

Thirteenth Kerala Legislative Assembly

Bill No. 104

**THE KERALA DOCUMENT WRITERS', SCRIBES' AND
STAMP VENDORS' WELFARE FUND BILL, 2012**

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[Translation in English of “2012-ലെ കേരള ആധാരമെഴുത്തുകാരുടെയും പകർപ്പെഴുത്തുകാരുടെയും സ്റ്റാമ്പ് വെണ്ടർമാരുടെയും ക്ഷേമനിധി ബിൽ” published under the authority of the Governor.]

THE KERALA DOCUMENT WRITERS’, SCRIBES’ AND STAMP VENDORS’
WELFARE FUND BILL, 2012

A

BILL

to provide for the constitution of a Welfare Fund for the welfare of the document writers, scribes and stamp vendors in the State of Kerala, to pay pension and other benefits to them and for other matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to provide for the constitution of a Welfare Fund for the welfare of the document writers, scribes and stamp vendors in the State of Kerala, to pay pension and other benefits to them and for other matters connected therewith or incidental thereto ;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Act, 2012.

(2) It shall be deemed to have come into force on the 31st day of January, 2012.

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

(a) “Board” means the Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Board constituted under section 9 ;

(b) “cessation of employment” means ceasing of employment of a licensee consequent to the cancellation or surrender of the licence obtained for doing the employment ;

(c) “contribution” means the amount payable to the Welfare Fund by the members under sub-section (1) of section 4 and by the Government under sub-section (1) of section 26 ;

(d) “dependent” means wife or husband, minor sons, unmarried or widowed or divorced daughters, mentally or physically disabled children, father, mother who are solely dependent upon the member ;

(e) “Document Writer” means a person who is engaged in the profession of preparing documents including enquiry as to title, preparation of draft deeds and engrossing the deed on stamp paper for registration as per the Kerala Document Writers’ Licence Rules, 1960 ;

(f) “Fund” means the Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund constituted under sub-section (1) of section 3 ;

(g) “Government” means the Government of Kerala ;

(h) “Inspector General of Registration” means the Inspector General of Registration of the Government of Kerala ;

(i) “member” means a Document Writer or a Scribe or a Stamp Vendor, who has been admitted as a member of the Welfare Fund under the provisions of this Act or who is continuing as a member of the Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Scheme, 1991 ;

(j) “notification” means a notification published in the Kerala Gazette ;

(k) “prescribed” means prescribed by rules made under this Act ;

(l) “Registering Authority” means the District Registrar (General) of the district concerned ;

(m) “Scheme” means the Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Scheme framed under this Act ;

(n) “Scribe” means a person who assists a Document Writer in the preparation of documents and who possesses a valid scribe licence to transcribe the documents to be presented for registration as defined in sub-rule (5) of rule 3 of the Kerala Document Writers’ Licence Rules, 1960 ;

(o) “Secretary” means the Secretary of the Board constituted as per this Act ;

(p) “stamp” means the Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Stamp printed and distributed under section 24 ;

(q) “Stamp Vendor” means a person who has acquired a licence as per rule 35 of the Kerala Manufacture and Sale of Stamp Rules, 1960 and actively engaged in the profession of selling non-judicial stamps and stamp papers.

3. *Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund.*—(1) The Government shall, as soon as may be, after the commencement of this Act, by notification, frame a Scheme to be called the “Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Scheme” and after the framing of the Scheme, constitute a Fund to be called “the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund” in accordance with the provisions of this Act and the Scheme.

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

(3) The following shall be credited to the Fund, namely:—

- (a) contributions under sections 4 and 26 ;
- (b) application fee realised under section 5 ;
- (c) any amount borrowed under section 15 ;
- (d) all amounts collected by way of sale of stamp under section 24 ;
- (e) any donation voluntarily made to the Fund by any association or institution or any other person ;
- (f) any profit, interest, dividend or other income on any investment made of any part of the Fund ;
- (g) any grants, loans or advances as may be given by the Government of India or the State Government or any other institution or organisation ;
- (h) two per cent of the amount being received by the Stamp Vendors as commission ;
- (i) amount transferred under section 30 ;
- (j) any fees levied under the Scheme ;
- (k) any other amount, to be credited to the Fund under the provisions of the Scheme ;
- (l) any amount raised by the Board from other sources to augment the resources of the Fund.

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

(5) The Fund may be utilised for all or any of the following purposes, namely:—

(a) for the payment of a fixed amount and pension to a member from the Fund on cessation of employment at such rate as may be prescribed based on the number of years of his employment ;

Explanation 1:—The Board shall have the power to take decision regarding the pensionary benefits payable to a member who could not continue his employment due to ill health.

Explanation 2:—A person who had completed sixty five years of age and who had been a Document Writer, Scribe or Stamp Vendor for twenty five years before the commencement of this Act shall become eligible for special pension if he becomes a member and remits contribution for a period of one year under the provisions of this Act.

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

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

(d) for the repayment of the contribution amount remitted by the members with such interest, as may be prescribed, when they are incapacitated to do work due to permanent physical disability or on the cessation of their membership in the Welfare Fund ;

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

(f) for the payment of financial assistance to meet the marriage expense of the members and their daughters and for the maternity expense of the female members ;

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

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

(i) for any other purpose specified in the Scheme ;

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

(6) The Scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Scheme, the Scheme shall, thereafter have effect only in such modified form; so however, that any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

4. *Contribution to the Fund.*—(1) Every Document Writer, Scribe and Stamp Vendor who is eligible to become a member shall pay one hundred rupees per month as contribution to the Fund.

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

(3) The contribution shall be paid in the name of the Secretary or officer authorised in this behalf, in the manner specified in the Scheme.

5. *Membership in the Fund.*—(1) Any person holding a valid licence of document writer or scribe under the Kerala Document Writers' Licence Rules, 1960 or a valid licence of a Stamp Vendor under the Kerala Manufacture and Sale of Stamp Rules, 1960, as the case may be, and is below the age of 65 years on the date of application may apply to the Board for admission as a member of the Fund in such form and manner as may be prescribed :

Provided that no person employed as a Document Writer, Scribe or Stamp Vendor after retiring from the service of the Central Government or any State Government or any Public Sector Undertaking or Local Authority with retirement benefits, shall be eligible for membership in the Fund.

(2) On an application under sub-section (1), the Board may make such enquiry as it deems fit and either admit the applicant to the Fund or for reasons to be recorded in writing reject the application :

Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard :

Provided further that any person aggrieved by an order rejecting any application for membership may prefer an appeal to the Government within such period as may be prescribed.

(3) Every applicant shall pay an application fee of one hundred rupees along with the application in such manner as may be prescribed.

(4) A member of the Fund, on completion of 65 years of age or on voluntarily applying for pension by surrendering his licence after 25 years of membership, shall cease to be a member of the Fund.

(5) Every person who has been enrolled as member in the Fund shall be given a certificate of membership and a pass book recording the rate of contribution, details of enrolment in the register, date of birth, due date for payment of contribution etc., by the Registering Authority. The Registering Authority shall keep a register of the members coming under its jurisdiction and at the State level, the Secretary of Board shall keep a register of members enrolled in the Fund, showing the district-wise details of members.

6. *Cancellation of Membership.*—(1) The membership of a member shall be cancelled by the Registering Authority if it is found that a member has made manipulation of any kind or has given false information at any time in connection with the conditions for the membership or to obtain benefits as per the Scheme :

Provided that, no order of cancellation of membership shall be passed unless the applicant has been given an opportunity of being heard.

(2) Membership in the Fund shall automatically cease if a member commits default in payment of contribution for six months continuously.

(3) If the Registering Authority is of the opinion that a member is not functioning as a Document Writer or Scribe or Stamp Vendor, as the case may be, his membership in the Fund shall be cancelled. The date of cancellation in such cases shall be, as may be fixed by the Registering Authority.

(4) Appeal against the orders of the Registering Authority shall be filed before the Inspector General of Registration within such period as may be prescribed.

(5) A member may voluntarily retire from the Fund by submitting a letter addressed to the Registering Authority. In such case, the date of retirement shall be the date on which the member has submitted his letter.

7. *Revival of Membership.*—The membership of a member which has been ceased under sub-section (2) of section 6 may be revived on payment of arrears along with interest at twelve per cent per annum within six months from the date of cessation of such membership.

8. *Amendment of the Scheme.*—(1) Government may, by notification, amend the Scheme framed under this Act, either prospectively or retrospectively.

(2) Every notification under sub-section (1) shall be laid as soon as may be, after it is issued, before the Legislative Assembly while it is in session for a total period of 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 agrees in making any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

9. *Constitution of the Board.*—(1) The Government may, by notification, with effect from such date as may be specified therein, constitute a Board to be called the “Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Board” for the administration and management of the Fund and to implement and supervise connected activities.

(2) The Board shall be a body corporate by the name “Kerala Document Writers’, Scribes’ and Stamp Vendors’ Welfare Fund Board” having perpetual succession and a common seal and shall by the said name, sue and be sued.

(3) The Board shall consist of seven official members representing the Government and three non-official members representing the beneficiaries of the Fund as may be nominated by the Government and as hereinafter provided, namely:—

(a) The Secretary to Government, Taxes Department—he shall be the Chairman of the Board ;

(b) The Inspector General of Registration—he shall be the Vice- Chairman of the Board ;

(c) The Joint Inspector General of Registration—he shall be the Secretary of the Board ;

(d) An officer of the Finance Department not below the rank of Deputy Secretary nominated by the Government ;

(e) An officer of the Labour Department not below the rank of Deputy Secretary nominated by the Government ;

(f) An officer of the Taxes Department not below the rank of Deputy Secretary nominated by the Government ;

(g) An officer of the Law Department not below the rank of Deputy Secretary nominated by the Government ;

(h) Three non-official members representing the Document Writers, Scribes and Stamp Vendors nominated by the Government.

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

(5) The Board may with the previous approval of the Government, delegate to the Chairman or to the Secretary such of its powers and functions under this Act or the Scheme as it may consider necessary, for the effective management of the Fund, subject to such restrictions and conditions, as it may deem fit.

10. *Meeting of the Board.*—(1) The Board shall meet at least once in three months to transact its business.

(2) Six members of the Board including at least four official members and two non-official members shall form the quorum for a meeting of the Board.

(3) The Chairman or in his absence the Vice-Chairman, or in the absence of the Chairman and the Vice-Chairman, a member of the Board to be elected from among the members present at the meeting shall preside over the meeting of the Board.

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

11. *Term of Office of members of the Board.*—(1) The non-official members appointed under sub-section (3) of section 9 shall hold office for a period of three years from the date of publication of the notification constituting the Board in the Gazette.

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

(3) Government may at any time, for reasons to be recorded in writing, remove from office any official member, if the Government are of opinion that, in public interest it is improper to allow such member to continue in office.

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

(a) if he is of unsound mind ;

(b) if he is adjudged as undischarged insolvent ;

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

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

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

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

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

13. *Sitting fees, travelling allowance and daily allowance to members of the Board.*—The nominated members of the Board shall be eligible to get sitting fee, travelling allowance and daily allowance at such rate as may be prescribed.

14. *Appointment of Officers and Staff.*—(1) The Government may appoint such officers and staff as they may deem necessary, in such manner as may be prescribed, on deputation from the Registration Department for assisting the Secretary in the performance of the functions of the Board under this Act.

(2) The Secretary of the Board shall be responsible for the implementation of the decisions of the Board.

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

16. *Non-official Members of the Board to be public servants.*—Every non-official member of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

17. *Protection of action taken in good faith.*—No suit or other legal proceedings shall lie against any member of the Board or any other person assisting the Board in the discharge of its functions and duties in respect of anything which is in good faith done or intended to be done under this Act or under the Scheme.

18. *Directions by Government.*—The Government may, from time to time, give directions to the Board, and the Board is bound to implement them.

19. *Power to order enquiry.*—(1) The Government may, at any time, appoint an officer not below the rank of a Secretary to Government as enquiry officer to enquire into the working of the Board and to submit report to the Government.

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

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

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

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

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

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

23. *Power to summon witness and take evidence.*—The Board shall, for the purposes of enquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:—

- (a) enforcing the attendance of any person or examining him on oath ;
- (b) requiring the discovery and the production of documents ;
- (c) receiving evidence on affidavit ; and
- (d) engaging Commission for the examination of witnesses.

24. *The Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Stamp.*—(1) The Board shall get printed at the Government Press stamps of the value of fifty rupees inscribed as “the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Stamp”, in such form and in such manner as may be prescribed.

(2) Every document prepared by a licensed document writer and presented in any of the Sub-Registrar Offices in the State to be registered in book I, III or IV, as the case may be, shall be affixed with a stamp as specified in sub-section (1), in addition to the stamp duty chargeable under the Kerala Stamp Act, 1959 (Act 17 of 1959):

Provided that this sub-section shall not apply to any document prepared and presented for registration on behalf of the Central Government or the State Government or Local Self Government Institution.

(3) Every stamp affixed as specified in sub-section (2) shall be cancelled in the manner provided for in section 12 of the Kerala Stamp Act, 1959 (Act 17 of 1959).

(4) The custody of the stamps printed under this section shall be with the Board and, the supply and sale of stamps shall be in such manner as may be prescribed.

25. *Payment of money in case of default or disqualification.*—(1) In case of cessation of membership due to default or disqualification, the member or his nominee may apply for the amount remitted as contribution in the manner stated in the Scheme.

(2) Any member whose membership has been ceased or his nominee shall not be eligible for any benefit from the Welfare Fund.

(3) The contribution if any remitted after the date of cessation of membership, shall be refunded in full without any interest thereon.

(4) Any amount that has been received wrongly by a member or person nominated by him, shall be recovered from such person by appropriate legal proceedings.

26. *Contribution of the Government.*—(1) Ten per cent of the total amount contributed by the members during a financial year or the expenses to be incurred under the head of pay and allowances of the staff including bonus and encashment of leave but excluding travelling allowance, assigned for the Administration of the Welfare Fund, whichever is less, shall be given as Government contribution.

(2) At the end of every financial year, the Secretary shall calculate the expenses including bonus and encashment of leave but excluding travelling allowance, assigned for the Administration of the Welfare Fund, under the head of account of pay and allowances of the staff and shall intimate the same to the Government.

(3) If the amount so calculated is found to be more than ten per cent of the yearly contribution of the members, the difference between this amount and ten per cent of the yearly contribution of the members, shall be withdrawn from the Welfare Fund and remitted to the head of account concerned fixed from time to time.

27. *Act of Board not to be invalid by defect etc.*—No act done or proceedings taken under this Act or the rules to be made thereunder by the Board shall be invalid merely by reason of,—

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

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

(c) any defect or irregularity in any act or proceedings of the Board.

28. *Removal of difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make provisions which appear to them to be necessary and not inconsistent with the provisions of this Act, for the purpose of removing the difficulty :

Provided that no such order shall be passed after the expiry of two years from the date of commencement of this Act.

(2) The order issued under sub-section (1) shall be placed before the Legislative Assembly.

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

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

30. *Provision for the transfer of fund from the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund, Scheme, 1991.*—(1) Notwithstanding anything contained in any other law for the time being in force, from the date to be notified by the Government, all amounts standing in the credit of the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Scheme, 1991 shall stand transferred to and credited to the Fund established under this Act and with such date the liability of a member to pay contribution to the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Scheme, 1991 shall cease.

(2) All claims in respect of such fund may be determined by the Board constituted under this Act.

31. *Repeal and saving.*—(1) The Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Ordinance, 2012 (29 of 2012) is hereby repealed.

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

SCHEDULE

[See section 3(2)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN THE SCHEME

1. The manner in which the Fund is to be administered by the Board.
2. Registration of the members.
3. The manner in which the contribution and two per cent of the commission of Stamp Vendors shall be made to the Fund.
4. The manner in which the contribution from different sectors and the two per cent of the commission of Stamp Vendors may be recovered.
5. The constitution of any committee for assisting the Board.
6. Duties of the Secretary.
7. The manner in which accounts shall be maintained, the investment of money belonging to the Fund in accordance with any direction issued or conditions specified by the Government, the preparation of budget, the audit of accounts and the submission of reports to the Government.
8. The conditions under which withdrawal from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
9. The form in which a member shall furnish particulars about himself and his family whenever required.
10. The nomination of a person to receive the benefits of a member from the Fund on his death and cancellation or verification of such nomination.
11. The registers and records to be maintained with respect to members.
12. The form of pass book, certificate and identity card and the procedure for their issue, custody and replacement.
13. The fees to be levied for any of the purposes specified in the Schedule.
14. The manner in which the amount transferred under section 30 is to be transferred and credited to the Fund.
15. The matters for which the Fund may be utilized for the welfare of the members or their dependents.

16. The procedure for defraying the expenditure to be incurred in the administration of the Fund.

17. The procedure for paying benefits, grants, advances etc., from the Fund.

18. Regularisation of the rate of pension and the amount that may be given from the Fund to the members who discontinue employment on the basis of the completed years of service.

19. The manner and rate in which the contribution is to be refunded in the case of the members who have committed default.

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

STATEMENT OF OBJECTS AND REASONS

Government considers it necessary to have an enactment to provide for the constitution of a Welfare Fund for the welfare of the document writers, scribes and stamp vendors in the State of Kerala, to pay pension and other benefits to them and for other matters connected therewith.

2. As the Legislative Assembly of the State was not in session and the above proposals have to be given effect to immediately, the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Ordinance, 2012 was promulgated by the Governor of Kerala on the 30th day of January, 2012 and the same was published as Ordinance No. 13 of 2012 in the Kerala Gazette Extraordinary No. 221, dated 31st January, 2012.

3. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 1st day of March, 2012 and ended on the 23rd day of March, 2012. Therefore, in order to keep alive the provisions of the said Ordinance, the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Ordinance, 2012 was promulgated by the Governor of Kerala on the 11th day of April, 2012 and the same was published as Ordinance No. 29 of 2012 in the Kerala Gazette Extraordinary No. 731, dated 11th April, 2012.

4. The Bill seeks to replace Ordinance No. 29 of 2012 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

It is expected that an amount of rupees 84 lakhs would be received per year in the item of monthly subscription from the seven thousand members at the rate of rupees 100 if the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Bill, 2012 is enacted and brought into operation. As per sub-clause (1) of clause 26 of the Bill, 10 per cent of the total amount contributed by the members during a financial year or the expenses to be incurred under the head of pay and allowances including bonus and encashment of leave but excluding travelling allowance of the staff, whichever is less, that being the Government contribution, about rupees 8.4 lakhs would be given as recurring expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 3 of the Bill seeks to empower the Government to frame, by notification in the Gazette, a Scheme to be called the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Scheme and to constitute a Fund to be called the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund.

2. Sub-clause (2) of clause 4 of the Bill seeks to empower the Government, by notification in the Gazette, to revise the rate of contribution up to a maximum limit of rupees five hundred taking into account of the amount required for the management of the Scheme.

3. Sub-clause (1) and the second proviso to sub-clause (2) of clause 5 of the Bill seeks respectively to empower the Government to prescribe the form for admission as member to the Fund and the manner for filing application and to prescribe the period, within which any person aggrieved by an order rejecting his application for membership, to prefer appeal to the Government. Sub-section (3) of clause 5 empowers the Government to prescribe the manner in which the application fee to be remitted along with application for membership.

4. Sub-clause (4) of clause 6 of the Bill empowers the Government to prescribe the period for filing appeal before the Inspector General of Registration against the order of the registering authority, in respect of cancellation of membership.

5. Clause 8 of the Bill seeks to empower the Government to amend the Scheme framed under the Act either prospectively or retrospectively by Gazette notification.

6. Sub-clause (1) of clause 9 of the Bill seeks to empower the Government, by notification in the Gazette, from such date as may be specified therein, to constitute a Board to be called the Kerala Document Writers', Scribes' and Stamp Vendors Welfare Fund Board for the administration and management of the Fund and to supervise and implement connected activities.

7. Clause 13 of the Bill seeks to empower the Government to prescribe the rate of sitting fee, travelling allowance and daily allowance to the nominated members of the Board.

8. Sub-clause (1) of clause 14 of the Bill seeks to empower the Government to prescribe the manner of appointment of such officers and staff as deem necessary on deputation from Registration Department for assisting the Secretary in performing the functions of the Board.

9. Clause 20 of the Bill seeks to empower the Government to prescribe the manner in which the auditors to be appointed by the Board, to audit the accounts of the Fund.

10. Sub-clause (1) of clause 24 of the Bill seeks to empower the Government to prescribe the form and manner of the stamp of value of rupees fifty to be printed by the Board, at the Government Press, inscribed as the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Stamp. Sub-clause (4) of the said clause of the Bill seeks to empower the Government to prescribe the manner for the supply and sale of the stamps printed.

11. Clause 28 of the Bill seeks to empower the Government, by order, published in the Gazette, to make provisions not inconsistent with the provisions of the Act for removing the difficulty if any that may arise in giving effect to the provisions of the Act.

12. Clause 29 of the Bill seeks to empower the Government to make rules either prospectively or retrospectively for carrying out the provisions of the Act.

13. Clause 30 of the Bill seeks to empower the Government to issue notification fixing the date for the transfer of amount standing in the credit of the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund, 1991.

14. Matters in respect of which Rules or Scheme may be made or orders or notifications may be issued are matters of proceedings of a routine or of administrative in nature. Further, such Rules, Scheme and Orders are subject to the scrutiny of the Legislative assembly. The delegation of Legislative power is thus, of a normal character.

ANOOP JACOB.

NOTES ON CLAUSES

Clause 2.—This clause seeks to define certain words and expressions used in the Bill.

Clause 3.—This clause seeks to provide for framing of a Scheme to be called the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Scheme and for the constitution of a Fund to be called the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund.

Clause 4.—This clause seeks to provide for fixing the rate of contribution of members as rupees hundred per month and for revising the rate of contribution by a notification in the Gazette, upto a maximum limit of rupees five hundred taking into account of the amount required for the management of the Scheme.

Clause 5.—This clause seeks to provide for admitting any person as a member to the Fund, subject to certain conditions and that he holds a valid licence of document writer or scribe under the Kerala Document Writers' Licence Rules, 1960 or a valid licence of a stamp vendor under the Kerala Manufacture and Sale of Stamp Rules, 1960, as the case may be, and is below the age of 65 years on the date of application.

Clause 6.—This clause seeks to provide for the cancellation of membership of a member by the Registering Authority, if it is found that such member has made manipulation of any kind or has given false information in connection with the conditions of membership or to obtain benefits as per the Scheme.

Clause 7.—This clause seeks to provide for the revival of membership of a member, who commits default in payment of contribution for six months continuously, on payment of arrears along with interest at 12 per cent per annum within six months from the date of cessation of such membership.

Clause 8.—This clause seeks to provide for amending the Scheme framed under the Act, either prospectively or retrospectively by the Government.

Clause 9.—This clause seeks to provide for constituting a Board, to be called the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Board, by notification in the Gazette, from such date as may be specified therein for the administration and management of the Fund and to supervise and implement connected activities.

Clause 10.—This clause seeks to provide for the meeting of the Board to transact its business.

Clause 11.—This clause seeks to provide for fixing the term of office of the non-official members, their resignation and removal of the official members.

Clause 12.—This clause seeks to provide for removing any non-official member by the Government if it is found that he is disqualified.

Clause 13.—This clause seeks to provide for the rate of sitting fee, travelling allowance and daily allowance to the nominated members of the Board.

Clause 14.—This clause seeks to provide for prescribing the manner of appointment of such officers and staff as deem necessary on deputation from Registration Department for assisting the Secretary in performing the functioning the Board.

Clause 15.—This clause seeks to provide for borrowing money by the Board for the purposes of the Fund, from time to time with the previous approval of the Government and subject to such terms and conditions as specified by the Government.

Clause 16.—This clause seeks to provide that every non-official member of the Board shall be deemed to be a public servant within the meaning of section 21 of the India Penal Code (Central Act 45 of 1860).

Clause 17.—This clause seeks to provides that no suit or other legal proceedings shall lie against any member of the Board or any other person assisting the Board in the discharge of its functions and duties in respect of anything which is done in good faith or intended to be done under the Act or under the Scheme.

Clause 18.—This clause seeks to provide that the Government may from time to time give directions to the Board and the Board is bound to implement them.

Clause 19.—This clause seeks to provide that the Government may at anytime appoint an officer not below the rank of a Secretary to Government as enquiry officer to enquire into the working of the Board and to submit report to Government.

Clause 20.—This clause seeks to provide for prescribing the manner of appointment of auditors by the Board to audit the accounts of the Fund.

Clause 21.—This clause seeks to provide for the submission of the annual report of the Fund and the audited statement of accounts to the Government.

Clause 22.—This clause seeks to provide that no civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under the Act or the Scheme required to be settled,

decided or dealt with or to be determined by the Government or the Board or the Secretary or any Officer authorised by the Board.

Clause 23.—This clause seeks to clarify on which matters the Board shall, for the purpose of enquiry under the Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

Clause 24.—This clause seeks to provide for prescribing the form and the manner in which the stamp of value of rupees fifty to be printed by the Board at the Government Press, inscribed as Kerala Document Writers', Scribes and Stamp Vendors' Welfare Fund Stamp by the Board, the sale and supply of printing stamp and the documents on which it is to be affixed.

Clause 25.—This clause seeks to provide for refunding the amount remitted as contribution in the manner as stated in the Scheme to the member or his nominee in the case of cessation of membership due to default or disqualification.

Clause 26.—This clause seeks to provide for giving the contribution of the Government to the Fund.

Clause 27.—This clause seeks to provide that the act done or proceedings taken by the Board, under the Act, or Rules made thereunder, not to be invalid by defect.

Clause 28.—This clause seeks to provide for empowering the Government, by order published in the Gazette, to make provisions not inconsistent with the provisions of the Act, if any difficulty arises in giving effect to the provisions of the Act for the purpose of removing the difficulty.

Clause 29.—This clause seeks to provide for empowering the Government to make rules prospectively or retrospectively for carrying out the provisions of the Act.

Clause 30.—This clause seeks to provide that all amounts standing in the credit of the Kerala Document Writers', Scribes' and Stamp Vendors Welfare Fund Scheme, 1991 shall stand transferred to the Fund constituted under the Act, from the date notified by the Government.

Clause 31.—This clause seeks to provide for repealing the Kerala Document Writers', Scribes' and Stamp Vendors' Welfare Fund Ordinance, 2012 (29 of 2012) and to validates all matters and actions done under the said Ordinance.
