

**THE KERALA DIARY FARMERS WELFARE FUND
(AMENDMENT) BILL, 2023**

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BILL

**further to amend the Kerala Diary Farmers Welfare Fund Act,2007
(7 of 2007).**

Preamble.-WHEREAS, it is expedient further to amend the Kerala Diary Farmers Welfare Fund Act, 2007 (7 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 Diary Farmers 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 Diary Farmers Welfare Fund Act, 2007 (7 of 2007), (hereinafter referred to as the Principal Act), for section 17 the following section shall be substituted, namely:-**
“17. 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 twenty five thousand rupees.

(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 fifteen 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 Section 17, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 17, afford an opportunity to the diary farmer to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the diary farmer complies with the direction within such period, then, no such proceedings shall be initiated against him.

17B. 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.”.

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 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 contravention.”.

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.

***18C. 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 atop 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 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 that Committee proposed modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts..

The Law Reforms Commission considered the above proposals in detail and submitted 35 Amendment Bills relating to the State Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts as per the ninetieth report of this Commission. Apart from those Laws, this Commission has identified five more Welfare Fund Legislations which need similar amendments in the penalty provisions. Accordingly the Commission is proposing amendments to the penalty provisions of those Acts.

Majority of offences 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 funds.

In these circumstances the Commission has decided to prepare adequate amendments to the Kerala Diary Farmers Welfare Fund Act, 2007 (7 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 CULTURAL ACTIVISTS WELFARE FUND
(AMENDMENT) BILL, 2023**

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BILL

further to amend the Kerala Cultural Activists Welfare Fund Act, 2010 (6 of 2011).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Cultural Activists Welfare Fund Act, 2010 (6 of 2011) 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 Cultural Activists 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 Cultural Activists Welfare Fund Act, 2010 (6 of 2011) ,(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 twenty five thousand rupees.

(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 fifteen 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 defaulter to pay the a defaulted amount by written direction laying down a time period for such payment and if the defaulter complies with the direction with in such period, then, no such proceedings shall be initiated against the cultural activists.

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, 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 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 that Committee proposed modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts..

The Law Reforms Commission considered the above proposals in detail and submitted 35 Amendment Bills relating to the State Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts as per the ninetieth report of this Commission. Apart from those Laws, this Commission has identified five more Welfare Fund Legislations which need similar amendments in the penalty provisions.

Accordingly the Commission is proposing amendments to the penalty provisions of those Acts.

Majority of offences 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 funds.

In these circumstances the Commission has decided to prepare adequate amendments to the Kerala Cultural Activists Welfare Fund Act, 2010 (6 of 2011) 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 TAILORING WORKERS WELFARE FUND
(AMENDMENT) BILL, 2023**

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Further to amend the Kerala Tailoring Workers Welfare Fund Act, 1994 (16 of 1994).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Tailoring Workers Welfare Fund Act, 1994 (16 of 1994) 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 Tailoring 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 21.*-** In the Kerala Tailoring Workers Welfare Fund Act, 1994 (16 of 1994), (hereinafter referred to as the Principal Act), for section 21 the following section shall be substituted, namely:-

***“21. 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 twenty five thousand rupees.

(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 fifteen thousand rupees.”.

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

“21A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Section 21, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under that section, 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.

21B. Punishment for non- payment of penalty.- Whoever fails to pay the penalty so imposed under section 21 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 22.-* For section 22 of the principal Act, the following section shall be substituted, namely:-

“22. 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 twenty five thousand rupees..”.

5. *Insertion of new sections 22A, 22B and 22C.-* 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 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.

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

22 B. Compounding of Offences.- (1) The Offences provided under sections 21B and 22 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.

22C. *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 atop 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 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 that Committee proposed modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts..

The Law Reforms Commission considered the above proposals in detail and submitted 35 Amendment Bills relating to the State Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts as per the ninetieth report of this Commission. Apart from those Laws, this Commission has identified five more Welfare Fund Legislations which need similar amendments in the penalty provisions. Accordingly the Commission is proposing amendments to the penalty provisions of those Acts.

Majority of offences 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 funds.

In these circumstances the Commission has decided to prepare adequate amendments the Kerala Tailoring Workers Welfare Fund Act, 1994 (16 of 1994) 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 FISHERMEN WELFARE FUND (AMENDMENT)

BILL, 2023

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further to amend the Kerala Fishermen Welfare Fund Act, 1985 (30 of 1985).

Preamble.-WHEREAS, it is expedient further to amend the Fishermen Welfare Fund Act, 1985 (30 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 Fishermen 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 Fishermen Welfare Fund Act, 1985 (30 of 1985), (hereinafter referred to as the Principal Act), for section 19 the following section shall be substituted, namely:-
“19. 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 twenty five thousand rupees.

(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 fifteen thousand rupees.”.

3. *Insertion of new sections 19A, 19B, 19C, 19D and 19E.*- 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 Act, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 19 , afford an opportunity to the defaulter to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the defaulter complies with the direction within such period, then, no such proceedings shall be initiated against him.

19 B. Punishment for non- payment of penalty .- 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 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.

19 C. 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.

19 D. Compounding of Offence.-(1) The Offence provided under section 19B 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.

19 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 atop 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 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 that Committee proposed modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts..

The Law Reforms Commission considered the above proposals in detail and submitted 35 Amendment Bills relating to the State Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts as per the ninetieth report of this Commission. Apart from those

Laws, this Commission has identified five more Welfare Fund Legislations which need similar amendments in the penalty provisions. Accordingly the Commission is proposing amendments to the penalty provisions of those Acts.

Majority of offences 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 funds.

In these circumstances the Commission has decided to prepare adequate amendments the Fishermen Welfare Fund Act,1985 (30 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 RATION DEALERS WELFARE FUND
(AMENDMENT) BILL, 2023**

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BILL

further to amend the Kerala Ration Dealers Welfare Fund Act,1998 (16 of 1998).

Preamble.-WHEREAS, it is expedient further to amend the Kerala Ration Dealers Welfare Fund Act, 1998 (16 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 Ration Dealers 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 20.-*In the Kerala Ration Dealers Welfare Fund Act, 1998 (16 of 1998), (hereinafter referred to as the Principal Act), for section 20 the following section shall be substituted, namely:-**
“20. *Penalties.-* Whoever, contravenes or fails to comply with any of the provisions of this Act or the scheme or 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 twenty five thousand rupees”.

3. *Insertion of new sections 20A and 20B.*- After section 20 of the principal Act, the following sections shall be inserted, namely:-

“20A. Prior Opportunity before imposing Penalty.- Notwithstanding anything contained in this Section, the Officer authorized by the Government to impose penalty shall, before taking steps for imposing penalty under section 20, afford an opportunity to the defaulter to comply with the aforesaid relevant provisions by written direction laying down a time period for such compliance and if the defaulter complies with the direction within such period, then, no such proceedings shall be initiated against him.

20B. Punishment for non- payment of penalty.- Whoever fails to pay the penalty so imposed under section 20 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 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.”.

5. *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 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.

(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 sections 20B 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 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 atop 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 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

that Committee proposed modifications in 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts..

The Law Reforms Commission considered the above proposals in detail and submitted 35 Amendment Bills relating to the State Industrial Laws, Industrial and Labour Laws and Welfare and Cess Fund Acts as per the ninetieth report of this Commission. Apart from those Laws, this Commission has identified five more Welfare Fund Legislations which need similar amendments in the penalty provisions. Accordingly the Commission is proposing amendments to the penalty provisions of those Acts.

Majority of offences 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 funds.

In these circumstances the Commission has decided to prepare adequate amendments the Kerala Ration Dealers Welfare Fund Act, 1998 (16 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.