

Fifteenth Kerala Legislative Assembly

Bill No. 106

**THE KERALA ABKARI WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2022**

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2022

KERALA NIYAMASABHA PRINTING PRESS.

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[Translation in English of “2022-ലെ കേരള അബ്കാരിത്തൊഴിലാളി ക്ഷേമനിധി (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

**THE KERALA ABKARI WORKERS' WELFARE FUND
(AMENDMENT) BILL, 2022**

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BILL

to amend the Kerala Abkari Workers' Welfare Fund Act, 1989.

Preamble.—WHEREAS, it is expedient to amend the Kerala Abkari Workers' Welfare Fund Act, 1989 for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Abkari Workers' Welfare Fund (Amendment) Act, 2022.

(2) Clause (ii) of section 2 shall be deemed to have come into force on the 1st day of January, 1990; and the remaining provisions shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Abkari Workers' Welfare Fund Act, 1989 (19 of 1989) (hereinafter referred to as the principal Act),—

(i) in clause (a), for the word “transport”, the following words and symbols “labelling, transport to warehouses or wholesale shops or bars or clubs, ” shall be inserted;

(ii) in sub-clause (ii) of clause (m), the words and symbol “overtime allowance,” shall be omitted.

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

"3A. *Publication of list of Abkari Workers' as members.*— (1) The Chief Welfare Fund Inspector shall keep a register of workers enrolled as members in the Abkari Workers' Welfare Fund, indicating the name of the employer.

(2) The Chief Welfare Fund Officer shall publish each year a list containing the name and details of those who have got membership in the Abkari Workers' Welfare Fund and those who were removed from membership, before 1st January of each year, for public notice and to record objections, if any, in the notice board of his office as well as in all other offices subordinate to it.

(3) Any objection regarding the list published as per sub-section (2) shall be submitted before the Chief Welfare Fund Inspector within 30 days from the publication of the said list.

(4) The Chief Welfare Fund Officer shall submit all objections before the Chairman of the Board.

(5) The Chairman of the Board shall consider objections and take a decision after giving a reasonable opportunity of being heard to the aggrieved persons and make changes in the list consequential to the decision. ”.

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

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

“(1) The contribution which shall be paid by the employer to the fund shall be ten per cent of the wages for the time being payable to each of the abkari worker and the abkari workers' contribution shall be eleven and half per cent of the monthly wage of the abkari worker.”;

(2) in sub-section (2), for the words “five per cent”, the words “seven per cent” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

As defined in clause (m) of section 2 of the Kerala Abkari Workers' Welfare Fund Act, 1989 (19 of 1989) “wages” means all emoluments which are earned by an abkari worker while on duty or on leave with wages in accordance with the

terms of the contract of employment and which are paid or payable in cash to him but does not include the cash value of any food concession overtime allowance, bonus and commission.

Abkari institutions are working for 365 days in a year. Therefore, leave has been granted from 50 to 110 days on the basis of agreement in order to get the leave to the convenience of the workers. Leave wages are being paid to the workers who utilize the leave partially and do work for the remaining leave days. The workers receive this leave wages in the same manner as ordinary wages by entering it in the wages register. In this industry, there exists no precedent to consider as overtime work or to give double salary accordingly. The employer remits 10% of the wages, including this leave wages, as workers contribution. In the enquiries relating to the determination of the rate of contribution, the employers are given reasonable opportunity of being heard and sufficient time for producing the documents in respect of the number of employees and the documents relating to the wages paid to them. But the employers do not utilize these opportunities. In the said enquiries it was neither established that the leave wages so paid are overtime bonus or produce documents to prove the same.

The Kerala Abkari Workers' Welfare Fund Board had requested to amend sub-clause (ii) of clause (m) of section 2 of the Kerala Abkari Workers' Welfare Fund Act, 1989 with retrospective effect, as there is a possibility of misinterpreting the leave wages as overtime wages. If the said amendment proposal is implemented, the contribution amount from 1990 onwards needs no revision on the basis of the total amount by adding the wages and the leave wages paid to the workers. Taking into account of these matters, the Government have approved the request of the Board and decided to enact legislation for the purpose.

Since the workers who comes within the purview of the Kerala Abkari Workers' Welfare Fund Act, 1989 has not been registered in the Kerala Abkari Workers' Welfare Fund Board by the employers in time, the workers are deprived of their legitimate benefits and due to lack of a provision in the existing Act to prevent the said act of the employers and on the basis of the recommendation of

the Law Reforms Commission, the Government have decided to incorporate necessary provisions in the Act to publish updated list of abkari workers each year and to amend the said Act accordingly.

As per sub-section (1) of section 4 of the Kerala Abkari Workers' Welfare Fund Act, 1989, the contribution which shall be paid by employer to the Fund shall be ten per cent of the wages for the time being payable to each of the abkari worker and the abkari workers' contribution shall be equal to the contribution payable by the employer in respect of him in the manner specified in the scheme, instead of that, the Government have decided to incorporate the provision wherein the contribution which shall be paid by the employer to the Fund shall be ten per cent of the wages for the time being payable to each of the abkari workers and the abkari workers' contribution shall be eleven and half per cent of the monthly wage of the abkari worker and in the provision of sub-section (2) which provides that the employer shall, in addition to the contribution payable under sub-section (1), contribute to the Fund as gratuity an amount equal to five per cent of the wages for the time being payable to each of the abkari worker, the Government have decided to amend five per cent to seven per cent.

The Bill is intended to achieve the above said object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

V. SIVANKUTTY.

EXTRACT FROM THE KERALA ABKARI WORKERS'
WELFARE FUND ACT, 1989
(19 OF 1989)

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

(a) "Abkari Worker" means any person who is employed for wages in connection with the storing, bottling, transport or sale of liquor and who gets his wages directly or indirectly from the employer but does not include an employee, as defined in the Toddy Workers' Welfare Fund Act, 1969 (22 of 1969);

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(m) "Wages" means all emoluments which are earned by an abkari worker while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash to him but does not include—

(i) the cash value of any food concession, and

(ii) overtime allowance, bonus and commission.

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3. *Abkari Workers' Welfare Fund.*—(1) The Government may, by notification in the Gazette, frame a scheme to be called the Abkari Workers' Welfare Fund Scheme for the establishment of a Fund under this Act for Abkari workers and there shall be established, as soon as may be after the framing of the scheme, a Fund in accordance with the provisions of this Act and the scheme.

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4. *Contribution to the fund.*—(1) The contribution which shall be paid by employer to the Fund shall be ten per cent of the wages for the time being payable to each of the abkari worker and the abkari workers' contribution shall be equal to the contribution payable by the employer in respect of him in the manner specified in the scheme.

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

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

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