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The Tamil Nadu Labour Welfare Fund Act, 1972

Act 36 of 1972

Keyword(s):
Establishment, Fund, Unpaid Accumulation

Amendments appended: 13 of 1994, 44 of 1995, 59 of 1997

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THE TAMIL NADU LABOUR WELFARE FUND ACT, 1972.

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TAMIL NADU ACT No. 36 OF 1972. *

THE TAMIL NADU LABOUR WELFARE FUND ACT, 1972.

[*Received the assent of the President on the 2nd December* 1972, *first published in the* Tamil Nadu Government Gazette *Extraordinary on the 6th December* 1972 [*Karthigai* 22, *Parithapi* (2003—*Thiruvalluvar Andu*)].]

An Act to provide for the constitution of a Fund for promoting the welfare of labour and for certain other matters connected therewith in the State of Tamil Nadu.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-third Year of the Republic of India as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Tamil Nadu Labour Welfare Fund Act, 1972.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions.

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

(*a*) "Board" means the Tamil Nadu Labour Welfare Board established under section 4 ;

(*b*) "employee" means—

(i) any person who is employed for hire or reward to do any work skilled or unskilled, manual, supervisory, clerical or technical in an establishment for a period of 30 days during the period of [1][the preceding twelve months] whether the terms of employment be express or implied, but does not include any person—

(*a*) who is employed mainly in a managerial capacity ; or

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[1] These words were substituted for the figures and word "12 months" by section 2 (i) (*a*) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

* For Statement of Objects and Reasons, *see Tamil Nadu Government Gazette Extraordinary*, dated the 2nd February 1972, Part IV-Section 3, Pages 26-27.

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(b) who being employed in a supervisory capacity draws wages exceeding [1][Rs. 1,000] per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature, or

(*c*) who is employed as an apprentice or on part-time basis.

Explanation.—An apprentice means a person who according to the Certified Standing Orders applicable to the establishment, is an apprentice or who is declared to be an apprentice by the authority specified in this behalf by the Government ; and

(ii) any other person employed in any establishment whom the Government may, by notification, declare to be an employee for the purposes of this Act;

(*c*) " employer " means a person who has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, superintendent or by any other name, such other person ;

(*d*) " establishment " means—

(i) a factory as defined in clause (*m*) of section 2 of the Factories Act, 1948 (Central Act LXIII of 1948), or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act ;

(ii) a motor transport undertaking as defined in clause (*g*) of section 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961) ;

(iii) a plantation as defined in clause (*f*) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951) ;

(iv) a catering establishment as defined in section 2 (1) of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958)[2][which employs, or on any working day during the preceding twelve months employed, five or more than five persons] ;

[1] This expression was substituted for the expression " Rs. 750 " by section 2 (i) (*b*) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

[2] These words were added by section 2 (ii) (*a*), *ibid.*

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(v) an establishment, including a society [1][registered or deemed to be registered under the Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975)] and a charitable or other trust whether registered under any law applicable to such charitable or other trust or not, which carries on any business or trade or any work in connection therewith or ancillary thereto and which employs, or on any working day during the preceding twelve months employed, [2][five or more persons]; but does not include an establishment (not being a factory) of the Central or any State Government ;

(vi) any other establishment which the Government may, by notification, declare to be an establishment for the purposes of this Act ;

[3][*Explanation.*—For the purposes of this Act, where an establishment consists of different departments or has branches whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.]

(*e*) "Fund" means the Labour Welfare Fund constituted under section 3 ;

(*f*) "Government" means the State Government ;

(*g*) "Inspector" means an Inspector referred to in section 22 ;

(*h*) "Secretary" means the Secretary appointed under section 21 ;

(*i*) "unpaid accumulation" means all payments other than gratuity due to an employee but not paid to him within a period of three years from the date on which the payments became due whether before or after the commencement of this Act and the gratuity accrued to an employee after the commencement of this Act but not paid within a period of three years from the date of such accrual but does not include the amount of contribution, if any, paid by an employer to a provident fund established under the Employees' Provident Funds Act, 1952 (Central Act XIX of 1952);

(*j*) "wages" means all remuneration capable of being expressed in terms of money which would, if the terms of

[1] This expression was substituted for the expression "registered under the Societies Registration Act, 1860 (Central Act XXI of 1860)" by section 2 (ii) (*b*) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

[2] This expression was substituted for the expression "more than twenty persons" by section 2 (ii)(*b*), *ibid*.

[3] This explanation was added by section 2 (ii) (*c*), *ibid*.

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the contract of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment, but does not include—

(i) the value of any house accommodation or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by general or special order of the Government ;

(ii) any contribution paid by the employer to any pension or provident fund or under any scheme of social insurance ;

(iii) any travelling allowance or the value of any travelling concession ;

(iv) any sum paid to the employee to defray special expenses entailed on him by the nature of his employment ; or

(v) any gratuity payable on termination of employment.

Labour Welfare Fund.

3. (1) The Government shall constitute a fund called the Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid, at such intervals as may be, prescribed to the Board, and be credited to the Fund and the Board shall keep a separate account therefor until claims thereto have been decided in the manner provided for in section 13.

(2) There shall also be credited to the Fund—

(*a*) unpaid accumulations paid to the Board under sub-section (2) of section 13 ;

(*b*) all fines including the amount realised under Standing Order 20 of the Model Standing Orders issued under the Tamil Nadu Industrial Employment (Standing Orders) Rules, 1947 [1][and under the certified Standing Orders of the establishment] from the employees by the employers, notwithstanding anything contained in any agreement between the employer and employee ;

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[1] This expression was inserted by section 3 (1) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

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(*c*) deductions made under the proviso to sub-section (2) of section 9 of the Payment of Wages Act, 1936 (Central Act IV of 1936) [1][and under the proviso to sub-section (2) of section 36 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947).]

(*d*) contribution by employers and employees ;

(*e*) any interest by way of penalty paid under section 14 ;

(*f*) any voluntary donations ;

(*g*) any amount raised by the Board from other sources to augment the resources of the Board ;

(*h*) any fund transferred under sub-section (5) of section 17 ;

(*i*) any sum borrowed under section 18 ;

(*j*) any unclaimed amount credited to the Government in accordance with the rules made under the Payment of Wages Act, 1936 (Central Act IV of 1936) and the Minimum Wages Act, 1948 (Central Act XI of 1948) ;

(*k*) grants or advances made by the Government ;

(*l*) all fines imposed and realised from employers by courts for violation of labour laws less the deduction made by court towards administrative expenses.

(3) The sums specified in sub-section (2) shall be paid to, or collected by, such agencies, at such intervals and in such manner, and the accounts of the Fund shall be maintained and audited in such manner, as may be prescribed.

Establishment of Board.

4. (1) With effect from such date as the Government may, by notification, appoint in this behalf, there shall be established a Board by the name "Tamil Nadu Labour Welfare Board".

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

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[1] This expression was added by section 3 (2) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

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Constitution of the Board.

5. The Board shall consist of a Chairman who shall be the Minister-in-charge of Labour and of the following members appointed by the Government, namely :—

(*a*) such number of representatives of employers and employees as may be prescribed :

Provided that both employers and employees shall have equal representation on the Board ;

(*b*) such number of members of the State Legislature as may be prescribed; and

(*c*) such number of officials and non-officials as may be prescribed.

Appointment of the Chairman and the members to be notified.

6. The appointment of the Chairman and the members shall be notified in the *Tamil Nadu Government Gazette.*

Term of office of the members.

7. The term of office of the members of the Board other than the official members shall be three years from the date of their appointment and they shall be eligible for reappointment. They shall continue as such members until the appointment of the successors :

Provided that a Member of the State Legislature shall cease to be a member of the Board from the date on which he ceases to be a Member of the State Legislature.

Disqualifications and removal.

8. (1) No person shall be chosen as, or continue to be, a member of the Board, if he—

(*a*) is an officer or servant under the Board; or

(*b*) is an undischarged insolvent; or

(*c*) is of unsound mind; or

(*d*) has been convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside; or

(*e*) is in arrears of any sum due to the Board.

(2) The Government may remove from office any member who—

(*a*) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(*b*) is absent without leave of the Board for more than three consecutive meetings of the Board.

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Resignation of office by member and filling up of casual vacancies.

9. (1) Any representative of employer or employee or Member of the State Legislature, or non-official member may resign his office by giving notice thereof in writing, to the Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(2) A casual vacancy in the office of member may be filled up as soon as may be and a member so appointed to fill such vacancy shall hold office for the remainder of the term.

Power to appoint committees.

10. For the purpose of advising the Board in the discharge of its functions and in particular for carrying into effect any of the matters specified in sub-section (2) of section 17, the Board may constitute one or more committees consisting of atleast one member of the Board and equal number of representatives of employees and employers.

Acts of the Board or committee not to be invalidated by informality, vacancy, etc.

11. No act done or proceeding taken under this Act by the Board or any committee shall be invalidated merely on the ground—

(*a*) of any vacancy or defect in the constitution of the Board or the committee; or

(*b*) of any defect or irregularity in the appointment of a person acting as a member thereof; or

(*c*) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

Functions of the Board.

12. The functions of the Board shall be the administration of the Fund and such other functions as may be assigned by or under this Act.

Unpaid accumulations and claims thereto.

13. (1) All unpaid accumulations shall be deemed to be abandoned property.

(2) Any unpaid accumulation paid to the Board in accordance with the provisions of section 3 shall on such payment, discharge an employer of his liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board, and the liability to make payment to the employee to the extent aforesaid shall, subject to the succeeding provisions of this section, be deemed to be transferred to the Board.

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[1][(3) As soon as possible after the payment of any unpaid accumulation is made to the Board, the Board shall—

(*a*) exhibit on the notice board of the establishment in which the unpaid accumulation was earned ; and

(*b*) publish in the *Tamil Nadu Government Gazette*, and in such other manner as may be prescribed,

a notice inviting claims by employees, their heirs, legal representatives or assigns for any payment due to them.]

(4) If any question arises whether the notice referred to in sub-section (3) was given as required by that sub-section, a certificate of the Board that it was so given, shall be conclusive.

(5) [2][If a claim is received whether in response to the notice or otherwise, within a period of six months from the date of the publication of the notice in the *Tamil Nadu Government Gazette* in respect of such claim] the Board shall transfer such claim to the Authority appointed under section 15 of the Payment of Wages Act, 1936 (Central Act IV of 1936), having jurisdiction over the area in which the establishment is situate, and that Authority shall proceed to adjudicate upon and decide, such claim. In hearing such claim such Authority shall have the powers conferred by that Act and follow the procedure (in so far as it is applicable), specified therein.

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[1] This sub-section was substituted for the following original sub-section by section 4(i) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982):—

"(3) As soon as possible after the payment of any unpaid accumulations is made to the Board, the Board shall by notice—

(*a*) exhibit on the notice-board of the establishment in which the unpaid accumulation was earned ; and

(*b*) publish in the *Tamil Nadu Government Gazette*, and in such other manner as may be prescribed, regard being had to the amount of the unpaid accumulations ;

invite claims by employees, their heirs, legal representatives or assigns for any payment due to them. The notice shall be given in the manner aforesaid in June and December of every year, for a period of three years from the date of the payment of the unpaid accumulation to the Board".

[2]These words were substituted for the following words by section 4 (ii), *ibid*:—

"If a claim is received whether in response to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim".

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(6) If the Authority aforesaid is satisfied that any such claim is valid so that the right to receive payment is established, it shall decide that the unpaid accumulation in relation to which the claim is made shall cease to be deemed to be abandoned property, and shall order the Board to pay the whole of the dues claimed, or such part thereof as the Authority decides are properly due, to the employee; and the Board shall make payment accordingly :

Provided that the Board shall not be liable to pay any sum in excess of that paid under sub-section (1) of section 3 to the Board as unpaid accumulations, in respect of the claim.

(7) If a claim for payment is refused, the employee or his heirs, legal representatives or assigns, as the case may be, may, within sixty days from the date of receipt of the order of the Authority, prefer an appeal in the City of Madras to the Madras City Civil Court, and elsewhere to the District Court.

(8) The decision of the Authority, subject to appeal aforesaid, and the decision in appeal of the Madras City Civil Court, or as the case may be, the District Court, shall be final and conclusive as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any.

(9) If no claim is received within the period specified in sub-section (5), or a claim has been refused by the Authority, or on appeal by the Madras City Civil Court or the District Court, then the unpaid accumulations in respect of such claim shall accrue to, and vest in, the State as *bona vacantia*, and shall thereafter be deemed to have been transferred to, and form part of, the Fund.

Interest on unpaid accumulations or fines after notice of demand.

14. (1) If an employer does not pay to the Board any amount of unpaid accumulations, or fines realised from the employees, within the time specified by or under this Act, the Secretary may serve or cause to be served a notice on such employer to pay the amount within the period specified therein which shall not be less than thirty days from the date of service of such notice.

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(2) If the employer fails, without sufficient cause, to pay any such amount within the period specified in the notice, he shall, in addition to the amount, pay by way of penalty to the Board simple interest—

(*a*) for the first three months at one per cent of the said amount for each complete month or part thereof after the last date by which he should have paid it according to the notice; and

(*b*) for each complete month or part thereof thereafter at one and a half per cent of that amount during the time he continues to make default in the payment of that amount :

Provided that, the Secretary may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.

Contribution to the Fund by employee and employer.

15. [1][(1) Every employee shall contribute two rupees per year to the Fund and every employer shall, in respect of each such employee, contribute four rupees per year to the Fund and the Government shall, in respect of each such employee, contribute two rupees per year to the Fund.]

(2) Notwithstanding anything contained in any other law for the time being in force the employer shall be entitled to recover from the employees the employee's contribution by deduction from his wages in such manner as may be prescribed and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 (Central Act IV of 1936) [2][or the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947).]

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[1] This sub-section was substituted for the following original sub-section by section 5 (i) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982):—

"(1) Every employee shall contribute one rupee per year to the Fund and every employer shall, in respect of each such employee, contribute two rupees per year to the Fund."

[2] This expression was added by section 5 (ii), *ibid.*

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Grants and advances by the Government.

16. The Government may, from time to time, make grants or advance loans to the Board for the purposes of this Act on such terms and conditions as the Government may, in each case, determine.

Vesting and application of Fund.

17. (1) The Fund shall vest in, and be held and applied by, the Board as trustees subject to the provisions, and for the purposes, of this Act. The moneys therein shall be utilized by the Board to defray the cost of carrying out measures which may be specified by the Government from time to time to promote the welfare of employees and of their dependents.

(2) Without prejudice to the generality of the provisions of sub-section (1), the moneys in the Fund may be utilised by the Board to defray expenditure on the following, namely:—

(*a*) community and social education centres ;

(*b*) vocational training ;

(*c*) community necessities ;

(*d*) entertainment and other forms of recreation ;

(*e*) convalescent homes for tuberculosis patients ;

(*f*) holiday homes in health resorts ;

(*g*) part-time employment for housewives of employees ;

(*h*) pre-schools ;

(*i*) nutritious food to children of employees ;

(*j*) employment opportunities to the disabled employees [1][or the widows of the deceased employees];

(*k*) cost of administering this Act including the salaries and allowances of the staff appointed for the purposes of this Act ; and

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1 These words were added by section 6 (i) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

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(*l*) such other objects as would, in the opinion of the Board, improve the standard of living[1][and education] and ameliorate the social conditions of labour :

Provided that the Fund shall not be utilised in financing any measure which the employer is required under any law for the time being in force to carry out :

Provided further that unpaid accumulations and fines shall be expended by the Board under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936) or any other law or agreement for the time being in force.

(3) The Board may, with the approval of the Government, make grants from the Fund to any local authority or any other body in aid of any activity for the welfare of employees.

(4) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the Government whose decision thereon shall be final.

(5) The Board may accept the transfer of any Labour Welfare Fund of any establishment and may continue any activity financed from such Labour Welfare Fund if the said Fund is duly transferred to the Board.

Power of Board to borrow.

18. The Board may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

Deposit of Fund and placing of accounts and audit report before the State Legislature.

19. (1) All moneys and receipts forming part of the Fund shall be deposited in the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act II of 1934), or in the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955), or any corresponding new Bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) [2][or in the State Co-operative Bank or in any Central Co-operative Bank as defined in section 73-A of the Tamil

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1 These words were inserted by section 6 (ii) of the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1982 (Tamil Nadu Act 37 of 1982).

2 This expression was inserted by section 7, *ibid*.

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Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961) or in any corporation owned or controlled by any State Government or the Central Government] and such account shall be operated upon by such officers of the Board as may be authorised by the Board and in such manner as may be prescribed.

(2) The accounts of the Board, as certified by the auditor, together with the audit report thereon, shall be forwarded yearly to the Government and the Government may issue such instructions to the Board in respect thereof as they deem fit and the Board shall comply with such instructions.

(3) The Government shall—

(*a*) cause the accounts of the Board together with the audit report thereon forwarded to them under sub-section (2) to be laid yearly before the State Legislature ; and

(*b*) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof on sale at a reasonable price.

Power of Government to give directions to the Board.

20. The Government may give the Board such directions as in their opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the purposes of the Act and it shall be the duty of the Board to comply with such directions.

Appointment and powers of Secretary.

21. (1) The Board may with the previous approval of the Government appoint a Secretary who shall be the Chief Executive Officer of the Board.

(2) It shall be the duty of the Secretary to ensure that the provisions of this Act and the rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of this Act and the rules made thereunder as he deems fit including any order implementing the decisions taken by the Board under this Act or the rules made thereunder.

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Inspectors.

22. (1) An Inspector of Factories appointed under sub-section (1) of section 8 of the Factoties Act, 1948 (Central Act LXIII of 1948), shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The Government may, by notification, appoint such other persons as they think fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of establishment in respect of which they shall exercise their functions.

(3) Subject to any rules made in this behalf, an Inspector shall have power to do all or any of the following matters within the local limits for which he is appointed—

(*a*) to make such examination and hold such inquiry as may be necessary for asertaining whether the provisions of this Act have been and are being complied with ;

(*b*) require the production of any prescribed register and any other document in possession of the employer in connection with the sums payable to the Fund ;

(*c*) to enter at all reasonable times any premises with such assistance as he may think fit ;

(*d*) to exercise such other powers as may be prescribed.

Allotment of certain officers and staff to the Board.

23. (1) As soon as may be after the commencement of this Act, the Government may after consulting the Board direct by general or special order that such of the officers and other servants serving immediately before the notified date in connection with the affairs of the State as are specified in such order shall be allotted to serve in connection with the affairs of the Board with effect on and from such date as may be specified in such order :

Provided that no such direction shall be issued in respect of such officer or other servant without his consent for such allotment :

Provided further that the conditions of service applicable immediately before the notified date to any such person shall not be varied to his disadvantage except with the previous approval of the Government.

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(2) With effect on and from the notified date the officers and other servants specified in such order shall become employees of the Board and shall cease to be officers or servants of the Government.

Explanation—In this section, 'notified date' means such date as is notified by the Government.

Transfer of Provident Fund to the Board.

24. (1) The moneys standing to the credit under the Provident Fund Account of any officer or servant allotted from the service of the Government to the Board's service, on the date specified in the order under sub-section (1) of section 23 shall stand transferred to and vest in the Board with effect on and from such date.

(2) The Board shall, as soon as may be after such date constitute in respect of the moneys and other assets which are transferred to and vested in it under sub-section (1), a similar fund and may invest the accumulations under the fund in such securities and subject to such conditions, as may be specified by the Board with the approval of the Government.

Government to credit the leave salary and pensionary contributions in respect of the officers and servants allotted to Board's service.

25. The Government shall credit to the account of the Board the leave salary and pensionary contributions in respect of the officers and servants allotted to the service of the Board in proportion to the leave at the credit of such officers and servants or in proportion to the length of their service under the Government, as the case may be, according to the terms and conditions as are applicable to them under the Government on the date specified in the order under sub-section (1) of section 23.

Appointment of clerical and other staff by Board.

26. The Board may, subject to the provisions of section 23, appoint such other officers and servants as it considers necessary for the efficient performance of its functions :

Provided that the expenses of the staff so appointed and other administrative expenses shall not exceed such percentage of the annual income of the Fund as may be prescribed.

Powers of Government to call for records.

27. The Government or any officer authorised by the Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

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Mode of recovery of sums payable to Board.

28. Any sum payable to the Board or into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrear of land revenue.

Penalty for obstructing inspection or for failure to produce documents, etc.

29. Any person who wilfully 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, on conviction, be punished—

(*a*) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both ; and

(*b*) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than fifty rupees.

Cognizance of offences.

30. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint by, or with the previous sanction in writing of, the Secretary.

(2) No court inferior to that of a*Presidency Magistrate or a*Magistrate of the First Class shall try any offence punishable by or under this Act.

Offeces by companies.

31. (1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the 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 provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

* According to clauses (a) and (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any reference to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate with effect on and from 1—4—1974.

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

Explanation.—For the purposes of this section—

(*a*) 'company' means a body corporate and includes a firm or other association of individuals ; and

(*b*) 'director' in relation to a firm means a partner in the firm.

Limitation of prosecution

32. No court shall take cognizance of an offence punishable by or under this Act unless a complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Power to supervise the welfare activities of an establishment.

33. In regard to any money set apart in any establishment specifically for the purpose of promoting the welfare of the employees in such establishment the Board shall have powers—

(i) to require the production of any document in possession of the employers of the establishment in connection with such money to satisfy itself as to whether such money is being applied for such purpose ;

(ii) to call for any information from such employers of the establishment as it may deem relevant ; and

(iii) to issue such directions to the employers of such establishment as it may deem fit for the purpose of utilising the fund for promoting the welfare of the employees.

Penalty for non-compliance with the direction of the Board.

34. Any person who wilfully fails to produce any document required by the Board or to furnish any information called for by the Board or wilfully fails to comply with any directions issued by the Board under section 33 shall on conviction be punished with—

(*a*) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and

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(*b*) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than fifty rupees.

Annual report.

35. The Board shall as soon as may be after the end of each year, prepare and submit to the Government before such date and in such form as may be prescribed a report giving an account of its activities during the previous year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next year ; and the Government shall cause every such report be laid before the State Legislature as soon as may be after it is received by the Government.

Supersession of the Board.

36. (1) If the Government are of opinion that the Board is unable to perform, or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, they may, by notification, supersede the Board for a 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 by notice require the Board to show cause within such period as may be specified in the notice why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(*a*) the Chairman and all the members of the Board shall, as from the date of supersession, vacate their offices as such ;

(*b*) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board and the Chairman shall, during the period of supersession, be exercised and performed by such authority or person as the Government may direct ;

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(*c*) all funds and other property vested in the Board shall, during the period of supersession vest in the authority or person referred to in clause (*b*); and

(*d*) all liabilities, legally subsisting and enforceable against the Board shall be enforceable against the authority or person referred to in clause (*b*) to the extent the funds and properties vested in it or him.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may,—

(*a*) extend the period of supersession for such further period not exceeding six months as they may consider necessary ; or

(*b*) reconstitute the Board in the manner provided in section 5.

Delegation of powers.

37. (1) The Government may, by notification, authorise any authority or officer to exercise any of the powers vested in them by or under this Act except the power to make rules under section 41 and may in like manner withdraw such authority.

(2) The Board may, by general or special order in writing, delegate to the Secretary or other officer of the Board such of its powers and functions under this Act except the power to make regulations under section 42 as it is, may deem necessary and it may in like manner withdraw such authority.

(3) The exercise of any power delegated under sub-section (1) or sub-section (2) shall be subject to such restrictions and conditions as may be specified in the order and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf or, as the case may be, by the Board or such officer as may be empowered by the Board in this behalf.

(4) The Government or the Board, as the case may be, shall also have the power to control and revise the acts and proceedings of any officer so empowered.

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Members of Board, Secretary, Inspectors and all officers and servants of Board to be public servants.

38. The members of the Board, the Secretary, Inspectors and all officers and servants of the Board, and any person entrusted with the execution of any function under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

Protection of action taken in good faith.

39. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is,in good faith, done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or the Board for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Exemption.

40. The Government may, by notification, exempt any establishment or class of establishments from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

Power to make rules.

41. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed ;

(*b*) the intervals at which or the period within which any of the sums referred to in section 3 shall be paid to the Board or into the Fund, the manner of making such payment and the agency for, and manner of, collection of any such sum ;

(*c*) the manner in which the accounts of the Fund shall be maintained and audited ;

(*d*) the allowances, if any, payable to the members of the Board ;

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(*e*) the manner in which the employee's contribution may be deducted from his wages ;

(*f*) the form of notice regarding unpaid accumulations ;

(*g*) the procedure for making grants from the Fund ;

(*h*) the procedure for defraying the expenditure incurred in administering the Fund ;

(*i*) the manner in which the Board shall conduct its business ;

(*j*) the duties and powers of the Inspectors and the conditions of service of the Secretary and Inspectors and other staff appointed under this Act ;

(*k*) the delegation of the powers and functions of the Board to the Secretary and the conditions and limitations subject to which the powers may be exercised or functions discharged ;

(*l*) the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative expenses ;

(*m*) the registers and records to be maintained under the Act ;

(*n*) the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditures of the Fund and statement of accounts.

(3) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette*, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued under this Act, shall, as soon as possible after it is made or issued be placed on the table of both Houses of the Legislature

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and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification, should not be made or issued, the rule or notification 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 or notification.

Power to make regulations.

42. (1) The Board may, by notification, make regulations not inconsistent with this Act, and the rules made thereunder for the purposes of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed by regulations ;

(*b*) the terms and the conditions of appointment and service and the scales of pay of officers and servants of the Board including the payment of travelling and daily allowances in respect of journeys undertaken by such officers and servants of the Board ;

(*c*) the supervision and control over the acts and proceedings of the officers and servants of the Board and the maintenance of discipline and conduct among the officers and servants of the Board ;

(*d*) the procedure in regard to the transaction of business at the meetings of the Board including the quorum ;

(*e*) the purposes for which and the manner in which temporary association of persons may be made ;

(*f*) the duties, the functions, the terms and conditions of service of the members of the committees ;

(*g*) the manner and the form relating to the maintenance of the accounts of the Board.

(3) No regulation or its cancellation or modification shall have effect until the same shall have been approved by the Government.

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(4) The Government may, by notification, rescind any regulation made under this section and thereupon, the regulation shall cease to have effect.

Amendment of section 8, Central Act IV of 1936.

43. In section 8 of the Payment of Wages Act, 1936 (Central Act IV of 1936), in sub-section (8), in the last sentence, the following shall be added at the end, namely:—

"but in the case of any establishment to which the Tamil Nadu Labour Welfare Fund Act, 1972 applies all such realisations shall be paid into the Fund constituted under the aforesaid Act".

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 3rd March 1994 and is hereby published for general information :—

ACT No. 13 OF 1994.

An Act further to amend the Tamil Nadu Labour Welfare Fund Act, 1972.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-fourth Year of the Republic of India as follows:—

Short title and Commencement

1. (1) This Act may be called the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1994.

(2) Section 2 shall be deemed to have come into force on the 1st April 1975.

Amendment of section 40.

2. In section 40 of the Tamil Nadu Labour Welfare Fund Act, 1972 (Tamil Nadu Act 26 of 1972.) (hereinafter referred to as the principal Act), after the words " all or any of the provisions of this Act ", the words " or of any rules made thereunder " shall be inserted.

Amendment of section 42

3. In sub-section (1) of section 42 of the principal Act, after the words "by notification", the words "issued whether prospectively or retrospectively" shall be inserted.

(By order of the Governor)

M. MUNIRAMAN,
Secretary to Government,
Law Department.

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 9th December 1995 and is hereby published for general information:—

ACT No. 44 OF 1995.

An Act further to amend the Tamil Nadu Labour Welfare Fund Act, 1972.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1995.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 15.

2. In section 15 of the Tamil Nadu Labour Welfare Fund Act, 1972, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every employee shall contribute a sum not exceeding ten rupees, per year, as may be prescribed, from time to time, to the Fund and every employer shall, in respect of each such employee, contribute a sum not exceeding twenty rupees, per year, as may be prescribed, from time to time, to the Fund and the Government shall, in respect of each such employee, contribute a sum not exceeding ten rupees, per year, as may be prescribed, from time to time, to the Fund."

(By order of the Governor)

M. MUNIRAMAN,
Secretary to Government,
Law Department.

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ON BEHALF OF THE GOVERNMENT OF TAMIL NADU.

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The following Act of the Tamil Nadu Legislative Assembly received to the assent of the Governor on the 1st November 1997 and is hereby published for general information :—

ACT No. 59 OF 1997.

An Act further to amend the Tamil Nadu Labour Welfare Fund Act, 1972.

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Tamil Nadu Labour Welfare Fund (Amendment) Act, 1997.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Tamil Nadu Act XXXVI of 1972.

Amendment of section 2.

2. In section 2 of the Tamil Nadu Labour Welfare Fund Act, 1972, in clause (b), in sub-clause (i), in item (b), for the expression "draws wages exceeding Rs. 1,000 per mensem", the words "draws wages exceeding three thousand and five hundred rupees per mensem" shall be substituted.

(By order of the Governor)

A. K. RAJAN,
Secretary to Government, Law Department.

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