

Fifteenth Kerala Legislative Assembly

Bill No. 105

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

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BILL

further to amend the Kerala Motor Transport Workers' Welfare Fund Act, 1985.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Motor Transport Workers' Welfare Fund Act, 1985 (21 of 1985) for the purposes hereinafter appearing;

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

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

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Motor Transport Workers' Welfare Fund Act, 1985 (21 of 1985) (hereinafter referred to as the principal Act),—

(a) in clause (d), towards the end, the following words shall be inserted, namely:—

“and autorickshaw employee and person employed for any work in connection with workshop jobs in the automobile workshops including repairing and maintenance of motor vehicles and their parts, mechanic, driver, cleaner, fitter, electrician, fireman, turner, battery man, painter, welder, greaser man, vulcanizer, spray painter, workshop attender, carpenter, motor vehicle body building workers, blacksmith, helper, office staff and any other staff working in this field, worker notified by the Government from time to time.”;

(b) in clause (e), towards the end, the following words shall be inserted, namely:—

“and person who owns the autorickshaw and also the person who owns and operate the automobile workshop or related occupational organizations or a licensee to operate the workshop.”;

(c) for clause (g), the following clause shall be substituted, namely:—

“(g) “member” means a person registered in the Fund and who is paying contribution to the Fund under section 4 of the Act and includes any person who has been enrolled and continues as a member of the Kerala Autorickshaw Workers’ Welfare Fund Scheme, 1991 and the Kerala Automobile Workshop Workers’ Welfare Fund Scheme, 2004.”.

3. *Amendment of section 4.*—In section 4 of the principal Act, for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that nothing in this section shall apply to a motor transport undertaking to which sub-section (3) of section 1 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952) apply.”.

4. *Amendment of section 8A.*— In section 8A of the principal Act, the brackets, words and figures, “(other than autorickshaws covered under the provisions of the Kerala Autorickshaw Workers’ Welfare Fund Scheme, 1991)” shall be omitted.

5. *Insertion of new section 12B.*— After section 12A of the principal Act, the following section shall be inserted, namely:—

“ 12B. *Members of the Kerala Autorickshaw Workers’ Welfare Fund Scheme and Kerala Automobile Workshop Workers’ Welfare Fund Scheme deemed to be members of the Fund.*— Every employee or self employed person who has been enrolled and continues as a member in the Kerala Autorickshaw Workers’ Welfare Fund Scheme, 1991 and Kerala Automobile Workshop Workers’ Welfare Fund Scheme, 2004 as on the date of commencement of the Kerala Motor Transport

Workers' Welfare Fund (Amendment) Act, 2022 shall be deemed to have been registered as a member of the Fund and he shall obtain identity card in such manner as may be provided in the Scheme.”.

6. *Amendment of section 24.*— In section 24 of the principal Act, the existing provision shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of the Kerala Motor Transport Workers' Welfare Fund (Amendment) Act, 2022, all amounts, standing in the credit of the Kerala Autorickshaw Workers' Welfare Fund constituted under the Kerala Autorickshaw Workers' Welfare Fund Scheme, 1991 and Kerala Automobile Workshop Workers' Welfare Fund constituted under the Kerala Automobile Workshop Workers' Welfare Fund Scheme, 2004 shall stand transferred to and credited to the Fund established under the Scheme framed under this Act and with effect from such date, the liability of a member to pay contribution to the Kerala Autorickshaw Workers' Welfare Fund Scheme, 1991 and Kerala Automobile Workshop Workers' Welfare Fund Scheme, 2004 shall cease.”.

STATEMENT OF OBJECTS AND REASONS

As per the provisions of the Kerala Motor Transport Workers' Welfare Fund Scheme, 1985, all the vehicles including autorickshaws except private vehicles shall come under its purview. However, those autorickshaw employees who are registered as members of the Kerala Autorickshaw Workers' Welfare Fund Scheme, 1991 are entitled to receive benefits from the said scheme, while those who are members of the Fund under the Kerala Motor Transport Workers' Welfare Fund Scheme, are entitled to receive benefits thereunder. Since two types of welfare schemes exist for autorickshaw employees, the Government have decided to merge the Kerala Autorickshaw Workers' Welfare Fund Scheme, 1991 with the Kerala Motor Transport Workers' Welfare Fund Scheme, 1985, so that all the autorickshaw workers shall get equal benefits under a single scheme. Also, those Automobile Workshop Workers' who are registered as members of the

Kerala Automobile Workshop Workers' Welfare Fund Scheme, 2004 are also entitled to receive benefits which are extended to members of the Fund under the Kerala Motor Transport Workers' Welfare Fund Scheme, 1985. Hence Government have also decided to merge the Kerala Automobile Workers' Welfare Fund Scheme, 2004 with the Kerala Motor Transport Workers' Welfare Fund Scheme, 1985, so that all the Automobile Workshop Workers shall get equal benefits under the scheme.

Section 4 of the Kerala Motor Transport Workers' Welfare Fund Act, 1985 provides that the contribution payable by the employee, employer and self employed person shall be such quantum as may be specified in the scheme. The proviso to section 4 of the said Act provides that nothing in the said section shall apply to a motor transport undertaking to which the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952) or the Payment of Gratuity Act, 1972 (Central Act 39 of 1972) apply. The Government have decided to amend the proviso to section 4 of the said Act so as to restrict the exemption of making the contribution only to those undertakings which are compulsorily covered under sub-section (3) of section I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

For the purposes above, the Government have decided to amend suitably section 2, 4, 8A and 24 of the Kerala Motor Transport Welfare Fund Act, 1985 and to add a new section 12B of the said Act.

The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

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

V. SIVANKUTTY

EXTRACT FROM THE KERALA MOTOR TRANSPORT
WORKERS' WELFARE FUND ACT, 1985

(ACT 21 OF 1985)

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

(a) “Board” means the Kerala Motor Transport Workers' Welfare Fund Board constituted under section 6;

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(d) “employee” means a person who is employed for wages in a motor transport undertaking directly or through an agency to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time keeper, watchman, or attendant;

(e) “employer” means, in relation to any motor transport undertaking, the registered owner or the person who, or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said affairs are entrusted to any other person, whether called a manager, managing director, managing agent or by any other name, such other person;

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(g) “member” means a member of the Fund and includes any person eligible to become a member of the Fund;

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4. *Contribution to the Fund.*—(1) The contribution payable by the employee to the fund shall be such quantum for each type of motor transport undertaking as may be specified in the Scheme.

(2) The contribution payable by the employer and self- employed person shall be such quantum as may be specified in the Scheme.

(3) The quantum under sub-sections (1) and (2) shall be fixed taking into account the average number of manpower required for operating the motor transport undertaking.

(4) The contribution payable by the employer, employee and self-employed person shall be subject to revision from time to time:

Provided that nothing in this section shall apply to a motor transport undertaking to which the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952) or the Payment of Gratuity Act, 1972 (Central Act 39 of 1972) apply.

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8A. *Production of receipt of remittance of welfare fund contribution.*— Notwithstanding anything contained in any other law for the time being in force, every registered owner or person having possession or control of a motor vehicle in respect of a motor transport undertaking liable to pay contribution (other than autorickshaws covered under the provisions of the Kerala Autorickshaw Workers' Welfare Fund Scheme, 1991) shall, at the time of making payment of the tax under the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976) produce before the Taxation Officer the receipt of remittance of the contribution to the fund due up to the preceding month.

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12A. *Registration and membership.*— Every employee or self employed person shall, register himself with the Board as a member of the fund within six months of commencement of his service in a motor transport undertaking and obtain identity card in such manner as may be provide for in the Scheme:

Provided that every employee of self-employed person who has been already registered as a member of the fund as on the date of commencement of the Kerala Motor Transport Workers' Welfare Fund (Amendment) Act, 2005 shall get himself re- registered with the Board as specified in the Scheme.

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24. *Special provisions for transfer and vesting of welfare fund established by custom or agreement.*—All welfare funds established either by custom or agreement before the date of commencement of this Act and standing to the credit of the employees on such date shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument, stand transferred to, and vest in the Fund established under section 3 and shall be credited to the accounts of the employees entitled thereto in the Fund.

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