

**\* THE KERALA HEADLOAD  
WORKERS ACT, 1978  
(ACT 20 OF 1980)**

(AMENDED BY ACT 8 OF 1994)

An Act to Regulate the Employment of Headload Workers in the State of Kerala and to make provision for their Welfare, for the Settlement of Disputes in Respect of their Employment or Non-Employment and for matters connected therewith.

**Preamble:-** WHEREAS it is expedient to regulate the employment of headload workers in the State of Kerala and to make provision for their welfare, for the settlement of disputes in respect of their employment or non-employment and for matters connected therewith;

BE it enacted in the Twenty-ninth year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

**1. Short Title, Extent and Commencement:-** (1) This Act may be called the Kerala Head Workers Act, 1978.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint, and different dates may be appointed for different areas and for different provisions of this Act and for different establishments.\*\*

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

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\* Received the assent of the President on 28.9.1980 and published in Kerala Gazette Extra No. 740 dated 3.10.1980.

\*\* All the provisions of the Act came into force in the whole of the State of Kerala, in respect of all establishments except those establishments owned or controlled by the Central Government as per notification No.15401 E2/81/LBR dated 19.5.81 published in Kerala Gazette Extra-ordinary No. 385 dated 19.5.81 as S.R.O. No. 589/81

(a) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

(b) “adult” means a person who has completed his eighteenth year of age.;

(c) “appellate authority” in relation to any area, means the appellate authority appointed under S. 4 for that area;

\*[(d) “Board” means a Regulatory and Welfare Board established under S. 14];

\*[(e) “Committee” means a Regulatory and Welfare Authority appointed under S.18];

(f) “Conciliation Officer” in relation to any area, means the Conciliation Officer appointed under S. 3 for that area;

\*[(g) “Contractor” in relation to an establishment, means a person who undertakes to execute any work for such establishment by engaging headload workers on hire or otherwise, or who supplies headload workers for the purpose of engaging them in such establishment and includes a sub contractor and a broker, or a clearing and forwarding agent or owner of a vehicle for a carriage of goods.]

(h) “dispute” means any dispute or difference between employers and employees or between employers and headload workers or between headload workers and headload workers, which is connected with the employment or non employment or the terms of employment or the conditions of employments, of any headload workers.

**Explanation:** Where any employer discharges, dismisses, retrenches or otherwise terminates the services of, or denies employment of an individual headload worker, any dispute or difference between that headload worker and his employer connected with, or arising out of, such discharges, dismissal, retrenchment or otherwise termination or denial of employment shall be deemed to be a dispute notwithstanding that no other headload worker or any union of headload workers is a party to the dispute.

(i) “employer” means, -

(i) in relation to a headload worker engaged by or through a contractor, the principal employer’

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\* Substituted as per Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated 13.3.2001

\*[(ii) in relation to a headload worker who is not employed or engaged by any employer or contractor, the Committee appointed under S. 18

**\*\*[Explanation:** For the purpose of this sub clause “headload worker” means a person registered as headload worker under the Scheme, and whose wages are paid by the employer or contractor through the Committee concerned].

(iii) in relation to any other headload worker, the person who has ultimate control over the affairs of the establishment in or for which the headload worker is employed and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an agent, manager or by any other name prevailing in such establishment;

(j) “establishment” means an establishment specified in the schedule and includes the precincts thereof;

(k) “family” means husband, wife, dependent parents, minor children and unmarried or widowed daughters;

(l) “funds” means a fund constituted under a Scheme;

(m) “headload worker” means \*[a person engaged or employed directly] or through a contractor in or for an establishment, whether for wages or not, for loading or unloading or carrying on head or person or in a trolley any article or articles in or from or to a vehicle or any place in such establishment, and includes any person not employed by any employer or contractor but engaged in the loading or unloading or carrying on head or person or in a trolley any article or articles for wages, but does not include a person engaged by an individual for domestic purposes.

\*[Explanation: For the purpose of this clause, “a person engaged by an individual for domestic purposes” means any person engaged by an individual for loading and unloading of

(a) any article for construction of a building for his own residential purpose;

(b) any article in connection with marriage or other family function in his residence or in places where marriage or other family functions are conducted;

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\*Explanation Added as per Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated 13.3.2001

- (c) any house-hold articles including furniture in connection with the shifting of a dwelling house of a person;
- (d) any article or articles for carrying out any agricultural operations in his land not exceeding two heatares;
- (e) any articles exclusively for his personal use and not for any industrial or commercial purposes]
- (n) “Inspector” means an Inspector appointed under S. 5
- (o) “minor” means a person who has not completed his fifteenth year of age;
- (p) “principal employer” means an employer who engages a headload worker by or through a contractor in any establishment;
- (q) “prescribed” means prescribed by rules made under this Act;
- (r) “scheme’ means a scheme made under this Act;
- (s) “wages” means all remuneration, whether payable in cash or in kind which would, if the terms of employment, express or implied, were fulfilled, be payable to a headload worker employed in an establishment or for work done in such establishment, but does not include-
  - (i) the value of –
    - (A) any house accommodation, supply of light’ water or medical attendance; or
    - (B) any other amenity or service excluded by general or special order of the Government; or
  - (ii) any contribution paid by the employer to any pension fund or any scheme of social insurance and the interest which may have accrued thereon; or
  - (iii) any traveling allowance or value of any traveling concession; or
  - (iv) any sum paid to a headload worker to defray special expenses entailed on him by the nature of his employment; or
  - (v) any gratuity payable on discharge; or
  - (vi) any bonus.

## **CHAPTER II**

### **CONCILIATION OFFICERS, APPELLATE AUTHORITIES AND INSPECTOR**

**3. Appointment of Conciliation Officers:-** The Government may, by notification in the Gazette, appoint for any area specified therein any officer of the Labour Department not below the rank of Deputy Labour Officer to be a Conciliation Officer for the purpose of performing the functions entrusted to the Conciliation Officer by or under this Act.

**4. Appellate Authorities:-** The Government may, by notification in the Gazette, appoint for any area specified therein an officer of the Labour Department not below the rank of District Labour officer to be an appellate authority for the purpose of performing the functions of the appellate authority under this Act.

**5. Inspectors:-** (1) The Government may; by notification in the Gazette, appoint—

(a) such officers\* [of the Board or the Committee, or]

(b) such persons as possess the prescribed qualifications, as they think fit, to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers,

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed:-

(a) enter with such assistants, if any, being persons in the service of the Government or any local or public authority, as he thinks fit, any establishment wherein headload workers are employed or wherefrom work is given out to headload workers, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any scheme or rule made under this Act and require the production thereof either on the spot or in the office of the Inspector.

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\* Substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated 13.3.2001

Provided that the Inspector shall not enter any establishment at any time between 7 p.m. and 7 a.m. except when work is being carried on in such establishment;

(b) examine any person found in any such establishment, if he has reasonable cause to believe that such person is a headload worker employed therein or to whom work is given therefrom;

(c) require any person giving any work to a headload worker or a group of headload workers to give any information, which is in his power to give, in respect of the name and address of each of the person to whom the work is given and in respect of payments made or to be made for the said work.

(d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant in respect of an offence under this Act or any scheme or rule made there under which he has reason to believe has been committed by an employer; and

(e) exercise such other powers as may be prescribed.

(3) Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or enquiry under this Act.

### **CHAPTER III**

#### **HOURS AND LIMITATIONS OF EMPLOYMENT AND WAGES**

**6. Hours of work:-** Save as otherwise expressly provided in this Act, no adult headload worker shall be required to work for more than eight hours in any day and no adolescent or minor headload worker shall be required to work for more than six hours in any day:

Provided that nothing contained in this section shall be deemed to prohibit an agreement between the employer and the headload workers for working for less than eight hours or six hours, as the case may be, on any particular day or days or on all days of employment or to affect any custom or practice prevailing in the locality under which the headload worker is required to work for less than eight hours or six hours, as the case may be.

## **7. Limitation of Employment:-**

(1) No headload worker shall be required to carry on his head or person at a time any article or articles weighing more than seventy-five kilograms.

(2) Notwithstanding anything contained in this Act, no person who is more than sixty years of age shall be entitled to the benefits conferred on a headload worker under this Act.

### **\*[7A. Date of retirement of headload worker:-**

(1) The date of retirement on superannuation of a headload worker covered under the Scheme, shall be the date on which he attains the age of sixty years. Revised Pension Benefit 2 (d): at the end of the English calendar month in which he attains the age of 60.

(2) The Committee may, permit a headload worker to retire prematurely on account of physical disability or ill-health or prolonged illness, at an earlier date on such terms and conditions as may be specified by the Board].

**8. Daily intervals for rest –** The period of work on each day shall be so fixed that no period shall exceed three hours of continuous work and no headload worker shall work for more than three hours continuously before he had an interval for rest for at least half an hour.

**\*[9. Power of Board to fix the rates of wages:-** The Board may, by order, from time to time fix the rate of wages payable to a headload worker employed or engaged by an employer or a contractor in or for an establishment and different rates of wages may be fixed for different establishments and for different kind of work.

(2) The order fixing the rates of wages under sub-s. (1) shall be –

(a) published by the Board in the Notice Board of the Committees, and such

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\*S.7A inserted as per Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

\*Ss 9, 9A, 9B, 9C inserted as per *ibid*.

other offices and such conspicuous places in the locality as may be determined by the Board.

(b) displayed by the employer or contractor in conspicuous place inside as well as outside his office, shop or godown.

(3) The Board may correct any printing mistake crept in any order fixing the rate of wages or any error therein arising from an inadvertant slip or omission.

**9A. Obligation of employer to pay wages:-** Every employer or contractor shall pay to a headload worker employed or engaged by him the wages at the rate fixed by the Board under S.9

**9B. Prohibition against demand or receiving wages in excess:-** No headload worker shall be entitled to demand or receive wages in excess of the rates fixed by the Board under S.9

**9C. Code of conduct for headload workers:-** (1) The Board shall frame a Code of Conduct to be observed by the headload workers.

(2) No headload worker shall demand or receive wages in excess of the rate of wages notified by the Board under S.9.

(3) Any headload worker who contravenes any of the provisions of the Code of Conduct shall be liable for disciplinary action, in the manner as may be prescribed or specified in the Scheme which may involve the imposition of a major penalty].

**10. Wages for work between 7 P.M. and 7 A.M.** Where a headload worker is required by an employer to work at time between 7 p.m. and 7 a.m. he shall be paid for such work one and a half times the wages payable to him under S.9:

Provided that nothing in this section shall apply to headload workers working in bus stands, boat jetties, landing places of country crafts and such other places as may be specified by the Government in this behalf.

**11. Enforcement of payment of wages:-** (1) If any employer pays less than the wages due to a headload worker or refuses to pay such wages, the headload worker or an official of the union of which he is a member may make an application to the Conciliation officer for a direction under sub-s.(2)



(2) On receipt of an application under sub/s.(1),the Conciliation Officer shall, after giving the application and the employer an opportunity of being heard and after such inquiry, if any, which he may consider necessary, direct:-

(a) in the case of a claim arising out of the payment less than the wages, the payment to the headload worker of the amount by which the wages payable to him exceeds the amount actually paid by the employer;

(b) in the case of a claim arising out of non payment of less than the wages, the payment to the headload worker of the amount by which the wages payable to him exceeds the amount actually paid by the employer;

(3) If, as a result of a direction under sub-s.(2), any amount of the wages becomes payable to a headload worker, the Conciliation Officer shall, if the amount is not paid in accordance with his direction, make a report to the Collector specifying the full particulars regarding the amount of the wages due to the headload worker, and on receipt of such report the Collector shall proceed to recover the same from the employer as if it were an arrear of public revenue due on land.

**Explanation** – In this sub-section and S.36, “Collector” means the District Collector or any other officer appointed by the Government to exercise the powers and perform the function of a Collector under the Kerala Revenue Recovery Act, 1968 (15 of 1968).

**12. Appeal** – (1) Against any order passed by a Conciliation Officer under S.11, an appeal shall lie to the appellate authority within a period of thirty days from the date of the order appealed against and the decision of the appellate authority on such appeal shall be final:

Provided that the appellate authority may admit an appeal presented after the expiration of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

\*[Provided further that in computing the period of thirty days for filing an appeal, the day on which the order complained of was pronounced and the time requisite for obtaining a copy of the order appealed from shall be excluded].

(2) The appellate authority shall have no power to stay the operation of the order of the Conciliation Officer pending disposal of the appeal, except for good and sufficient reasons to be recorded in writing.

## **CHAPTER IV**

### **SCHEMES**

**13. Scheme** – (1) The Government may, by notification in the Gazette, make one or more scheme or schemes for any employment or group of employments in one or more area or areas specified in the notification, and by similar notification add to amend or vary any such scheme or substitute another scheme for any such scheme.

Provided that no such notification shall come into force unless a draft therefore is published in the Gazette and unless it is finalized after considering objections and suggestions received within one month of the publication of such draft in the Gazette.

(2) Subject to the provisions of this Act and the rules made thereunder, a scheme made under sub-s. (1) may provide for all or any of the following matters, namely:

(a) for the welfare of headload workers;

(b) for health and safety measures for headload workers;

(c) for the constitution of any fund or funds including provident fund for the benefit of headload workers, the vesting of such funds, the payment of contributions to be made to such funds and all matters relating thereto;

(d) for regulating the recruitment and entry into the scheme of headload workers, and the registration of headload workers and employers including the maintenance of registers, removal either temporarily or permanently, of names from the registers and the imposition of fee for registration;

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\*Proviso inserted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

(e) for regulating the employment of headload workers and the terms and conditions of such employment, including maternity benefit, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(f) for pooling of headload workers who are not employed under any employer or contractor.

(g) for the manner in which, and the persons by whom the cost of operating scheme is to be defrayed \*[including any contribution or welfare levy to be paid by employers and headload workers and the rate of such contribution or welfare levy;]

(h) for appointing persons and authorities who or which are to be responsible for the administration of the scheme and for the administration of funds constituted for the purposes aforesaid;

\*\*[hh) rate of penal interest payable by an employer in case of default in payment of wages, contribution of welfare levy.]

(i) for such incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of the scheme;

(j) generally for making better provision as regards the terms and conditions of employment of headload workers.

(3) If any question arises whether any scheme applies to any class of headload workers, the matter shall be referred to the Government whose decision thereon shall be final.

(4) The Government may, \*\*\* [in consultation with the Board] by notification in the Gazette, add to the schedule any establishment in respect of the headload workers whereof they are of opinion that a scheme should be made under this Act, and thereupon the establishment so added shall be deemed to be an establishment specified in the Schedule for the purposes of this Act.

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\*Substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

\*\* Clause (hh) inserted by Ibid

\*\*\* Inserted by Ibid

(5) Every notification under sub-s (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 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 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, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

## **CHAPTER V**

### **BOARD**

**14. Board:-** (1) The Government may, by notification in the Gazette, establish a Board to be known by such name as may be specified in the notification for the purpose of exercising the powers and performing the functions of the Board under this Act and the schemes.

(2) The Board shall be a body corporate with the name specified, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may, by that name, sue and be sued.

(3) The Board shall consist of members nominated from time to time by the Government representing the employers, the headload workers and the Government.

(4) The members representing the employers, the headload workers and the Government shall be equal in number.

(5) The Government shall appoint one of the members of the Board to be its Chairman.

(6) After nominations of all the members of the Board and the appointment of the Chairman, the Government shall publish their names in the Gazette.

(7) The term of office of the members of the Board shall be such as may be prescribed.

(8) The Board shall exercise such powers and perform such functions and shall follow such procedure as may be specified in the scheme or in the rules made under this Act.

\*[(8A) No act or proceedings of the Board shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Board.]

(9) In the exercise of the powers and the discharge of its functions, the Board shall be bound by such directions as the Government may give to it from time to time.

**\*\*[14A. Power to borrow money and buy shares of other Institutions:-** The Board may from time to time, with the approval of the Government and subject to such terms and conditions as may be specified by Government, borrow money from any financial institution or to buy shares of other institutions for the implementation of any scheme.]

15. Disqualifications and removal: (1) No person shall be nominated as, or continue to be a member of the Board who:

- (a) is a salaried officer of the Board; \*\*\* [except the person appointed as the Chief Executive of the Board] or
- (b) is, or any time has been adjudged an insolvent; or
- (c) is found to be a lunatic or becomes of unsound mind; or
- (d) is or has been convicted by any offence involving moral turpitude;
- (e) ceases to represent the employers or headload workers, as the case may be.

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

- (a) is or has become subject to any of the disqualifications mentioned in sub-s (1) ; or
- (b) is absent without leave of the Board for more than three consecutive meetings of the Board.

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\*S.8A inserted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

\*\*S.14A inserted by ibid

\*\*\*Inserted by Act 8 of 1994 published in K.G. dt. 25.3.94

\*\*\*\* [16. Appointment of officers in the Board – (1) The Government may in such manner as may be prescribed appoint a Chief Executive, a Finance Officer and a Secretary, for assisting the Board in exercise of its powers and performing its functions under this Act or the Rules and Scheme framed thereunder.

(2) The Board may with the previous approval of the Government sanction the creation of such posts in the establishment of the Board and the Committee as it considers necessary for the efficient performance of its function.

(3) The Board shall have the powers, in consultation with the Public Service Commission to make appointments to the posts in the establishment of the Board and the Board shall exercise the powers in such manner as may be prescribed.

(4) The Officers appointed under sub-s (1) and sub-s. (2) shall exercise such powers and discharge such duties as may be prescribed.]

17. Supersession of Board: (1) If the Government are of opinion:-

(a) that the Board is unable to perform its functions; or

(b) that the Board has persistently made default in the performance of its functions or has exceeded or abused its powers. The Government may, by notification in the Gazette, supersede the Board for such period as may be specified in the notification:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanation and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-s. (1) :-

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

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\*\*\*\*S.16 substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

(b) all the powers and functions which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such person or persons as may be specified in the notification:

(c) all funds and other property vesting 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-s.(1), the Government may:-

(a) extend the period of supersession for such further period as it may consider necessary:

Provided that the total period of supersession shall not exceed one year or;

(b) re-establish the Board in the manner provided in S.14

## **CHAPTER VI**

### **COMMITTEES**

18. Committees:- \*(1) If the Government decide that the regulation of employment of Headload Workers and their welfare in any area will be best served by entrusting it to a Special Authority, they may by notification in the Gazette appoint a Special Authority to be called “the..... (name of the area) Headload Workers’ Regulatory and Welfare Authority (hereinafter referred to as the Committee) and thereupon the duty of carrying out the provisions of this Act or the Rules or Schemes made there under in such area shall, subject to the conditions and limitations hereinafter contained and those specified in such notification, be vested in the committee”.]

(2) Every such committee shall be a body corporate with the name specified, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may by that name sue and be sued.

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Sub-s.(1) substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

(3) The committee shall consist of such number of members, not exceeding fifteen nominated by the Government, of whom two thirds shall be persons representing the employers and the headload workers.

(4) The members representing the employers and the headload workers shall be equal in number.

\*[(5) The Government shall appoint one of the members of the Committee to be its Administrator and another members to be its Convener-cum-Welfare Officer.]

(6) After nomination of all the members of the committee and the appointment of \*\*[the administrator and the Convener-cum-Welfare Officer], the Government shall publish their names in the Gazette and in such other places as the Government may deem necessary.

(7) The term of office of the members of the committee shall be such as may be prescribed.

\*\*\*[(8) The functions of the committee shall be –

(a) to pool the headload workers who are not employed under any employer or contractor;

(b) to arrange and regulate employment of such headload workers including redeployment and rearrangement of pools and to disburse wages remitted by the employers who employ or engage the headload workers in or for an establishment;

(c) to enforce compliance of the code of conduct issued by the Board under S. 9C and in case of any breach of such code of conduct or any act of indiscipline or misconduct to take disciplinary action against such headload worker in the manner provided in the rules and in the scheme;

(d) to enforce the general norms and procedure for engaging headload workers as may be specified by the Board from time to time and to ensure compliance thereof by

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\* Sub-s.(5) substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 13.3.2001.

\*\*Substituted by Ibid

\*\*\*Sub-s.(8) substituted by Ibid.



the employers or contractors who employ or engage headload worker in or for an establishment in the manner provided in the rules and in the scheme;

(e) to do such acts as are necessary to prevent all unfair practices, by the headload workers during the course of the employment;

(f) to maintain proper books of accounts in respect of all receipts and expenditures in the manner specified by the Board.

(g) to realize and credit into the fund such contributions or welfare levy or any other amount due from an employer or headload worker as may be specified in the Scheme:

(h) to do all such acts as are necessary for the implementation of this Act, Rules and the Scheme;]

\*[(9) No person shall be nominated as, or continue to be, a member of the Committee if he has any of the disqualifications mentioned in clauses (b) to (e) of such s.(1) of S.15.]

\*\*[(10) The Government may remove from office any member who –

(a) is or has become subject to any of the disqualifications mentioned in sub-s.(9); or

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

(11) No act or proceedings of the Committee shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Committee.]

19, Appointment of Officers for assisting Committee:

\*\*\*[(1) The Board shall make available to the Committee such of the officers of the Board for assisting the Committee in exercise of its power and performance of functions under this Act and the Rules and Schemes made thereunder].

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Sub-s.(9) of S.18 substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated: 28.1.2001.

\*\*Sub-ss 10 & 11 added by Ibid

\*\*\* Sub-s.(1) of S.19 substituted by Ibid

(2) The Officers appointed under sub-s (1) shall exercise such powers and discharge such duties as may be prescribed.

**20. Supersession of committee:** (1) If the Government are of the opinion –

(a) that the committee is unable to perform its functions; or

(b) that the committee has persistently made default in the discharge of its functions or has exceeded or abused its powers, the Government may, by notification in the Gazette, supersede the committee for such period as may be specified in the notification:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b) the Government shall give a reasonable opportunity to the committee to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the committee.

(2) Upon the publication of a notification under sub-s(1):-

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

(b) all the powers and functions, which may be exercised or performed by the committee, shall, during the period of supersession, be exercised or performed by such person or persons as may be specified in the notification;

(c) all funds and other property vesting in the committee 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-s.(1), the Government may:-

(a) extend the period of supersession for such further period as they may consider necessary:-

Provided that the total period of supersession shall not exceed one year, or

(b) appoint another committee in the manner provided in S.18.

## **CHAPTER VII**

### **DISPUTES**

**21. Settlement of disputes** – (1) Where a dispute which is connected with the employment or non-employment or the terms of employment or with the conditions of work, of any headload worker exists or is apprehended, the Assistant Labour Officer, having jurisdiction may hold conciliation conferences for the purpose of bringing about a settlement of the dispute and, if such settlement is not arrived at, send a report of the dispute to the Conciliation Officer.

(2) On receipt of a report under sub-s.(1), the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute without delay investigate the same and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of promoting a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the appellate authority.

(4) If a settlement of the dispute or any of the matters in dispute is not arrived at the Conciliation Officer shall take a decision on the dispute or, as the case may be, on the matters in respect of which no settlement has been arrived at and shall send a report of the dispute with a copy of his decision to the appellate authority.

(5) The decision of the Conciliation Officer under sub.s(4) shall, subject to the decision of the appellate authority under sub-s.(7), be binding on all parties to the dispute.

(6) Any person aggrieved by any decision of the Conciliation Officer under sub-s.(4) may, within such time as may be prescribed, appeal to the appellate authority against such decision.

(7) On receipt of an appeal under sub-s(6), the appellate authority shall make such inquiries as it deems fit and after giving the parties an opportunity of being heard decided the appeal within a period of two weeks from the date of receipt of the appeal.

(8) Notwithstanding anything contained in any law for the time being in force, the appellate authority shall not stay the operation of the decision of the Conciliation

Officer pending its decision on the appeal except for good and sufficient reasons to be recorded in writing.

**22. Reference or decision of disputes by Government:-** (1) Notwithstanding anything contained in S. 21, where any dispute exists or is apprehended, the Government may, by order in writing and for reasons to be stated therein:-

(a) refer the dispute to the appellate authority constituted for the area in which the dispute exists or is apprehended, for decision, or

(b) decided the dispute themselves.

(2) Where a dispute is referred to an appellate authority under clause (a) of sub-s. (1) that authority shall decide the dispute as if the reference by the Government were an appeal under sub-s. (6) of S.21.

(3) The decision of the Government referred to in clause (b) of sub-s. (1) shall be final and shall be given effect to by the parties to the dispute forthwith.

**23. Representation of parties –** (1) A headload worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by:-

(a) any member of the executive or other office bearer of a registered trade union of which he is a member.

(b) any member of the executive or other office bearer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the headload worker is not a member of any trade union, by any member of the executive or other office bearer of any trade union connected with, or by any other head worker employed in, the establishment under which the headload worker is employed and authorized in such manner as may be prescribed

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by:

(a) an officer of an association of employers to which he is a member.

(b) an officer of a federation of association of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with or by any other employer engaged in, the establishment similar to the one in which the employer is engaged and authorized in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(4) In any proceeding before the appellate authority, or the Government, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the appellate authority or the Government, as the case may be.

## CHAPTER VIII

### WORKMEN'S COMPENSATION

**24. Application of Workmen's Compensation Act to headload Workers:-** The provisions of the Workmen's Compensation Act 1923 (Central Act 8 of 1923) and the rule made thereunder shall mutatis mutandis apply to the headload workers employed in any establishment, and, for that purpose, they shall be deemed to be workmen within the meaning of that Act.

## CHAPTER IX

### **\*[(REGISTRATION OF HEADLOAD WORKERS, EMPLOYERS AND MAINTENANCE OF RECORDS)]**

**\*\*[25. Registration of Headload Workers:-** (1) Every headload worker shall register his name with such authority or officer in such manner as may be prescribed and shall also register his name as provided in the Scheme, on the commencement of the functional operation of that Scheme.

Provided that the headload workers whose names had already been registered in the prescribed manner or as provided in the Scheme, with such authority or officer shall be deemed to have registered their names under these provisions.

(2) A headload worker other than a headload worker employed on a regular basis in an establishment and who is registered as headload worker under the rules, shall be allowed or required to work in or for an establishment in an area where a Scheme which stipulate payments of wages to headload worker by or through a Committee, only if he has registered and obtained an identity card also under provisions of that Scheme.]

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\* Heading of Chapter IX substituted by Ordinance No. 25 of 2001. Published in Kerala Gazetted Extra No. 378 dated 13.3.2001.

\*\* Ss.25 and 26 substituted by Ibid

**\*(26. Employment of persons in new establishment:-** (1) Notwithstanding anything contained in this Act, when a new establishment or firm has started otherwise than by the change of ownership or name or by shifting of an establishment or firm from one place to another, the employer may employ on a regular basis any person of his choice for carrying out the loading and unloading work in his establishment or firm:

Provided that any headload worker employed or engaged for loading or unloading work in or for an establishment or firm shall not be denied his employment in that establishment or firm.

(2) Every employer of new establishment or firm as mentioned in sub-s.(1) shall furnish the details of headload workers employed by him within 30 days from the date of such employment to the authority or officer referred to in S.25.

(3) No headload worker employed in any establishment who has been in continuous service for not less than one year under an employer or contractor shall be denied employment by that employer until the headload worker has been -

(a) given one month's notice in writing indicating the reasons for denial of employment and the period of notice has expired or the headload worker has been paid in lieu of such notice wages for the period of the notice.

(b) paid at the time of denial of employment compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months.]

\*\*[26A. Registration of Employers:- Every employer or contractor who employ or engage in or for an establishment any headload worker registered under the Scheme, shall register their name with the Committee concerned by paying such fees and in such manner as may be prescribed.

26B. Maintenance of Registers and Records of Employers:- (1) Every employer shall maintain such registers and records as may be prescribed and as provided in the Scheme

(2) The registers and records referred to in sub-s. (1) shall contain such particulars and shall be countersigned by such officer as may be prescribed and as provided in the Scheme.

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\* Ss.25 and 26 substituted by Ibid

\* Ss.26A, 26B & 26C inserted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated 13.3.2001

(3) The employer shall produce the registers and records referred to in sub-s (1) for inspection when so required before such authority or officer as may be prescribed.

**26C. Register of Headload Workers:-** The authority or officer referred to sub-s (1) of S. 25 shall maintain a register of headload workers within its or his jurisdiction.

(2) The register shall be maintained in such form and in such manner and shall contain such particulars as may be prescribed or as provided in the Scheme.

(3) The authority or officer referred to in sub-s.(1) of S.25 shall furnish such details entered in the register of headload workers or extract of the same to the Board or the Committee when so required]

## CHAPTER X

### PENALTIES AND PROCEDURE

**27. Penalty for obstructions:-** (1) Whoever obstructs any Inspector or Assistant Labour Officer or Conciliation Officer or Appellate Authority in the discharge of his or its duties under this Act or refuses or willfully neglects to afford any Inspector reasonable facilities for making any inspection, examination or inquiry authorized by or under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever willfully refuses to produce on the demand of an Inspector or a Conciliation Officer or an appellate authority any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by, an Inspector or a conciliation Officer or an appellate authority acting in pursuance of his or its duties under this Act, shall be punishable with imprisonment for a term, which may extend to six months, or with fine which may extend to one thousand rupees or with both.

**28. Penalty for making false statement, etc.:-** Whoever for the purpose of avoiding any payment to be made by him under this Act or under a Scheme or for enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment

for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.

**29. Other penalties:-** Whoever contravenes or makes default in complying with any of the provisions of this Act or a Scheme or of any rule made under this Act shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for any day during which such contravention continues after conviction for the first such contravention.

**30. Enhanced penalty after previous conviction:-** If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

**31. Offences by Companies –** (1) Where an offence under this Act has been committed by 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 if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

**(2) Notwithstanding anything contained in sub-s. (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 any 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.

**32. Cognizance of offences** – No court shall take cognizance of any offence punishable under this Act, except on complaint made by or with the previous sanction in writing of, the Government or an officer authorized by the Government in that behalf, and no court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

**33. Limitation of prosecutions** – No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within three months from the date on which the alleged commission of the offence comes to the knowledge of the Government or the officer authorized under S.32.

## **CHAPTER XI MISCELLANEOUS**

**34. Bar of jurisdiction of Civil Courts** – No civil court shall entertain any suit or other proceedings to set aside or modify any order or decision passed by any authority or officer under this Act in respect of any of the matters falling within its or his scope.

35. Power to take evidence on oath, etc: Any authority or officer exercising powers under this Act shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit in respect of the following matters namely:-

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses;

(e) such other matters as may be prescribed;

and any proceeding before such authority or officer shall be deemed to be a judicial proceeding within the meaning of Ss.193 and 228 and for the purposes of S.196 of the Indian Penal Code (Central Act 45 of 1860)

**36. Recovery of money due from Employer:-** (1) Where any money is due to a headload worker under a settlement or decision referred to in sub-s. (3) or sub-s.(4) or sub-s.(7) of S. 21 or S. 22, the headload worker himself or any other person authorized by him in that behalf or, in the case of death of the headload worker, his assignees or heirs, may, without prejudice to any other mode of recovery, make an application to the appellate authority for the recovery of the money due to him and if the appellate authority is satisfied that any money is so due, it shall issue a certificate to the Collector for the recovery of amount and thereupon the Collector shall recover the amount as if it were an arrear of public revenue due on land:

Provided that every such application shall be made within one year from the date on which the money became due to the headload worker.

(2) Any amount due from an employer as contribution to any fund and any other amount due from an employer under this Act or a Scheme or rule made under this Act may, if the amount is in arrears, \* [the Chief Executive Officer or the Administrator of a committee may, without prejudice to any other mode of recovery, make an application to the Government or an officer authorized by the Government in this behalf for the recovery of the money due, and if the Government or the officer so authorized is satisfied that any money is so due, it or he shall, issue a certificate in the prescribed manner to the Chief Judicial Magistrate having jurisdiction and the Chief Judicial Magistrate shall proceed to realize the money as if it were a fine imposed by such Magistrate.]

**37. Power to recover damages –** Where an employer makes default in the payment of any contribution to the fund, the Government may recover from him such damages, not exceeding twenty five per cent of the amount of arrears, as they think fit.

**38. Recovery of money due from Headload Workers:-** Where any money is due to an employer by a headload worker under a settlement or decision referred to in sub-s. (3) or sub-s.(4) or sub-s. (7) of S. 21 or S. 22, the employer himself or any other person authorized by him in that behalf or, in the case of death of the employer, his assignees or heirs, may, without prejudice to any other mode of recovery, make an application to

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\* Substituted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated 13.3.2001

the appellate authority for the recovery, of the money due to him and if the appellate authority is satisfied that any money is so due, it shall order the payment of such money in such number of easy installments as may be determined by it.

39. Effect of laws and agreements inconsistent with this Act and Schemes:-

(1) The provisions of this Act and the Schemes shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this section.

(2) No authority other than the Government, other Board or a committee shall be entitled to make any Scheme or do any other act conferring, or purporting to confer, any benefits on headload workers.

40. Members of Board, etc. to be public servants:- Every member of the Board or of a committee and every officer appointed under this Act shall be deemed to be a public servant within the meaning of S. 21 of the Indian Penal Code (Central Act 45 of 1860)

41. Power to remove difficulties:- If any difficulty arises in giving effect to the provisions of this Act or a scheme or any settlement under this Act, the Government may, by order to anything not inconsistent with such provisions which appears to them necessary or expedient for the purpose of removing the difficulty.

42. Protection of action taken in good faith:- No suit, prosecution or other legal proceedings shall lie against the Government or any authority or officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any Scheme, Rule or Order made under this Act.

43. Power to make Rules:- (1) The Government may, by notification in the Gazette, make rules \*[either prospectively or retrospectively] to carry out the purposes of this Act.

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

(a) the obligations of headload workers and employers:

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\* Inserted by Ordinance No. 25 of 2001. Published in Kerala Gazette Extra No. 378 dated 13.3.2001

- (b) regulating the employment of headload workers whether registered or not and the terms and conditions of such employment which are not specifically provided in this Act;
- (c) regulating, restricting or otherwise controlling the employment by any employer of headload workers not registered in his establishment;
- (d) any other matter which has to be. Or may be, prescribed.

(3) 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 annulments shall be without prejudice to the validity of anything previously done under that rule.

# THE KERALA HEADLOAD WORKERS RULES, 1981 \*

## CHAPTER 1

**1. Short title and commencement:-** (1) These rules may be called the Kerala Headload Workers Rules, 1981.

(2) They shall come into force on such date as the Government may by notification in the Gazette, appoint and different dates ,may be appointed for different areas and for different provisions of the rules and for different establishment. \*\*

**2. Definition :-** In these rules, unless the context otherewise requires:-

- (a) “Act means the Kerala Headload Workers Act, 1978 (20of 1980)
- (b) “ Executive Authority” means, the Executive Officers of Panchayats and Townships and Commissioners of Municipalities and Corporations.
- (c) “Form means form appended to these rules.
- (d) “Prescribed wage” means, the rate of wage notified by Government from time to time after considering the advice of the Board in the matter.
- (e) ‘Registering authority’ for the purpose of this Act shall be Assistant Labour Officer, Grade II of the Labour Department of the Government of Kerala within his jurisdiction]
- (f) “Section “ means a section of the Act.

**3. Application for direction for payment of wages :-** (1) The application under s.11 of the Act shall be in Form No.1, with as many additional copies as there are opposite parties, filed within thirty days from the date on which the wages become due.

<sup>2</sup>[Provided that the conciliation officer may admit an application even after expiry of the said period, if he is satisfied that the applicant had sufficient cause for not filing the application within the specified period.

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\*Published in Kerala Gazette Extra- ordinary No.354 dated 5-5-81 Notification No.46424 E2/80-81/LBR dated 5-5-81 as S.R.O.542/81.

\* As per S.R.O No.590/81 dated 19-5-81 Published in K.G.Ex No.386 dated 19-5-81 all the provisions of Rules come into force on 20-5 1981 in the whole of the State of Kerala in respect of all establishments to which the Act applies.

- 1. Substituted by S.R.O.No.1172/89 Notification G.O.(Rt)No. 1258/89/LBR dated 4-7-89.
- 2. Inserted by Ibid.

(2) On receipt of such application, the Conciliation Officer shall issued notice of hearing to the parties concerned in Form No.11

## **CHAPTER II**

### **RULES PRESCRIBED UNDER CHAPTER V**

**4.Constitution :-** The Board appointed under S. 14 of the Act shall be called the Headload Workers Board and the members of the Board shall be nominated as specified below:-

(i) Five representatives of the employers in consultation with the interests concerned.

(ii) Five representatives of the headload workers in consultation with the interests concerned.

(iii) Five Officials to be nominated by Government . The Government shall appoint one of the \* [xxx] members as the Chairman of the Board.

**5. Term of office of Members :-** (1) The term of office of the members of the Board other than official members shall be for a period of three years from the date of nomination:

\*\*[Provided that the outgoing non-official members of the Board shall continue in office until their successors are nominated.]

(2) The official members shall hold office during the pleasure of the Government.

**6.Resignation of Office by Member and filling up of casual vacancies:-**

(1) Any member other than an official member may resign his office by giving notice thereof in writing, to the Government, and on such resignation being accepted he shall be deemed to have vacated his office as a member of the Board. A non-official nominated as a member of the Board in the vacancy caused by resignation or death

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\* The word official omitted by G.O.Rt.342/88/LBR dated 27-2-88

\*\* Inserted By G.O (Rt.)No.1258/89/LBR dated 4-7-89

\*\*\*[or by removal under S.15] such a member shall hold office for the period to which the original member would normally have continued, had his membership not been discontinued:

<sup>1</sup>(xxxx)

<sup>2</sup>(xxxx)

**(7) Travelling allowance to Members :-** (1) Travelling allowance of an official member shall be governed by the rules applicable to him for journeys performed on official duties and it shall be paid <sup>2</sup> [to him directly from the funds of the Board].

2. Every non-official member other than the members mentioned in subparagraph (3) and (4) Shall be paid travelling allowance and daily allowance for attending meetings of the Board <sup>3</sup>[and for such other journeys that may be authorised by the Board] at such rates as are admissible to Grade I Officers of the Government .

3) Every member who, being a Member of the State Legislative Assembly, attends a meeting of the Board, shall be entitled to such travelling <sup>4</sup>[and daily allowance] as is admissible to him under the provisions of the Payment of Salaries and Allowance Act, 1951.

4) Every member who, being a member of either House of the Parliament, attends a meeting of the Board, shall be entitled to travelling allowance <sup>5</sup>[and daily allowance as are admissible] to the Members of Parliament.

**8. Meetings of the Board-** The Board shall meet at such place and time as may be specified by the Chairman. A notice in writing containing the date, time and venue of the meeting along with a list of business to be transacted at the meeting shall be sent to each member at least 10 days prior to the date fixed for such meetings;

Provided that in the case of an emergent meeting, notice of at least three days should be given to each member.

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\*\*\* The words or by removal under S 15 “ inserted by *ibid*.

1. Proviso and sub-rule (2)omitted by *Ibid*.
2. Substituted by *Ibid*.
3. Substituted by S.R.O.No.1172/89G.O.(Rt) No. 1258/89/LBR dated 4-7-89
4. Inserted by *Ibid*.
5. Inserted by *Ibid*.

<sup>1</sup>**[8A. Sub-Committee of the Board :-** (1) The Board may constitute such sub-committees for the purpose or purposes as it may think fit.

(2) While constituting a sub-committee, the Board may nominate one of its members to be the Chairman of that Committee.

(3) The Committee shall meet at such times and places as the Chairman of the said sub-committee may decide.

(4) The provisions of Rr.8,9,10 and 11 shall apply to the Committee for transaction of business at its meeting as they apply to the Board, subject to the modification that the quorum specified in R.10 that at least one representative of the employers and the workers are present shall not be insisted upon.

(5) The provisions of R.7 shall apply to the members of the sub-committee for attending the meeting of the Committee as they apply to the members of the Board].

**9. Chairman:-** The Chairman shall preside at every meeting of the Board. In the absence of the chairman at any meeting, the members present shall elect, from amongst themselves one member, by majority of votes, who shall preside at such meeting

**10.Quorum:-**\*(1) No business shall be transacted at any meeting unless at least on third of the members and at least one representative each of the employers and the workers are present.]

\*[Provided that if, at any meeting there is no quorum the Chairman shall adjourn the meeting to a date not later than 15 days from the date of original meeting and it shall, thereupon be lawful to dispose of the business at the adjourned meeting even if there is no quorum.]

\*[(2) In the adjourned meeting, the business shall be confined to the agenda circulated for the original meeting. Notice of such meeting shall be given to all members.]

**11. Disposal of Business:-** Every question considered at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman shall have and exercise a casting vote.

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1. Added by *ibid*.

R .10 renumbered as sub-rule (1) the proviso substituted and sub-rule (2) inserted by S.R.O.No.1172/89G.O.(Rt) No.1258/89/LBR dated 4.7.89.



**12. Minutes of the meeting:-** Every decision taken at a meeting of the Board shall be recorded in a Minutes Book at the same meeting and signed by the Chairman. The Minutes Books shall be a permanent record. The minutes of every meeting of the Board showing, inter alia, the names of members present there at shall be circulated to all the members present (in the State not later than \*\* [twenty one] days from the date of the meeting.

\*\*[13. Powers and function of the Board :- (1) In addition to and without derogation of the powers conferred on the Board under the Act, Rules and the Scheme, the Board shall have the following powers and shall be responsible for,-

a) dealing with all matters connected with the administration of the fund as specified in the Scheme or Schemes.

b) laying down general policies regarding welfare of the headload workers.

c) the submission of annual budget of the Board to Government for approval;

d) the submission of annual report of Government on the working of the Schemes;

e) the annual audit of account of the fund in accordance with Government instructions;

f) the collection of contribution from the Headload workers and local committees and remittance there of to the respective funds including such other charges under the Scheme or Scheme;

g) the proper maintenance of account and speedy settlement of claims;

h) the sanction of advances and timely recovery of the advances

2) The Board shall render necessary advice to Government on the general welfare of the headload workers and shall furnish information on such matters as the Government may refer to it from time to time.

3) The Board may, from time to time, subject to such conditions as it may deem fit delegate its administrative and financial powers to any officer under its control or superintendence to the extent considered necessary by it for the administration of the Scheme or Schemes.

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\*\* Substituted by *ibid.*

4) The Board shall also specify the powers and duties of the officers of the Committee constituted under S. 18 and delegate such administrative and financial powers to the from time to time, subject to the limits and conditions, as it may deem fit.]

**14. \*[ Powers to supervise the Committees]-** The Board shall co-ordinate and supervise all activities of the Committees appointed under S. 18 of the Act and for this purpose issue such directions as it may deem necessary and the Committees shall comply with such directions.

**15. Appointment and powers and Chief Executive:-** (1) The Government may appoint an officer of the Labour Department not below the rank of a Joint Labour Commissioner who shall be the Chief Executive.

2) The Chief Executive shall be a member of the Board ex-officio and he shall be nominated by the government under item (iii)of R.4.

\*\*[(3)(a) The Board shall be represent by the Chief Executive and he shall sued and be sued in its name. The Board shall authorise any of its officers from time to time to represent it in any such proceedings or exercise the powers which are specifically conferred;

b) The Chief Executive shall be the Authority for issuing orders of transfer and postings of the officers appointed under Ss. 16 and 19 upto the grade of Junior Superintendent and shall have the power to take disciplinary action against them whenever necessary, subject to the rules in force from time to time;

c) The Chief Executive shall be the competent authority to sanction increment, pay fixation, pay advance, travelling advance, travelling allowance, leave, surrender of earned leave and such other entitlements due as per Central Government Orders to all officers of the Board and Committee from time to tome;

d) The Chief Executive may sanction expenditure for contingencies supplies and services and purchases required for administering the Fund and the Scheme, subject to the limits upto which he may he authorised from time to time by the Board].

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\*Marginal heading substituted by S.R.O.No.1172/89G.O.(Rt)No.1258/89/LBR dated 4.7.89

\*\* Substituted by Ibid.

4) The Chief Executive may also exercise such administrative and financial powers other than those specified in sub-r (3) above as may be delegated to him by the Board.

5) The Chief Executive may delegate from time to time his administrative and financial powers to any of the officers under his control and superintendence to the extent considered desirable by him.

6) A statement of any such delegation of powers made by the Chief Executive shall be placed by him for the information of the Board at its next meeting and shall also be reported to Government.

**16. Finance Officer:-** (1) The Government shall appoint an Officer not below the rank of a Deputy Secretary to Government in the Finance Department as Finance Officer of the Board.

2) The Finance Officer shall be responsible for all financial and accounting matters of the Board subject to the supervision and control of the Chief Executive and shall prepare the budget to the Board from time to time.

3) The Finance Officer shall pre-audit all the expenditure of the Board and shall report to the Chief Executive any irregularity that may come to his notice.

4) The officers and staff of the Board and the Committees shall be under the general supervision and control of the Chief Executive of the Board.

**17. Constitution of the Fund:-** (1) A fund shall be created called the “Headload Workers General Fund”.

\*[(2) The fund shall vest in the Board and shall be administered by it. The fund shall be operated by the Chief Executive according to the directions of the Board and shall be utilised only for the purposes provided for in the Act, Rules and Schemes formulated from time to time].

**18. Advances by Government :-**The Government may from time to time advance loans to the Board for the Purposes of the Act on such terms and conditions as the Government may, in each case, determine

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\*Substituted by S.R.O.No.1172/89 G.O.(Rt)No.1258/89/LBR dated 4.7.89

**19. Deposit and investment of money belonging to the Headload Workers  
General Funds:-**

All money belonging to the Fund shall be invested in such manner as may be specified by the Government from time to time.

(2) All expenses incurred in respect of and loss, if any, arising from any investment shall be charged to the Fund.

**20. Annual Report on the working of Scheme:-** The Board shall approve before the 15<sup>th</sup> day of June each year and submit to the Government before the 31<sup>st</sup> July each year a report on the working of the Scheme during the previous financial year.

**\*[21. Submission of Annual Report before the Legislature-** On receipt of the annual report on the working of the Scheme, the report shall be laid by the Government before the Legislative Assembly at the earliest possible occasion].

**\*22.Audit:- (1)** The accounts of the Fund including the administration account shall be \*\* [got audited before the 30<sup>th</sup> September every year] in accordance with the instruction issued by the Government from time to time.

[(1A) Any defect pointed out in the Audit Report shall be rectified by the Board and necessary rectification report thereof shall be sent to Government within three months, from the date of receipt of audit report in the Board Office].

2) The charges on account of audit shall be paid out of the administration account.

**23.Budget:- (1)**The Chief Executive shall place before the Board each year in the first fortnight of January, a budget showing the probable receipts and expenditure during the next financial year.

2) The budget as approved by the Board shall be submitted for the approval of the Government within a month of its being placed before the Board.

\*[(3) The Government may make such modifications in the budget as they consider necessary and the approved budget shall be returned to the Board before 31<sup>st</sup> March every year].

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\*Substituted by S.R.O.NO.1172/89 G.O.(Rt)No.1258/89/LBR dated 4.7.89.

\* Inserted by *ibid*.

(4)The Chief Executive may, at any time during the year, make budgetary re-appropriation of funds approved in the budget.

Provided that:

(a) the total amount sanctioned in the budget by Government is not \*[exceeded and no re-appropriation is made in any if the sub heads where the Government have reduced budget provision without prior sanction of Government ]; and

(b) The fund so re-appropriated are utilised only for meeting the expenses of administration.

(5) Every re-appropriation made shall be reported by the Chief Executive to the Government and to the Board.

### CHAPTER III

**\*[24. Functions and procedure of the Committee:-** (1) The functions of the committee shall be those specified and assigned by the Board from time to time and those that are specifically provided for in the Act, Scheme or Schemes made under S.13.

(2)The term of every non-official member of the committee appointed under S.18 shall be two years from the date of nomination:

Provided that the Committee may continue to function after expiry of the term till a new Committee is appointed or constituted;

Provided further that the official members of the Committee shall hold office during the pleasure of the Government

(3) Casual vacancies of the members arising out of any reason shall be filled up in the same manner as specified in R.6.

(4) The Committee shall meet at such place and time within its area of jurisdiction as may be specified by the Chairman. The Convener shall, at least seven days prior to the date fixed for the meeting, send notice in writing and under certificate

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Substituted by S.R.O.No,1172/89 G.O.(Rt)No.1258/89/LBR dated 4.7.89.

of posting or by messenger to all members specifying the date, venue and time of the meeting along with list of items of business to be transacted in the meeting:

Provided that in the case of an emergency meeting notice of at least 24 hours may be given to each member.

(5) For the purpose of presiding over of meeting quorum, disposal of business, minutes of the meeting etc. Rr.9,10,11 and 12 shall apply mutatis mutandis to the committee as well.

(6) The copies of the minutes of every committee meeting shall be sent to the Chief Executive of the Board, within seven days from the date of the meeting under the signature of the Chairman].

#### **RULES PRESCRIBED UNDER CHAPTER VII**

**\*[25. Settlement of disputes -** (1) The settlement arrived at as per sub-s (3) of S.21 shall be in Form No. III

(2) The decision referred to in sub-s (4) of S. 21 shall be communicated to the parties by registered post acknowledgement due.]

**\*[25A. Appeal:-** (1) Any person arrived by any decision of the Conciliation Officer under sub-s.(4) S.21 of the Act may file an appeal against such decision to the appellate authority within 60 days of receipt of the decision of the Conciliation officer. The appeal shall be accompanied with a copy of the decision of the conciliation officer.

Provided that the appellate authority may admit an appeal filed after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not filing the appeal, within the said period:

Provided further that no such appeal shall be admitted after a period of six months from the date of decision appealed against.

(2) The procedure to be followed by the appellate authority while hearing appeals preferred to him shall be summary. He shall record briefly the evidence adduced before him and pass orders giving his reasons therefore. The orders of the

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Substituted by S.R.O.No,1172/89 G.O.(Rt)No.1258/89/LBR dated 4.7.89.

appeal shall be communicated to the parties as soon as possible. Copies of the order shall be furnished to the parties if required by them.

(3) Any party to the dispute appeal may be represented by the duly authorised representative with the permission of the Conciliation Officer Appellate Authority. Assistance of legal practitioners, however, may be availed of only with the consent of the other parties and leave of the Presiding Officer].

## **CHAPTER IV**

### **REGISTERS AND RECORDS RULES PRESCRIBED UNDER CHAPTER IX**

**26. Preparation of Registers** – The Assistant Labour Officer shall be the authority to prepare a register of headload workers working in the area within his jurisdiction and the Register shall be in Form No. IV

\*[26A. Registration of Headload Workers:- \*\*[Any headload worker may] submit his application for registration in Form IX to the Registering Authority concerned, with as many additional copies as there are employers or contractors from whom he claims to work.

(2) On receipt of such application the Registering Authority shall issue notice in Form X to the employers or contractors from whom the headload worker claims work, with copy of the application inviting objections, if any, on such application.

(3) After considering the objections, if any, received and after giving an opportunity of being heard, the Registering Authority shall register the name of the headload worker in the Register of Headload Workers, on being satisfied that the headload worker is eligible for registration and communicate the fact to the parties within two weeks of such registration. The Registering Authority shall also issue identity card to the registered headload worker\*\* [in Form XI]. If the name is not registered, the Registering Authority shall communicate the fact to the applicant with reasons therefor.

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\*Added by Notification No. G.O.Rt. No. 18/83/LBR dated: 7.1.1983 published in Kerala Gazette No. 40 dated: 7.1.83 as S.R.O. No. 31/83

\*\* Substituted by S.R.O. No. 763/95 published in K.G. No. 354 dt.5.5.1981. Published in Kerala Gazette Extra No.158 dated: 28.1.2001.

\*[(3A) Where the identity card of registration granted to a headload worker under Sub-r.(3) is defaced or accidentally lost or irrecoverably destroyed, he shall apply for a duplicate identity card along with two copies of recent photograph and a fine of Rs.25/- (Rupees Twenty Five only) to the Registering authority concerned. The Registering authority may after making necessary enquiries and satisfying himself of the genuineness, issue a duplicate identity card]

\*\*[4. The registration of the person as headload worker may be cancelled by \*(the Deputy Labour Officer or the District Labour Office concerned or where there is no post of Deputy Labour Officer in that District Labour Office, by the Assistant Labour Officer Grade I] after satisfying himself on a report from Registering Authority that the Registration has been obtained by fraud or mistake:

Provided that not less than one months' previous notice in writing specifying the ground on which the registration is proposed to be cancelled shall be given by the authority empowered to cancel the registration to the headload worker, before the registration is cancelled.]

\*\*\*[26B. Registration of dependents of workers dying-in-harness – (1) Notwithstanding anything contained in these rules, if a headload worker in the rolls of the Committee dies while in service, that dependent of the deceased headload worker who has been registered in the Committee under the Scheme as per para 6 C or 6 \$E of the Kerala Headload Workers (RE & W) Scheme shall be registered under these rules by the Registering Authority. In doing so, the Registering Authority shall be guided by the communication received from the Committee as per para 6 C of the Scheme.

(2) The granting of such registration shall be intimated to the Committee and to the dependent worker concerned.

**26C. Appeal** – (1) Any person aggrieved by an order of the Registering Authority under \*\*\*\*[sub-rr (3) and (4) R. 26A may file an appeal within 60 days from the date of receipt of such order before an officer not below the rank of District Labour Officer notified by Government as Appellate Authority in this behalf.

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\* Sub-rule (3A) inserted by S.R.O.No.1114/98 dated:24.12.1998

\*\*Inserted by SRO No.431/94 Published in K G. No.336 dt.13.4.1999

\*\*\*Inserted by SRO No.1172/79 GO(Rt) No.125/89/LBR dt.4.7.89

\*\*\*\*Substituted by SRO No.481/94 published in KG Ex.No.336 dt.13.4.1994.



Provided that the Appellate Authority may admit an appeal filed after the expiry of the said period if he is satisfied that the appellant had sufficient cause for not filing the appeal within the said period.

Provided further that no such appeal shall be admitted after a period of six months from the date of the order of the Registering Authority appealed against.

(2) On receipt of an appeal, the appellate authority may make such enquiries as he deems fit and after giving the employer if any and headload worker an opportunity of being heard and decide the appeal within a period of 30 days from the date of receipt of the appeal. The decision of the appellate authority shall be final.

**27. Maintenance of Registers and Records by Employers:-** (1) Every employer shall maintain a Register of Employment and Wages in Form No. V

(2) Every employer shall supply to every headload worker wage in Form No. VI on every Saturday, containing particulars for the week ending on that day.

\*[(3) The Registers and records maintained under these rules shall be made available and produced or caused to be produced for inspection at all reasonable hours by an Inspector.]

(4) The registers and records required to be maintained under these rules shall be kept at the work-spot or \*\* [in the office of the employer] and the entries therein relating to each day shall be made on the same day.

(5) The employer shall obtain the signature or thumb impression of every headload worker in the Register of Employment and Wages and on the wage card at the time of the disbursement of wages.

\*\*\*[28. xxx)

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\*Inserted by SRO No.1172/79 GO(Rt) No.125/89/LBR dt.4.7.89

\*\*Substituted by ibid

\*\*\*Omitted by ibid

**THE KERALA HEADLOAD WORKERS  
(Regulation of Employment and Welfare)  
SCHEME, 1983<sup>1</sup>**

1. This Scheme may be called the kerala Headload workers (Regulation of Employment and Welfare) Scheme, 1983.

2. All words used in this Scheme shall have the meaning assigned to them in the kerala Headload Workers Act, 1978 (20 of 1980) and the Rules made therunder.

<sup>2</sup>3. This Scheme shall come into force in the area specified in the Schedule attached to this Schedme in respect of all establishments from such date as may be fixed by the Government by Notification in the Gazette.

4. The Scheme shall be administered by the Committee and the Board shall be responsible to the Government for the administration of the Scheme.

5. The Board shall be responsible for the general welfare of the headload workers, and for the said purpose, may incur expenditure on:

(a) housing for headload workers:

(b) education of children of headload workers; and

(c) Such other items of welfare may be formulated by the Board and approved by the Government

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1. Published in Kerala Gazette Extra-ordinary No.1435 dated 30-11-1983, Notification No.14795/E281LBR dated 30.11.1983 as S.R.O. No. 1682/83.

2. As per Notification No. 1662/E2/84/LBR dated 1-3-1984 published in Kerala Gazette No.174 as S.R.O. No .218/84 the scheme came into force in the area specified in the schedule attached to the scheme on 1.3.1984.

## CHAPTER II

### REGISTRATION OF HEADLOAD WORKERS AND EMPLOYERS

<sup>1</sup>[6. Procedure for regulation of employment of headload worker on Scheme areas – (1) No headload worker, who is not a registered headload worker under the provision of the Kerala Headload Workers Rules shall be allowed or required to work in any area to which the Scheme applies from the date of commencement of the functional operation of Scheme in the area.

(2) From the date of commencement of the functional operation of the Scheme in any area, no headload workers who is not permanently employed by an employer or contractor shall be allowed or required to work in an area to which the Scheme applies unless he is granted a further registration under the provision of this Scheme

**6A. Registration of headload worker under the Scheme at the Commencement of the Scheme -** At the commencement of the Scheme in any area a headload worker who is not permanently employed by an employer or contractor and who is registered under the provisions of the Kerala Headload Worker Rules may submit his application in Form A to the Convener of the committee concerned for registration in the Committee under the Scheme along with two passport size photographs

(2) On receipt of an application for registration as above, the Convener of the committee or an officer authorised by him in this behalf shall verify the application with reference to the registration granted as per the provisions of the Kerala Headload Workers Rules and after such enquiry as the Convener may deem fit and after giving the applicant an opportunity of being heard, may on his being satisfied that the applicant is eligible for registration under the Scheme grant such registration to him by registering his name and particulars in the “Register of Headload Workers of the Committee” in Form D, and communicating the fact of the registration to the applicant in writing.

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<sup>1</sup> Para 6, 6A to 6E Substituted by G.O (Rt) No. 1259/89/LBR dated 4.7.1989 published as SRO No. 1173/89 K.G.Ex No. 626 dt 4.7.1989

Amendment of scheme, 1989 issued under notification No.14795/E281 LBR dated 30-11-1983 and published as SRO No 1682/83 in K.G.Ext No. 1435 dated 30-11-1983.

(3) All such Headload Workers registered under sub paragraph (2) above shall be issued an identity card in Form C. One copy of the photograph duly attested by the convener shall be affixed in the identity card and the other copy affixed in the “Register of Headload Workers of the Committee “ in Form D

(4) If the application for registration in the committee is rejected the Convener shall communicate that fact to the applicant in writing with reasons therefore forthwith.

**6B. Procedure fore replenishment of workers in the rolls of the Committee**

– (1) During March of every year the committee may assess the probable number of workers that may be required additionally on account of retirement on superannuation, death, disability, resignation, removal and expansion of the Scheme and resolve to register such number of additional workers in the Committee.

(2) Within two weeks of such resolution, the Convener of the Committee shall issued a notice inviting applications from those workers who have already been registered under the provisions of Kerala Headload Workers Rules for a period of at least two years prior to the date of the notice and working in that area. The notice inviting such applications shall be exhibited in the Notice Board of the Committee and such other public places as may be specified by the committee in this behalf. A Copy there of shall be communicated to the Kerala Headload Workers Welfare Board

(3) Any Person already registered under the provision of the Kerala Headload Workers Rules for a period of at least two years prior to the date of notice inviting the applications may within a period of 4 weeks from the date of that notice submit an application in Form A to the Convener along with the photographs as required in sub – paragraph (1) of Paragraph 6 A of the Scheme..

(4) On receipt of such application of Convener may make such enquiries as he may deem fit and after giving the applicant an opportunity of being heard and in consideration of the seniority of Registration under the Kerala Headload Workers Rules, may grant registration and issue Identity Card as provided in sub-paragraphs (2) and (3) of paragraph 6 A of the Scheme.

(5) If any application for registration as per this paragraph is rejected the Convener shall communicate that fact to the applicant in writing with reasons therefore forthwith.

**6C. Procedure for providing employment to the dependent of workers dying –in-harness-** (1) Notwithstanding anything contained in this Scheme if a headload worker on the rolls of any Committee, dies while in the service of the Committee, any dependent of the deceased worker who has attained the age of 18 years and who is of sound physique may file an application in Form E before the Convener of the concerned Committee within three months from the date of death of the worker. The application shall be accompanied by two passport size photographs of the applicant and such other documents as may be specified by the Chief Executive of the Board from time to time.

**Explanation:-**

(1) For the purpose of this paragraph, dependent means only the sons, daughters, sons-in-law, daughters –in-law, brother and sister of the deceased headload worker.

(2) Only one dependent of the deceased headload worker shall be given employment under the committee as a headload worker as per the provisions of this paragraph.

(3) After the expiry of three months from the death of the worker the Convener of the committee may make such enquiries as he may deem fit on the applications received and after giving the applicants an opportunity of being heard may register the most deserving dependent applicant as a headload worker in Committee and issued an Identity Card to him as per sub-paragraphs (2) and (3) of Paragraph 6 A of the Scheme.

(4) A registration under the Scheme as per the provisions of this paragraph may be granted even if the applicant is not registered under the Kerala Headload Workers Rules. However, the Convener of the Committee shall communicate the fact of registration in the committee under this paragraph, to the registering Authority under the Kerala Headload Workers Rules within 7 days of such registration along with an application from the registered dependent in Form No.IX of the Rules, countersigned by the Convener.

(5) If the Convener rejects an application received under sub-paragraph (1) of this paragraph he shall communicate that fact in writing to the applicants with the reasons therefore forthwith.

**6D.** Any person who has been registered and issued an Identity Card as per the provision of paragraphs 6A, 6B and 6C shall be entitled for employment under the Committee in the appropriate pool subject to any decision of the Committee under sub-section 8(a) of Section 18 of the Kerala Headload Workers Act.

**6E. Appeal** (1) Any person aggrieved by an order of the Convener under sub-paragraph (4) of paragraph 6A, sub-paragraph (5) of paragraph 6B and sub-paragraph (5) of paragraph 6C as the case may be file an appeal within 60 days from the date of receipt of such order to the Committee concerned. Such appeal shall be addressed to the Chairman of the Committee.

Provided that the appellate authority may admit an appeal filed after the expiry of the said period if the Committee is satisfied that the appellant had sufficient cause for not filing the appeal within the said period:

Provided further that no such appeal shall be admitted after a period of six months from the date of the order of the Convener appealed against.

2. On receipt of an appeal the Committee shall make such enquiries as they deem fit and after giving the appellant and other affected parties if any, an opportunity of being heard decide the appeal within a period of 60 days or within 2 consecutive meetings of the Committee convened from the date of receipt of the appeal whichever is later. In deciding the appeal, all the provision of paragraphs 6A, 6B and 6C mutates mutandis will be binding on the Committee. The decision of the Committee shall be final

### **\*7.Registration of Employer :-**

(1) Every employer in the area who engages or employs headload workers in or for an establishment for trade or business either directly or through a contractor shall register their names with the Committee along with such details and in the manner as may be specified by the Board within 30 days from the date of commencement of the functional operation of the Scheme in an area or within such further time that may be allowed by the Committee not exceeding 45 days.

(2) The employer who is not applying for registration within the specified time shall be liable to pay an additional fee of Rs.5 per day for the entire period of delay.

(3) The employer shall also furnish necessary details or records to prove their identity, correct address, ownership of the Committee or an Officer authorised by the Board.

(4) A register of employer shall be maintained in the Committee showing the particulars of the employers registered.

## **CHEAPTER III**

### **OBLIGATION OF HEADLOAD WORKERS AND EMPLOYERS**

**8.** Every registered headload worker, to whom registration has been granted by **\*\*[Convener of the Committee]** shall work only in the area per allotment made by the Committee.

**9.** Every headload worker shall handle every article with utmost care so that no damage is caused to the article.

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\*Substituted by S.R.O. No.931/2002 published in K.G.Ex.No.1698 dt.18.11.2002

\*\*Substituted by S.R.O. No.1173/89 dated 4.7.1989 published in K.G.Ex.No.626 dt.4.7.1989.

**10.** Every headload worker shall be deemed to be employed by the Committee of the area and his work shall be supervised by the person for whom the worker have been allotted, as well as by any officer of the Committee.

**11.** After coming into force of this Scheme for an area, no headload worker shall be employed or paid wages except in accordance with the provisions in the Scheme.

## **CHAPTER IV**

### **WELFARE OF HEADLOAD WORKERS**

**12.** Every year, the Committee shall arrange for the medical examination of each headload worker and arrange to meet the expenses for his medical care through Government Medical Officers and institutions.

## **CHAPTER V**

### **COMMITTEE**

**13.** The Scheme when brought into force shall be administered by the Committee constituted under section 18 of the Act.

**14.** The term of every member of the Committee shall be two years from the date of nomination:

Provided that the Committee may continue to function after the expiry of the term till a new Committee is constituted.

**15.** \*[The Government may appoint an officer of the Labour Department not below the rank of a District Labour Officer or Officers of other Departments in the same grade to be the chairman of the Committee, and another Officer not below the rank of a Deputy Labour Officer of the Labour Department or Officers of other Department in the same grade to the Convener of the Committee.

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\* Substituted by G.O.Rt.No.514/90/LBR published in K.G.No.197 dated 1-3-1990 (S.R.O.No.310/90)



Provided that if there are hands available from the Labour Department, Government may give preference to them].

**16.** The chairman shall preside over the meeting of the Committee and shall carry out the decision of the Committee for:-

(a) Posting of the headload workers who are not employed regularly under any employer;

(b) in arranging and regulating employment to such headload workers and paying them wages;

(c) in taking disciplinary action against them wherever necessary;

(d) in doing such acts as are necessary for implementing the Scheme for the area.

**17.** The Chairman shall have power to take decision in individual cases within the frame work of the policy decided by the Committee from time to time.

**18.** The Convener shall assist the Chairman in the discharge of his functions and convene meetings of the Committee from time to time.

## **CHAPTER VI**

### **REGULATION OF EMPLOYMENT OF REGISTERED**

#### **HEADLOAD WORKERS**

**19.** The Committee shall determine the number of headload worker needed for their area and for this purpose increase or decrease the number in their register.

**20.** The Chairman shall make necessary arrangements to pool the registered workers into as may groups as are needed and locate these groups at locations decided by him.

**21.** An Employer requiring the Services of headload workers shall from time to time intimate the Convener the number of workers needed by him and the Convener shall allot such number of Registered workers for that employer.

\* [22. As soon as the work for the day is over , the employer shall send to the Convenor through the worker a statement of work done ( Work Card), with other details in Form No. B appended to the Scheme. Such forms will be made out in triplicate for enabling the employer to keep the triplicate copy, the second copy with the worker of the pool concerned and the original copy with the Convenor of the Committee. After noting the wages and welfare levy amounts due the copy of Form No. B received by the Committee shall be kept employer –wise are record.

23.On receipt of the details of work done the Convener shall arrange to enter the wages and other details thereof in a Register maintained for the purpose.

\*[24. The payment of wages and other welfare benefits to the registered headload workers shall be regulated as follows:-

(a) The wage amounts for the work done for an employer or contractor in or for an establishment by the registered headload workers shall be paid by such employer or contractor only through the Committee in the manner specified by the Board along with the Welfare Fund contributions such as the levy rates mentioned in chapter VIII of this Scheme.

(b) The wages earned by the registered workers through the Committee shall be arranged to be disbursed by the Convener or any other officer authorised by the chairman through Bank or otherwise in the manner specified by the Board within seven days after expiry of every month].

**\*\*[24A. A removal of workers from Rolls:-**

(1) Notwithstanding anything contained in this Scheme, if a headload worker in rolls of the Committee is continuously absent from work without sufficient reason or has not earned wages through the Committee for a period of 60 days or has not earned wages at least for 90 days continuously in an year, the Chairman shall issue a notice by

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\* Paragraphs 22& 24 inserted by S.R.O.No931/2002 Published in K.G.Ex.No.1698 dt. 18.11.2002.

\*\* Inserted by Ibid

registered post requiring him to show cause within 7 days or within such extended period as may be allowed by the chairman as to why his name should not be removed from the rolls of the Committee and his registration under R.26A and para, 6A(2) be cancelled.

(2) If any written explanation has been received within the stipulated time, the Chairman may consider the explanation, its merits and pass appropriate orders in accordance with the general guidelines issued in the matter by the Board.

(3) If no satisfactory explanation is received in time, it shall be presumed that the worker has no explanation to offer, and the Chairman shall by an order in writing remove the name of such worker from the rolls of the Committee and shall cancel his registration as a headload worker. A copy of such order shall be communicated within 3 days to the Assistant Labour Officer concerned by Registered Post for noting the details of cancellation in the register of workers maintained under R.26 of Kerala Headload Worker' Rules, 1981 as well as to the Convenor of the Committee and to the Chief Executive of the Board.

(4) On receipt of the copy of the order, the Convenor shall arrange to note the particulars of cancellation of registration and removal from the rolls etc., in the Register of Headload Workers in Form D Maintained under para 6A (2) under proper attestation.

(5) No person whose name has been so removed from the rolls of the Committee and Registration cancelled shall be entitled to work in any area in the State as headload worker from the date of issue of such order under para 24 (A) (3):

Provided that on getting the Identity Card issued under para 6A (3) surrendered with the Chairman and on receipt of intimation from the Registering Authority under R. 26 A that the registration under R.26A of the worker has also been cancelled, any emoluments payable to him including the terminal benefits as on the last financial year and prior to the date of notice may be settled on proper acquittance after adjusting any dues outstanding from him to the Board and the Committee.

**\*24.B. Acceptance resignation of workers**

(1) Notwithstanding anything contained in the Scheme, if a headload worker in rolls of the Committee voluntarily submits his resignation along with the surrender of Identity Cards issued under R.26A and Para 6A (3) of the Scheme, the Chairman after satisfying himself of its genuineness and if it is found not detrimental to the interests of the Committee, may accept the same and by an order in writing remove his name from the rolls and cancel his registration as headload worker under Para 6A (2) of the Scheme in accordance with the guidelines issued in the matter by the Board under intimation to the Assistant Labour Officer concerned by registered post along with the original Identity Card in Form XI for noting the particulars of cancellation of registration in the Register of Workers in Form No.IV maintained in his office, to the Convenor and the Chief Executive of the Board.

(2) No person whose resignation has been accepted and the registration cancelled, shall be entitled to work in any area in the state as a headload worker from the date of order of the Chairman under para 24 (b)(1)

Provided that within 90 days from the date of issue of an order under para.24B(1) above, and on receipt of intimation from the Assistant Labour Officer that the registration of the worker under R.26A has been cancelled any emoluments payable,including the terminal benefits to the person whose registration was cancelled , may be settled on proper acquittance after adjusting any dues outstanding from him to the Board or to the Committee.]

**CHAPTER VII**

**CONDITIONS OF SERVICES OF REGISTERED**

**HEADLOAD WORKERS**

**25.**It shall be the obligation of the Committee to provide all the benefits to registered headload workers arising out of statutory enactments.

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\*Inserted by SRO 931/2002 published in K.G.Ex.No.1698 dt. 18-11-2002.

26. The Committee may, taking into consideration the finances of the committee and other relevant matters, decide on extension of non-statutory benefits to the registered headload workmen in that area , subject to the condition that all such decision shall have the concurrence of the Board and the Government .

## **CHAPTER VIII**

### **FINANCE OF THE COMMITTEE**

27. Every registered employer, on registration, shall deposit with the Committee amounts approximately equivalent to the wages payable by him to the headload workers for a week. The Committee shall on receipt of the amount, credit the amount to the employer's account.

28. The Committee shall arrange to assess the amount of wages to be recovered from the employers every week and make arrangements to collect the same.

\*[29. The Committee shall collect a levy, for the administration of the Scheme and the matters related thereto, from the employers and the headload workers respectively at the rate of 25% and 10% of the wages actually payable by the employer to the registered headload worker].

\*[29A. Accident Relief Fund:-

(1) A part from the welfare levy as a contribution payable to the general welfare fund under paragraph 29 every employer who employs or engages a headload worker in or for an establishment shall pay a contribution at the rate of 2 % of the wages actually payable to the headload workers on completion of work for a day as additional welfare levy towards the accident relief fund to be maintained and administered by the Board. The particulars there of shall be furnished in 'Form B' or in such other manner as may be specified by the Board from time to time.

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\*Substituted by S.R.O.No931/2002 Published K.G.Ex.No.1698 dated 18-11-2002.

(2) Every employer who fails to pay additional welfare levy on the due date as provided in such paragraph (1) shall be liable to pay a penalty at the rate of 1.5% of the amount due from him per month till it is actually paid to the Committee.

(3) The additional welfare levy amount received by the Committee shall be transferred and credited to the Accident Relief Fund to be maintained by the Board, at the end of each month in the manner specified by the Board.

(4) Failure to make contribution in time to the Accident Relief Fund shall render the employer concerned liable to pay the compensation under the Workmen's Compensation Act, 1923 (Central Act 8 of 1923) by himself as usual and the Board or Committee shall not in any way be liable or accountable to pay compensation in such cases.

(5) The accumulation of the fund may be expended for all or any of the following purposes:-

(a) For meeting the liabilities arising out of the claims under the Workmen's Compensation Act, 1923 (Central Act 8 1923) in respect of headload workers registered with the Committee as per provisions of this Scheme on the basis of the orders of the appropriate authorities under that Act, including those settled otherwise under intimation to and in consultation with the proper authority in the proper manner.

(b) For meeting the legal and incidental charges incurred by the Board or Committees for defending or conducting cases under the Workmen's Compensation Act, 1923 or such other purposes as may be specified by the Board for time to time.

(6) The Board shall be competent to revise the rate of additional welfare levy payable after considering its financial obligations and other relevant matters, once in every three years with the concurrence of the Government

(7) Every employer who has to get the loading or unloading work carried out for their trade or business in or for an establishment shall be bound to engage or employ the headload workers registered under the Rules or this Scheme as the case may be and shall pay the additional welfare levy or penal contribution wherever necessary to the accident relief fund in respect of the headload workers registered as per this Scheme in the manner specified by the Board.

(8) The details of the accidents that occur to headload worker registered under the Scheme in or for an establishment or the place where the loading and unloading work, is being carried out, shall be reported by that employer in writing immediately to the Committee concerned in the manner specified by the Board and shall also render such further details or records as may be called upon without delay.]

**30.** The Committee may revise the quantum of levy every year taking into consideration its finances, its obligation and other relevant matters and such decision shall have the concurrence of the Board and the Government.

**31.** Each Committee Constituted under Section 18 of the Act shall arrange to contribute every month to the Headload Workers Welfare Fund a sum calculated at Rs.1 per worker per month in respect of all registered workers on its rolls. In addition each Committee shall pay to the Board 2 % of the total wages paid by them during the financial year. Payment to the Board in this regard shall be made before 30<sup>th</sup> of June every year in respect of annual payment, and before 15<sup>th</sup> of every succeeding month in the case of monthly payment.

**32.** The Committee shall keep individual accounts in respect of each worker and credit into his account a sum equivalent to 10% of his total wages at the close of each financial year for payment towards his terminal benefit on retirement, superannuation, death, disability etc.

## **CHAPTER IX**

### **GENERAL**

**33.** All matter of indiscipline among the part of worker or employers shall be investigated by an officer authorised by the Chairman.

**34.** The Investigating Officer shall conduct a summary enquiry into any complaint of misconduct or indiscipline on the part of a headload worker and shall conclude such enquiry and submit a report to the Chairman within 15 days from the date of receipt of the complaint. During the Enquiry he shall afford an opportunity to the accused worker to present his case.

**35.** Immediately on receipt of the report the Chairman shall consider it a exonerate the worker if he is of opinion that no offence has been made out as alleged in the complaint. If he comes to the conclusion that the alleged act to misconduct or indiscipline has been established, he shall, having due regard to the circumstances of the case, award any of the following punishments to the accused worker.

(a) Warning in writing:

(b) Suspension from work for a period for not less than 7 days but not more than 30 days:

Provided that in the case of repeated offences such suspension may for reasons to be recorded in writing extend upto a period of 60 days;

(c) Cancellation of registration as headload worker if there are sufficient grounds for doing so.

**36.** Any workers, on cancellation of his registration by the Chairman may within 15 days from the receipt of the order of the Chairman prefer an appeal in writing to the Committee. The Committee shall call for the records of the case as after hearing the appeal, petitioner, pass order on such appeal within a period of 30 of its receipt. The order in appeal passed by the Committee shall be final.

**37** Any order of the Committee shall be authenticated for and on behalf of the committee by its Chairman.