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The Kerala State Lottery Agents' and Sellers' Welfare Fund Act, 2008

Act 2 of 2009

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ACT 2 OF 2009**THE KERALA STATE LOTTERY AGENTS' AND SELLERS'****WELFARE FUND ACT, 2008**

An Act to provide for the constitution of a Fund for promoting the welfare of and to grant relief to the Paper Lottery Agents and to the Paper Lottery Sellers of the Government of Kerala in the State of Kerala and for other matters connected therewith or incidental thereto.

Preamble.- WHEREAS, it is expedient to provide for the constitution of a Fund for promoting the welfare of and to grant relief to the Paper Lottery Agents and to the Paper Lottery Sellers of the Government of Kerala in the State of Kerala and other matters connected therewith or incidental thereto;

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

1. Short title and commencement.- (1) This Act may be called the Kerala State Lottery Agents' and Sellers' Welfare Fund Act, 2008;

(2) It shall be deemed to have come into force on the 12th day of July, 2008.

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

(a) "Board" means the Kerala State Lottery Agents' and Sellers' Welfare Fund Board constituted under sub-section (1) of section 6;

(b) 'Identity Card' means the Identity Card issued to the lottery agents/sellers from the Board;

(c) 'Chief Executive Officer' means the Chief Executive Officer under sub-section (5) of section 6;

(d) 'Contribution' means the amount payable to the Fund under sub-sections (1) and (3) of section 4;

(e) 'Director of Lotteries' means the Director of the Kerala State Lotteries Department;

(f) District Lottery Officer' means the District Lottery Officer of the Kerala State Lotteries Department for the concerned Revenue District;

(g) 'District Welfare Officer of Lottery' means the officer being appointed under section 11 and officially designated for the District level administration of the Scheme;

(h) '*Family*' means, Wife or husband, minor sons and unmarried daughters of a lottery agent/seller and includes his father, mother, mentally or physically disabled children who are dependent on the lottery agent/seller and in the absence of such dependants, major son and married daughter;

(i) '*Fund*' means the Kerala State Lottery Agents' and Sellers' Welfare Fund established under section 3;

(j) '*Government*' means the Government of Kerala;

(k) '*Lottery Agent*' means an individual to whom an agency has been issued by the District Lottery Officer in the State of Kerala for sale of the paper lottery of the Government of Kerala and is holding a valid identity card issued under the Scheme and does not include a company, a firm, an association of individuals or a co-operative society;

(l) '*Lottery Seller*' means, a person who sells paper lottery tickets of the Government of Kerala;

(m) '*Member*' means a lottery agent or lottery seller enrolled as a member in the Fund and is holding a pass book issued under the Scheme;

(n) '*Notification*' means a notification published in the Kerala Gazette;

(o) '*Paper Lottery*' means any lottery other than on-line lottery, conducted by the Government of Kerala in accordance with the provisions of the Lotteries (Regulation) Act, 1998 (Central Act, 17 of 1998);

(p) '*Prescribed*' means prescribed by the Rules made under this Act;

(q) '*Scheme*' means the Kerala State Lottery Agents' and Sellers' Welfare Fund Scheme framed under section 3;

(r) '*Specified*' means specified in the Scheme;

(s) '*State Welfare Officer of Lottery*' means the officer appointed under section 11 to assist the Chief Executive Officer;

(t) '*Year*' means the financial year;

3. *The Kerala State Lottery Agents' and Sellers' Welfare Fund Scheme.*- (1) As soon as after the commencement of this Act, the Government shall, by notification in the Gazette, frame a Scheme to be called the "the Kerala State Lottery Agents' and Sellers' Welfare Fund Scheme" and after the framing of the Scheme, constitute a Fund to be

called the “Kerala State Lottery Agents’ and Sellers’ Welfare Fund” in accordance with the provisions of this Act and the Scheme;

(2) Subject to the provisions of this Act, the Scheme may provide for all or any of the matters specified in the Schedule;

(3) Those lottery agents and sellers who sell Kerala State Lottery tickets atleast for the prescribed minimum amount in a month shall alone be, eligible to become a member of the Fund;

Explanation.-While calculating the amount of Kerala State Lottery tickets to be sold by the lottery agents and sellers for continuing as a member in the Fund, the tri-monthly average of the said amount shall be taken into account.

(4) The following shall be credited to the Fund, namely:-

- (a) contributions under section 4;
- (b) the amount borrowed by the Board under section 12;
- (c) grants or advances given by the Government or an Institution;
- (d) any kind of donation or amount remitted;
- (e) any amount raised by the Board from other sources to augment the resources of the Fund;
- (f) any fee levied under the Scheme;
- (g) any other amount available on the date of constitution of the Fund under the provisions of the Scheme as provided in the Kerala State Lottery Welfare Fund Scheme, 1991;
- (h) any other amount to be credited to the Fund under the provisions of the Scheme.

(5) The Fund shall vest in the Board and be administered by the Board.

(6) The Fund may be utilized for all or any of the following purposes, namely:-

(a) for the payment of pension to the members who had completed fifty-five years of age and had remitted contribution for not less than ten years.

Explanation.-Those persons who had completed sixty years of age and was a lottery agent or seller for atleast five years before the commencement of this Act and if he remits contribution for a period of one year as member under the provisions of the Scheme, he will become eligible for a special pension.

(b) for the payment of family pension on the death of a member who had remitted contribution for not less than ten years;

(c) for the payment of financial assistance on the death of a member due to illness or accident;

(d) for the repayment of the contribution amount remitted by the members with interest as may be prescribed, to those who suffer from permanent physical disability incapacitating him to do work or on the cessation of membership in the Welfare Fund;

(e) for the payment of financial assistance to meet the expense towards medical treatment of the members affected with serious disease;

(f) for the payment of financial assistance for the purpose of marriage of the members and daughters of the members and for the maternity purpose of the female members;

(g) for the payment of financial assistance or loans or advances to the members for the purpose connected with their employment, or for the construction of dwelling house or for the maintenance or renovation of the house or for the purchase of land for the construction of house or for the purchase of land and building and for the education, including higher education, of the children of the members;

(h) for the payment of special relief to the members who suffers from physical disability;

(i) any other purpose specified in the Scheme;

(j) for the day to day administrative expenses of the Board.

(7) The Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, 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 modification in the Scheme, the Scheme shall, thereafter have effect only in such modified form; so however, that any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

4. *Contribution to the Fund.*- (1) Every Lottery Agent and Lottery Seller, as the case may be, who is eligible to become a member shall subscribe rupees fifty per month as cintribution to the Fund;

(2) The Government may, by notification in the Gazette, from time to time revise the rate of contribution referred to in sub-section (1) taking into account the amount required for the management of the Scheme.

(3) The Government shall contribute one per cent of the total sale proceed of lottery tickets collected through the Kerala State Lotteries Department to the Fund every year. The rate of contribution of the Government may be modified from time to time and recommend the due appropriation in the Budget proposals.

(4) The contribution shall be paid to the Chief Executive Officer or other officers authorized in this behalf in the manner specified in the Scheme.

(5) The non-payment of contribution by any member for a continuous period of six months will result in loss of membership *suo motu*:

Provided that the Board shall, for reasons appears to be reasonable to the Board, have the power to restore the membership.

5. Modification of the Scheme.- (1) The Government may, by notification in the Gazette, add to or amend the Scheme framed under this Act, either prospectively or retrospectively.

(2) Every notification under sub-section (1) shall be laid as soon as may be, after it is issued, before the Legislative Assembly while it is in session for a total period of 14 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 agrees in making any modification in the notification or decides that the notification should not be issued the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be.

6. Constitution of Board.- (1) The Government may, by notification constitute with effect from such date as may be specified therein, for the administration of the Fund and for the management of the Scheme and to supervise and to implement the connected activities constitute a Board to be called the 'Kerala State Lottery Agents' and Sellers' Welfare Fund Board'.

(2) The Board shall be a body corporate by the name "Lottery Agents and Sellers Welfare Fund Board" having perpetual succession and a common seal and shall by the said name, sue and be sued;

(3) The Board shall consist of four official members representing the Government and seven non-official members representing the beneficiaries of the Scheme as may be nominated by the Government as hereinafter provided:-

(a) The Secretary to Government, Taxes Department.

(b) The Director of State Lotteries;

(c) A representative from the Finance Department not below the rank of a Joint Secretary nominated by the Government;

(d) A representative from the Labour Department not below the rank of a Joint Secretary nominated by the Government;

(e) Seven non-official members representing the Lottery Agents and Sellers nominated by the Government.

(4) Government shall nominate a member from among the members of the Board as its Chairman;

(5) The Director of State Lotteries shall be the Chief Executive Officer.

(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 such of its powers and functions under this Act or the Scheme as it may consider necessary, for the effective management of the Fund, subject to such restrictions and conditions, as it may deem fit.

7. Meeting of the Committee.- (1) The Board shall meet at least once in three months to transact its business;

(2) Six members of the Board including at least two official members shall form the quorum for a meeting of the Board;

(3) The Chairman or in his absence, a member elected from among the members present at the meeting, shall preside over the meeting of the Board;

(4) Any matter coming up before a meeting of the Board shall be decided by a majority of the members present and voting at the meeting and, in the case of any equality of votes, the Chairman or the member presiding over the meeting shall have right for a casting vote.

8. Term of office of the members of the Board. – (1) The non-official members appointed under sub-section (3) of section 6 shall hold office for a period of three years with effect from the date of the notification constituting the Board;

(2) Any non-official member may resign his membership by giving notice in writing to the Government, but shall continue to hold office until his resignation is accepted by the Government.

(3) Government may at any time, for reasons to be recorded in writing, remove from office any official member, if the Government are of the opinion that, in public interest, it is not fair to allow such member to continue in office.

9. *Disqualification and removal of non-official members.*- (1) The Government may remove any non-official member of the Board from office,-

(a) if he is of unsound mind;

(b) if he is adjudged as insolvent;

(c) if he has, without the permission of the Board, been absent in three consecutive meetings; and

(d) if in the opinion of the Government, he is not suitable or has become incapable of acting as a member or has so abused his position as a member as to render his continuance as such member detrimental to the public interest:

Provided that before removing a member under this sub-section he shall be given a reasonable opportunity to show cause why he should not be removed.

(2) A non-official member of the Board removed under clause (c) of sub-section (1), shall be disqualified for re-appointment as a member of the Board for a period of three years from the date of his removal unless otherwise ordered by the Government;

(3) A non-official member of the Board removed under clause (d) of sub-section (1) shall not be eligible for re-appointment until he is declared by an order of the Government to be no longer ineligible.

10. *Travelling and daily allowance to members of Board.*- The nominated members of the Board shall be eligible to get sitting fee, travelling allowance and daily allowance at such rate as may be prescribed.

11. *Appointment of Officers and Staff.*- (1) Government may appoint a State Welfare Officer of Lottery, such number of District Welfare Officers of Lottery and other staff on deputation from the Kerala State Lotteries Department for assisting the Chief Executive Officer in implementing the provisions of this Act;

(2) The Chief Executive Officer of the Board shall be responsible for implementing the decisions of the Board.

12. *Power of the Board to borrow.*-The Board may from time to time, with the previous approval of the Government and subject to such terms and conditions as may be specified by the Government, borrow money for the purposes of the Scheme.

13. *Non-official Members of Board, to be public servants.*- Every non-official Member of the Board, shall be deemed to be a public servant within the meaning of section 21 of Indian Penal code (Central Act 45 of 1860).

14. *Protection of action taken in good faith.*- No suit or other legal proceeding shall lie against any member of the Board or any other person assisting the Board in the discharge of its functions and duties in respect of anything which is in good faith done

or intended to be done under this Act or under the Scheme.

15. Directions by Government.— The Government may from time to time give directions to the Board and the Board shall be liable for its implementation.

16. Power to order inquiry.— (1) The Government may at any time, appoint an officer not below the rank of an Additional Secretary to Government to inquire into the working of the Board and to submit a report to the Government.

(2) The Board shall give the person so appointed, all facilities for the proper conduct of the enquiry and furnish to him such documents, accounts and information in the possession of the Board as he may require.

17. Power to supersede Executive Committee.— (1) If on consideration of the report under section 16 or otherwise, the Government are of opinion 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 or has 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:

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of Board.

(2) Upon the publication of notification under sub-section(1),-

(a) all the members of the Board shall, from the date of such publication, vacate their offices as such members;

(b) all the powers and duties which may be exercised or performed by the Board shall, during the period of supersession be exercised or performed by such officer or officers as may be specified in the notification;

(c) all funds and other properties vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government shall constitute the Board in the manner provided in section 6.

18. Audit of Accounts of the Fund and appointment of auditors.— (1) The Board shall appoint such auditors to audit the accounts of the Fund in such manner as may be prescribed;

(2) The accounts of the Fund/Scheme shall be audited once in every year by such auditors.

19. Annual report and audited statement of accounts.- (1) The annual report of the Fund/Scheme shall be prepared under the direction of the Board and after approval by the Board, a copy of the report together with audited statement of accounts shall be submitted to Government before the end of July every year;

(2) The Government shall, as soon as the annual report is received, cause the same together with the audited statement of accounts to be laid before the Legislative Assembly.

20. Bar on Jurisdiction of Civil Courts.- No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act or the Scheme required to be settled, decided or dealt with or to be determined by the Government or the Board or the Chief Executive Officer or any officer authorised by the Board.

21. Power to summon witness and take evidence.- The Board shall, for the purposes of enquiry under this Act 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) enforcing the attendance of any persons or examining him on oath;
- (b) requiring to find out and to produce documents;
- (c) receiving evidence on affidavit ; and
- (d) engaging Commission for examining witnesses.

22. Special provisions for the transfer of Fund from the Kerala State Lottery Agents' Welfare Fund- (1) Notwithstanding anything contained in any other law for the time being in force on the date of coming into force of this Act, the sum standing to the credit of a member in the Kerala State Lottery Agents' Welfare Fund, 1991 shall stand transferred to and credited to the Fund established under this Act and the liability of such member to pay contribution to the Kerala State Lottery Agents' Welfare Fund, shall cease from such date.

(2) All claims in respect of such schemes shall be determined and disbursed by the Board constituted by this Act.

23. Power to make rules.- (1) The Government, may, by notification, make rules either prospectively or retrospectively for the purpose of carrying into effect the provisions of this Act.

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 modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. *Repeal and Saving.*-(1) The Kerala State Lottery Agents' and Sellers' Welfare fund Ordinance, 2008(33 of 2008) is hereby repealed.

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

SCHEDULE

(see section 3(2))

MATTERS FOR WHICH PROVISIONS MAY BE MADE IN THE SCHEME

1. The manner in which the Fund is to be administered by the Board.
2. Registration of lottery agents and sellers.
3. The time and manner in which contribution shall be made to the Fund.
4. The manner in which the contribution may be recovered from different sectors.
5. The constitution of any committee for assisting the Board.
6. 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, the preparation of the budget, the audit of accounts and the submission of reports to Government.
7. The conditions under which withdrawal from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
8. The form in which a member of the Fund shall furnish particulars about himself and his family, whenever required.
9. The nomination of a person to receive the benefits of a member from the fund on his death and verification and cancellation of such nomination.
10. The registers and records to be maintained with respect to members.
11. The form and design of the identity card for the purpose of identifying any member of the Fund and for the issue, custody and replacement of the same.
12. The fees to be levied for any of the purposes specified in the Schedule.
13. The manner in which the sum transferred under section 22 is to be brought and credited to the Fund.
14. The matters for which the Fund may be utilized for the welfare of members or their dependants.
15. The procedure for defraying the expenditure to be incurred in the administration of the Fund.
16. The procedure for paying the benefits, grants, advances etc., from the Fund.

17. Any other matter which is necessary or proper for implementing the Scheme.

