

## **THE KERALA WELFARE FUND LAWS (AMENDMENT) BILL, 2023**

**A**

**BILL**

*further to amend the Acts specified in the schedule appended for amending the penalty provisions provided under the Welfare Fund Laws so as to enable the effective implementation of Ease of Doing Business in the State of Kerala.*

**Preamble.-WHEREAS, it is expedient further to amend the Acts specified in the schedule appended in respect of the penalty provisions provided under the Welfare Fund Laws so as to enable the effective implementation of Ease of Doing Business in the State of Kerala and 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 Welfare Fund Laws (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 Act 18 of 1995.- In the Kerala Beedi and Cigar Workers' Welfare Fund Act,1995 (18 of 1995),-***

**(a) 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.”.**

**(b) after section 19, 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 with in 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.”.

( c ) for sub-section (1) of section 20, 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.”.

(d) for section 21 , 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.”.

(e) after section 21, 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.”.

**3. *Amendment of Act 20 of 1989.*- In the Kerala Construction Workers’ Welfare Fund Act, 1989 (20 of 1989),-**

**(a) 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.”.**

**(b) After section 25, 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 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.”.

( c) For section 26 , 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.”.

(d) After section 26, 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.”.

**4. Amendment of Act 19 of 1989.- In the Kerala Abkari Workers’ Welfare Fund Act, 1989 (19 of 1989),-**

**(a) 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.”.***

**(b) after section 17, 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.”.

( c ) for section 18 , 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.”.

(d) after section 18, 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.”.

5. *Amendment of Act 1 of 1989.*- In the Kerala Khadi Workers’ Welfare Fund Act, 1989 (1 of 1989),-

(a) 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.”.

(b) after section 16, 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.”.

6. *Amendment of Act 21 of 1985 .-* In the Kerala Motor Transport Workers’ Welfare Fund Act, 1985 (21 of 1985),-

(a) 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.”.

**(b) for section 16, 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.”.***

**( c ) for section 17, 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.”.***

**(d) after section 17, 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.”.

7. *Amendment of Act 2 of 1989* .-In the Kerala Handloom Workers’ Welfare Fund Act, 1989 (2 of 1989),

(a) 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.”.**

**(b) after section 17, 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 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 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.”.



**8. *Amendment of Act 34 of 1987.-* In the Kerala Coir Workers' Welfare Fund Act, 1987 (34 of 1987),**

**(a) 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."**

**(b) after section 17, 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 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.

***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.”.*

9. *Amendment of Act 19 of 1984.- In the Kerala Cashew Workers’ Relief and Welfare Fund Act, 1979 (19 of 1984),*

(a) 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.”*

**(b) after section 13, 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.”.

**( c ) for sub section (1) of section 14, the following sub section shall be substituted, namely:-**

***“(1) 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.”;

(d) for section 15, 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.”.

(e) after section 15, 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.”.***

**10. *Amendment of Act 26 of 2009.- In the Kerala Jewellery Workers’ Welfare Fund Act, 2009 (26 of 2009),***

**(a) 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.”.***

***(b) after section 26, 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.”.

( c ) for section 27, 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.”.

(d) after section 27, 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."***

- 11. *Amendment of Act 17 of 1998.- In the Kerala Bamboo, Kattuvalli, Pandanus Leaf Workers' Welfare Fund Act,1998 (17 of 1998),***

(a) 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.”.***

(b) after section 17, 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 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 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.”.

12. *Amendment of Act 2 of 1977.-* In the Kerala Labour Welfare Fund Act, 1975 (2 of 1977),

(a) 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.”.

(b) for section 28A, 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.”.

( c ) for section 33, 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.”.

(d) after section 33, 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.”.

13. **Amendment of Act 22 of 1969.-**In the Kerala Toddy Workers’ Welfare Fund Act, 1969 (22 of 1969),

(a) 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.”.

(b) 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.”

( c ) for section 14B, 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.”.

**(d) after section 14B, 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."***



**14. *Amendment of Act 17 of 2008.*-In the Kerala Small Plantation Workers' Welfare Fund Act, 2008 (17 of 2008),**

**(a) 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.”.***

**(b) after section 17, 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, 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.**

**(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.”.

15. **Amendment of Act 24 of 2006.-** In the Kerala Shops and Commercial Establishments Workers’ Welfare Fund Act, 2006 (24 of 2006),

(a) 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.”.

(b) for section 18, 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.”.

( c ) after section 18, 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.”.

16. **Amendment of Act 7 of 2007.-** In the Kerala Diary Farmers Welfare Fund Act, 2007 (7 of 2007),

(a) 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.”.

(b) after section 17, 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.”.

( c ) for section 18 , 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.”.

(d) after section 18, 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.”.

**17. *Amendment of Act 6 of 2011.-*** In the Kerala Cultural Activists Welfare Fund Act, 2010 (6 of 2011),

(a) 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.”.

(b) after section 16, 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 defaulted amount by written direction laying down a time period for such payment and if the defaulter complies with the direction within 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.”.

18. *Amendment of Act 16 of 1994.-* In the Kerala Tailoring Workers’ Welfare Fund Act, 1994 (16 of 1994),

(a) 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.”.

**(b) after section 21, 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.”.

**( c ) for section 22 , 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..”.

**(d) after section 22, 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.”.

19. **Amendment of Act 39 of 1985.-** In the Kerala Fishermen Welfare Fund Act, 1985 (30 of 1985),

(a) 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.”.

(b) after section 19, 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 with in 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.”.

20. *Amendment of Act 16 of 1998.-* In the Kerala Ration Dealers Welfare Fund Act, 1998 (16 of 1998),

(a) 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”.

(b) after section 20, 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 with in 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 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.”.

( c) for section 21 , 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.”.

(d) after section 21, 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."***

### **SCHEDULE**

- 1. The Kerala Beedi and Cigar Workers' Welfare Fund Act, 1995 ( 18 of 1995)**
- 2. The Kerala Construction Workers' Welfare Fund Act, 1989 ( 20 of 1989 )**
- 3. The Kerala Abkari Workers' Welfare Fund Act, 1989 ( 19 of 1989 )**
- 4. The Kerala Khadi Workers' Welfare Fund Act, 1989 ( 1 of 1989 )**
- 5. The Kerala Motor Transport Workers' Welfare Fund Act, 1985 ( 21 of 1985)**
- 6. The Kerala Handloom Workers' Welfare Fund Act, 1989 ( 2 of 1989 )**
- 7. The Kerala Coir Workers' Welfare Fund Act, 1987 ( 34 of 1987 )**
- 8. The Kerala Cashew Workers' Relief and Welfare Fund Act, 1979 (19 of 1984)**
- 9. The Kerala Jewellery Workers' Welfare Fund Act, 2009 ( 26 of 2009 )**
- 10. The Kerala Bamboo, Kattuvalli, Pandanus Leaf workers' Welfare Fund Act, 1998 ( 17 of 1998)**
- 11. The Kerala Labour Welfare Fund Act, 1975 ( 2 of 1977 )**
- 12. The Kerala Toddy Workers' Welfare Fund Act, 1969 ( 22 of 1969 )**
- 13. The Kerala Small Plantation Workers' Welfare Fund Act, 2008 ( 17 of 2008)**
- 14. The Kerala Shops and Commercial Establishments Workers' Welfare Fund Act, 2006 (24 of 2006 )**
- 15. The Kerala Diary Farmers Welfare Fund Act, 2007 ( 7 of 2007 )**
- 16. The Kerala Cultural Activists Welfare Fund Act, 2010 (6 of 2011 )**
- 17. The Kerala Tailoring Workers' Welfare Fund Act, 1994 ( 16 of 1994 )**
- 18. The Kerala Fishermen Welfare Fund Act, 1985 ( 30 of 1985 )**
- 19. The Kerala Ration Dealers Welfare Fund Act, 1998 ( 16 of 1998 )**

## **STATEMENT OF OBJECTS AND REASONS**

Over the past few years, the Government of Kerala have embarked upon several reform initiative for the reduction of compliance burden and accelerate industrial growth. As part of the initiatives the Government had constituted a Committee vide G.O(RT) No. 770/2021/ID dated 26<sup>th</sup> July, 2021 consisting of Dr.K.C.Sunny, Vice Chancellor, National University of Advanced Legal Studies, as Chairman, Sri.K.Sasidharan Nair, Vice-Chairman of Kerala Law Reforms Commission and former Law Secretary, as Member and Sri.T.Nandakumar I.A.S (Rtd), former Secretary to Government of India, as Special Invitee to scrutinise all Acts and Rules that are relevant to Business Community and Citizens and to suggest measures for De-criminalizing the penal provisions and to enable the effective implementation of Ease of Doing Business in the State. The Committee submitted its report on 14<sup>th</sup> February, 2022. Under Chapter IV of the Report, the Committee proposed amendments to the penalty clauses of 35 State Acts relating to Industrial Laws, Industrial and Labour Laws and Welfare Fund and Cess Acts. On the request of the Hon'ble Minister for Industries and Law, the Law Reforms Commission took up the work of preparation of draft Bills on these proposals and thus drafted the Bills and submitted the same along with its 19<sup>th</sup> report. The Law Reforms Commission later identified 5 State Welfare Fund Acts which were not included in the report of the Committee and prepared draft Bills relating to the penalty clauses and submitted the same to the

**Government along with its 22<sup>nd</sup> report. During discussion with the Hon'ble Minister for Industries and Law, the Hon'ble Minister suggested to consider the possibility of consolidating similar Bills under a single legislation and accordingly this Commission identified 19 similar Welfare Fund legislations which could be consolidated under a single Amendment Bill and thus prepared a consolidated Bill as above.**

**For the purpose of preparing the Amendment bills, the Law Reforms Commission had considered the relevant provisions under the penalty clauses of the four Labour Codes recently enacted by the Central Government and also various other factors. It was noted that the existing penal provisions in the Welfare Fund Acts are not favourable to those who intend to do business in the State and these penal provisions would make the entire process very cumbersome and also expensive for the investors and Government. All the penal provisions in these Acts contemplate prosecution before Criminal Courts and the work pressure on the judiciary which is already overburdened, would be very excessive and time consuming. It was noted that majority of the offences under the Penalty Clauses in these Acts are all procedural in nature and therefore most of them can be rightly tackled with penalty which are quicker and easier and also will create revenue to the respective Welfare Fund Boards and thereby such Welfare Funds would become more viable and can discharge its duties of imparting welfare schemes to its members. As of now the punishments provided in these Acts are not deterrent enough to ensure payment to the Welfare Funds. By way of the amendments now included in the Bill, most of the penal provisions are taken out of the purview of prosecution before criminal courts. The offences**

under these Acts mainly relate to non-payment or delay in payment of contribution, non-maintenance of records, submitting false returns or statements with a view to avoid payment etc. As of now the punishments provided are very meagre mounts mainly due to the reason that these Acts were passed long ago. It is a settled practice for courts to award only fine, mostly on pleading guilty, when the punishment provided is imprisonment or fine or with both. The fine amounts are not even proportionate to the defaulted amounts. Considering all these facts, imprisonment up to six months or fine or with both have been replaced with penalty by way of these amendments and a separate provision is incorporated for filing appeal. In cases where imprisonment is provided, a provision for compounding of such offences also has been incorporated. As per the present Amendment, non-payment of penalty imposed by Authorised Officer include as an offence. Attracting imprisonment for compelling payment and separate clause is provided for enabling collection of the amount by invoking the provisions of the Revenue Recovery Act.

In these circumstances the Commission has prepared this consolidated single Amendment Bill to the 19 Welfare Fund Laws shown in the Schedule appended to this Bill.

The Bill seeks to achieve the above object.