investment for Ease of Doing Business in our State. Most of the penal provisions in these Acts make the entire process time consuming and expensive for the investors and the Government. Large pendency of criminal prosecution cases in the Judiciary, time and work pressure on the Judiciary and the infrastructure and finance spent by the State administration are notable factors in these aspect.

Majority of violations under these Acts are of procedural in nature and hence they can be rightly tackled with penalties which are quicker and will create revenue to the State exchequer as well as to the respective funds. Since most of these Acts were passed long ago, the fine amount provided for violation of the provisions of the Acts is very meagre amounts. The punishment as provided in these Acts is not deterrent enough to ensure payment to the Welfare and Cess funds.

In these circumstances the Law Reforms Commission has decided to prepare adequate amendments to the Kerala Shops and Commercial Establishments Workers' Fund Act,2006 (24 of 2006) for providing provisions for replacement of penalty instead of

imprisonment in procedural violations, minor offences , fine etc., enhancement of penalty in the light of central Labour Codes and present money value, prior opportunity before imposing penalty, punishment for non payment of penalty, appointment of an Authority by the Government for imposing penalty, provision for compounding of offences on payment of seventy five percent of maximum fine amount and recovery of arrears under the provisions of Revenue Recovery Act .

The Bill seeks to achieve the above object.

