

The Kerala Dairy Farmers' Welfare Fund Act, 2007

Act 7 of 2007

Keyword(s):

Contribution, Dairy Farmer, Family, Fund, Milma, Regional Union

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ACT 7 OF 2007**THE KERALA DAIRY FARMERS' WELFARE FUND
ACT, 2007****AN****ACT**

to provide for the constitution of a Fund to grant relief to, to ensure the welfare of, and to pay pension to the Farmers engaged in cattle rearing in the State of Kerala.

Preamble.- WHEREAS, it is expedient to provide for the constitution of a Fund to grant relief to, to ensure the welfare of, and to pay pension to the Farmers engaged in cattle rearing in the State of Kerala and for matters incidental thereto;

BE it enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Kerala Dairy Farmers' Welfare Fund Act, 2007.

(2) It shall be deemed to have come into force on the 24th day of August, 2005.

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

(a) "Board" means the Kerala Dairy Farmers' Welfare Fund Board constituted under section 8;

(b) "Chief Executive Officer" means the Chief Executive Officer appointed under sub-section (1) of section 11;

(c) "contribution" means the sum of money payable to the Fund under section 7;

(d) "Dairy Farmer" means a person who owns or rear one or more cows or she buffalos and markets at least 500 litres of milk per year in the State in a milk co-operative society functioning in his dwelling place or in a milk society nearby the area of his dwelling place, due to the reason that no milk co-operative society is functioning in such place;

(e) "family" means,-

- (i) wife or husband of the Dairy farmer, their minor children and unmarried daughters;
- (ii) father and mother who are dependant upon the Dairy farmer;
- (f) "Fund" means the Dairy Farmers' Welfare Fund established under section 3;
- (g) "Member" means a member of the Fund;
- (h) "Milma" means the Kerala Co-operative Milk Marketing Federation;
- (i) "Prescribed" means prescribed by rules made under this Act;
- (j) "Regional Union" means the apex society functioning in the milk co-operative sector;
- (k) "Schedule" means the Schedule to this Act;
- (l) "Scheme" means the Kerala Dairy Farmers' Welfare Scheme framed under this Act;
- (m) "Society" means Primary Milk Co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) and functioning under the Dairy Development Department;
- (n) "Year" means the financial year;

3. *Dairy Farmers' Welfare Fund Scheme.*-(1) The Government shall, by notification in the Gazette, frame a scheme to be called the "Kerala Dairy Farmers' Welfare Fund Scheme" for the establishment of a fund under this Act for the welfare of the Dairy farmers in the State and there shall be established a fund as soon as possible, in accordance with the provisions of this Act and Scheme.

(2) There shall be credited to the Fund,-

- (i) contribution specified under section 7;
- (ii) receipts from the interest of the reserve Fund;
- (iii) grants and loans or advances made by the Government of India, State Government or any Institutions;
- (iv) donations received from cattle feed manufacturing establishments, milk product manufacturers, private dairy owners or donations or receipts to be received from any other source.

(v) amount under any item raised by the decision of the Board from other sources to augment the resources of the Board;

(vi) fees or fine levied under the Scheme;

(vii) any other amount, which, under the provisions of the Scheme shall be credited to the Fund;

(3) The Fund shall vest in the Board, constituted under section 8 and be administered as provided under sub-section (7) of the said section in this behalf by the Board;

(4) Fund may be utilised for all or any of the following purposes, namely:-

(a) to give pension to a person who has measured milk at least for 10 years in a Milk Co-operative Society and who became incapable of being engaged in the rearing of cattle due to disablement. (This provision shall not be applicable to those existing members of the Welfare Fund who are getting pension or other benefits from it).

(b) to give pension to the member who has measured milk for five years, who is a member of the society and has completed the age of sixty years;

(c) for payment of family pension and loans;

(d) for payment of financial assistance to a member who suffers permanent disablement;

(e) any other purpose specified in the scheme;

(5) Fund may be invested in a profitable manner with the previous sanction of the Government.

(6) Subject to the provisions of this Act, the scheme framed under sub-section (1) may provide for the matters specified in sub-section (4) and in the Schedule.

4. Membership of the Fund.-(1) Every Dairy Farmer who has completed 18 years of age shall be eligible for registration as member of the Fund under the provision of this Act and scheme.

(2) Application for registration shall be made, in such form as may be prescribed, to the officer of the Dairy Development Department authorised by the Chief Executive Officer in this behalf in whose jurisdiction the applicant resides.

(3) Every application shall be accompanied by such documents together with the fee for registration as may be specified in the scheme.

(4) If the officer authorised under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the Scheme, he shall immediately be registered as a member. If the application is rejected on any ground, the same shall be intimated to the applicant in writing within sixty days on receipt of the application:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within such time as may be specified in the Scheme, prefer an appeal to the Chief Executive Officer or any other authority as may be specified by the Government in this behalf and the Chief Executive Officer or such other authority shall take a decision on such appeal within sixty days from the date of its receipt, and such decision shall be final.

(6) The Chief Executive Officer shall make necessary arrangements to maintain the registers or other records prescribed in this behalf.

5. *Cessation of membership in the Fund.*-If a member commits an offence under section 17 or any other provision of this Act his membership in the Fund shall be ceased.

6. *Maintenance of registers by the Society.*-Every society shall maintain a register in the prescribed form showing the details of the quantity of milk supplied by the members of the society, the date on which milk was supplied, etc. which are necessary for the implementation of the Scheme and it shall be submitted for inspection, whenever required by the Chief Executive Officer or the officer authorised by him.

7. *Contribution to the Fund.*-The contribution to the Fund shall be in the following rates, namely:-

1. each dairy farmer twenty rupees per month;
2. each society shall,-
 1. twelve paise for each litre of milk to be collected and sold by the society locally;
 2. five paise for each litre of milk to be given by the society to the Milma or to the Regional Union.
3. ten paise per each litre of milk to be sold by Milma or the Regional Union.

8. *Constitution of the Board.*-(1) On the commencement of this Act, a Board to be called the Kerala Dairy Farmers' Welfare Fund Board may be constituted to supervise and carryout the activities financed from the Fund.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and common seal and shall by the said name sue and be sued.

(3) The Board shall consist of twelve Directors as follows, namely:-

(a) One member each, elected from the governing bodies of the three Regional Milk Co-operative Unions representing the Dairy farmers;

(b) three persons nominated by the Government from among the Presidents of traditional Primary Milk Co-operative Societies;

(c) Director of Dairy Development Department or representative;

(d) three persons nominated by the Government, representing the Government;

(e) Chief Executive Officer (*Ex-Officio*);

(f) Milma Chairman.

(4) One of the Directors of the Board shall be appointed by the Government to be its Chairman.

(5) The Government shall publish in the Gazette the names of the Chairman and the Directors of the Board.

(6) The Board shall administer the Fund vested in it in such manner as may be specified in the Scheme.

(7) The Board may, with the previous approval of the Government, delegate to the Chairman or to the Chief Executive Officer or to any officer appointed under sub-section (1) of section 11 such of its powers and functions under this Act or the Scheme as it may consider necessary for the efficient administration of the Fund, subject to such restrictions and conditions, if any, as it may specify.

9. *Term of office of the Directors.*-(1) A Director appointed under sub-section (3) of section 8 shall hold office for a period of three years from the date he assume the charge in office.

(2) Notwithstanding anything contained in section 10, the Government may, at any time, for reasons to be recorded in writing, remove from office, any Director of the Board, after giving him a reasonable opportunity to show cause, against the proposed removal:

Provided that it shall not be necessary to record in writing, the reason for removal or to give an opportunity to show cause against the proposed removal, if the Government are of the opinion that it is not expedient in the public interest, to record the reasons in writing or to give such opportunity.

(3) Any Director may resign his membership by giving notice in writing to the Government and his resignation shall come into force on the date of receipt of the letter of resignation by the Government.

10. Removal of non-official Directors.- (1) The membership of non-official Directors who, without the previous permission of the Board, has been absent from three consecutive meetings of the Board, shall be removed.

(2) A non-official Director of the Board removed under sub-section (1) shall be disqualified for reappointment as a Director for a period of one year from the date of his removal.

11. Appointment of officers and staff.- (1) The Government may appoint a Chief-Executive Officer and such number of other officers and staff as they consider necessary to assist the Board in the discharge of its functions and duties under this Act.

(2) The Chief Executive Officer shall be an officer of the Dairy Development Department not below the post of Deputy Director working in the Dairy Development Department.

(3) Subject to the provisions of sub-section (4), the method of appointment, salary and allowances and other conditions of service of the Chief-Executive Officer and the other officers and staff appointed under sub-section (1), shall be fixed by the Board with the approval of the Government.

(4) In the case of posts in the service under the Board to which appointments are made by direct recruitment the provisions in clauses (a), (b) and (c) of rule 14 and also the provisions contained in rules 15, 16, 17 and 17(a) of the Kerala State and Subordinate Service Rules, 1958 as amended from time to time shall be followed, '*mutatis mutandis*'.

12. Determination of amount due.- (1) The Chief Executive Officer or any other officer authorised by the Board in this behalf shall, after making such enquiry as may be necessary and after giving the society liable to pay the contribution under section 7, an opportunity to be heard, by order, determine the amount of contribution due under the provisions of this Act and the Scheme.

(2) The officer conducting the enquiry under sub-section (1) shall, for the purposes of such enquiry, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:-

- (a) enforce the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witness.

13. *Collection of contribution.*- (1) It shall be the duty of the Secretary of the society/Chief Executive to pay in time the amount due to the fund by each society and the Milma liable to pay the contribution under section 7.

(2) Where the contribution is not paid on or before the due date, the Board shall have the power to recover with interest from the officer authorised under sub-section (1).

(3) Each dairy farmer shall pay the contribution to be paid to the Fund under section 7 to the respective societies and it shall be the duty of the Secretary of the Society to remit such amount to the Fund in the manner as may be prescribed.

14. *Action against Secretary of the society/Chief Executive.*- Notwithstanding anything contained in any other law for the time being in force, the Board may take action against the Secretary of the society/Chief Executive concerned, if the contribution of the society and the Milma, under section 7 has not been paid to the Fund.

15. *Priority of payment of contribution over other debts.*- Where any order has been made liquidating the society liable to pay contribution under section 7, the contribution due under this Act, while liquidating, shall be deemed to be included among the debts, which are to be paid in priority to all other debts.

16. *Directors of Board etc. to be Public Servants.*- Every Director of the Board, Chief Executive Officer and other officers and staff of the Board appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

17. *Penalty.*- (1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or the Scheme or for the purpose of avoiding such payment to any other person or for obtaining an amount not entitled or in excess of what is entitled from this Fund or for obtaining an amount not entitled or in excess of entitled to any other person from this Fund, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extent to three months or with fine which may extent to five hundred rupees or with both.

(2) Whoever, contravenes or makes default in complying with any of the provisions of this Act or of the Scheme shall, if no other penalty is elsewhere provided by or under this Act, for such contravention or non-compliance, be punishable with fine which may extend to four hundred rupees.

18. *Enhanced punishment for the second or subsequent offence.*- Whoever having been convicted by a Court of an offence punishable under this Act, again commits the same offence, shall be punishable for every such subsequent offences with imprisonment for a term which shall not be less than three months or with a fine which may extend to thousand rupees:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment, imposes a sentence of imprisonment for a term less than three months.

19. *Offence by Societies.*- (1) Where an offence under this Act has been committed by a society, the Secretary of the Society and the members of the governing body and all officers who, at the time when the offence was committed, was in charge of, and was responsible to, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a society and it is proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any neglect on the part of any officer of the society, such officer of the society shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

20. *Protection of acts done in good faith.*- No suit or other legal proceeding shall lie against any Director of the Board or the Chief Executive or any other person in respect of anything which is done in good faith or intended to be done under this Act or under the Scheme.

21. *Directions by the Government.*-(1) Government may give general directions to the Board to be followed by the Board.

(2) In the exercise of the powers and the performance of its duties under this Act the Board shall not depart from any general direction issued under sub-section(1), except with the previous permission of the Government.

22. *Power to supersede the Board.*- (1) If the Government is satisfied that the Board has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or the Scheme exceeded or abused its powers the Government may, by notification in the Gazette, supersede the Board for such period not exceeding six months, as may be specified in the notification.

(2) In the case of supersession of the Board under sub-section (1) the Government may appoint an administrator for the administration of the Board.

23. *Audit of the Accounts of the Board.*- (1) The Government shall appoint auditors to audit the accounts of the Board.

(2) The accounts of the Board shall be examined and audited by such auditors once in every year.

(3) The Government may, in respect of audit reports or further proceeding, as it deem fit, may further examine the audit report by the Accountant General.

24. Annual Report and Audited Statement of Accounts.- (1)The annual report of the Board shall be prepared by the Chief Executive Officer under the directions of the Board and after the approval by the Board, a copy of the report together with the audited statement of accounts shall be submitted to the Government within nine months after the end of every year.

(2) The Government shall, as soon as the annual report is received under subsection (1), cause the same together with audited statement of such accounts to be laid before the next session of the Legislative Assembly immediately follows.

25. Bar of jurisdiction of Civil Courts.-No Civil Courts shall have jurisdiction to settle, decide, deal with or to determine any matter which is by or under this Act, or the Scheme, required to be settled, decided or determined or to be dealt with by the Chief executive Officer or any other officers appointed by the Government or the Board under Section 11.

26. Power to make Rules.-(1) The Government may, by notification in the Gazette, either prospectively or retrospectively, make rules, for the purposes of carrying into effect the provisions of this Act for audit, for implementing the conditions of service and remuneration for prosecutions and for the purposes of carrying out all other requirements of the Scheme.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any amendment in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such form as amended or be of no effect, as the case may be; so, however, that any such amendment or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Repeal and saving.-(1) The Kerala Dairy Farmers' Welfare Fund Ordinance, 2007(20 of 2007) is hereby repealed.

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

SCHEDULE

[See section 3 (6)]

1. Registration of Dairy Farmers.
2. Time and manner in which contribution shall be made to the Fund, under section 7.
3. Constitution of any committee for assisting the Board.
4. The manner in which accounts shall be kept, the investment of money belonging to the fund in accordance with any directions issued or conditions specified by the Government, preparation of Budget, Audit of accounts, further proceedings on audit report, submission of report to the Government etc.
5. Conditions under which the withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
6. Form in which a member shall furnish the particulars about himself and his family whenever required.
7. The nomination of a person to receive any family pension as a member on his death and the cancellation or variation of such nomination.
8. The registers and records to be maintained by the society with respect to Dairy farmers and the returns to be furnished.
9. Form of identity card for the purpose of identifying any member of the Fund and for issue, custody and replacement thereof.
10. The fees to be levied for any of the purposes specified in the Schedule.
11. The further powers, if any, which may be exercised by the officers, appointed under this Act .
12. The purposes for which the Fund may be utilised.
13. Procedure for defraying the expenditure incurred in the administration of the Fund.
14. Procedure for the payment of pension, family pension, benefits etc. from the Fund.
15. Head quarters of the Board, daily allowance of the Board Members, Travelling Allowance, Honorarium etc.
16. Any other matter which is to be provided for in the scheme or which may be necessary for the purpose of implementing the scheme.

ACT 5 OF 2010**THE KERALA DAIRY FARMERS' WELFARE FUND****(AMENDMENT) ACT, 2010**

An Act to amend the Kerala Dairy Farmers' Welfare Fund Act, 2007.

Preamble.—Whereas, it is expedient to amend the Kerala Dairy Farmers' Welfare Fund Act, 2007 for the purposes hereinafter appearing;

Be it enacted in the sixty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—This Act may be called the Kerala dairy Farmers' Welfare Fund (Amendment) Act, 2010.

(2) It shall be deemed to have come into force on the 24th day of August, 2005.

2. *Amendment of section 3.*—In section 3 of the Kerala Dairy Farmers' Welfare Fund Act, 2007 (7 of 2007) (hereinafter referred to as the principal Act),—

(a) in item (iii) of sub-section (2), before the words "grants and loans", the words "contribution or" shall be inserted;

(b) in sub-section (4),—

(i) in clause (a),—

(a) for the words "has measured milk at least for 10 years in a Primary Milk Co-operative Society", the words "has measured a minimum of five hundred litres of milk per year at least for five years in a Society" shall be substituted;

(b) the words and brackets "(This provision shall not be applicable to those existing members of the welfare Fund who are getting pension or other benefits from it)" shall be omitted;

(ii)for clause (b) and its proviso, the following clause shall be substituted, namely:—

"(b)to give pension to the members who have measured a minimum of five hundred litres of milk per year for at least five years in a Society after being a member of the Welfare Fund and have completed sixty years of age:

Provided that any person who became a member of the welfare Fund before the date of publication of the Kerala Dairy Farmers' Welfare Fund Act, 2007 (7 of 2007) shall be entitled to pension if he being a member in a society, has measured a minimum of five hundred litres of milk per year in a society for at least ten years and has completed sixty years of age.";

(c)after sub-section (6), the folowing sub-section shall be inserted, namely:—

"(7) Notwithstanding anything contained in sub-section (4), if a member dies within the minimum period of eligibility for the benefits under this Act or the Scheme, if the legal heir of that member being a member of the Welfare Fund continues to measure milk, for giving the benefits to the legal heir member under the act or the Scheme the period of milk measured by the deceased member shall also be taken into account.".

3. *Amendment of section 4.*—The Explanation under sub-section (1) of section 4 of the principal Act shall be omitted.

4. *Amendment of section 11.*—In sub-section (3) of section 11 of the principal Act, for the words "Chief Executive Officer and the other officers and staff appointed" the words "officers and staff being appointed" shall be substituted.

5. *Amendment of section 13.*—For sub-section (2) of section 13 of the principal Act, the following sub-section shall be substituted, namely:—

"(2)If any Society referred to in sub-section (1) makes arrears in remitting the contribution, the said amount with interest shall be recovered from the said society as an arrear of public revenue due on land.".

6.*Repeal and saving.*—(1)The Kerala Dairy Farmers' Welfare Fund (Amendment) Ordinance, 2010 (10 of 2010) is hereby repealed.

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

