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THE PUNJAB WORKERS WELFARE FUND ACT 2019

(XXVI of 2019)

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TEXT

'THE PUNJAB WORKERS WELFARE FUND ACT 2019
(XXVI of 2019)

[13th December, 2019]

An
Act

to provide for the establishment of Punjab Workers Welfare Fund.

It is necessary to provide for the establishment of the Workers Welfare Fund in Province of the Punjab to facilitate the workers, and for ancillary matters.

Be it enacted by Provincial Assembly of the Punjab as follows:

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be cited as the Punjab Workers Welfare Fund Act 2019.

- (2) It extends to whole of the the Punjab.
- (3) It shall come into force at once.

2. Definitions.— In this Act:

- (a) “Act” means the Punjab Workers Welfare Fund Act 2019;
- (b) “Authority” means the Punjab Revenue Authority established under the Punjab Revenue Authority Act 2012 (*XLIII of 2012*);
- (c) “employer” shall have the same meanings as assigned to it in section 2 of the Punjab Industrial Relations Act 2010 (*XIX of 2010*);
- (d) “establishment” shall have the same meanings as assigned to it in section 2 of the Punjab Industrial Relations Act 2010 (*XIX of 2010*);
- (e) “Fund” means the Workers Welfare Fund constituted under section 3 of the Act;
- (f) “Governing Body” means the Governing Body constituted under section 8 of the Act;
- (g) “Government” means Government of the Punjab;
- (h) “prescribed” means prescribed by the rules made under the Act;
- (i) “President” means the President of the Fund;
- (j) “Secretary” means the Secretary of the Fund;
- (k) “total income” means:
 - (i) where return of income is required to be filed under the Income Tax Ordinance, 2001, the profit before taxation or provision for

¹This Act was passed by Provincial Assembly of the Punjab on 20 November 2019; assented to by the Governor of the Punjab on 10 December 2019; and, was published in the Punjab Gazette (Extraordinary), dated: 13 December 2019, pp.2547-2553.

taxation as per accounts or the declared income as per the return of income, whichever is higher; and

- (ii) where return of income is not required to be filed under the Income Tax Ordinance, 2001, the profit before taxation or provision for taxation as per accounts or four percent of the receipt as per the statement filed under section 115 of the Income Tax Ordinance, 2001, whichever is higher; and
- (l) “worker or employee” shall have the same meanings as assigned to it in section 2 of the Punjab Industrial Relations Act 2010 (*XIX of 2010*).

CHAPTER II CONSTITUTION OF WORKERS WELFARE FUND

3. Constitution of the Fund.– (1) There shall be constituted for purposes of the Act, a Fund to be called the Punjab Workers Welfare Fund.

- (2) The Fund shall consist of:
 - (a) an initial contribution to be made by the Government;
 - (b) the share of all assets and funds received from the Workers Welfare Fund as transferred and devolved by the Federal Government;
 - (c) such moneys as may, from time to time, be paid by the establishments under section 4 and 5 of the Act;
 - (d) the amount transferred to the Fund from time to time, under clause (d) of paragraph 4 of the scheme set out in the schedule to the Companies Profits (Workers’ Participation) Act 1968 (*XII of 1968*);
 - (e) voluntary contributions in the shape of money or building, land or other property made to it from time to time by the Government, a body corporate or by a person;
 - (f) income from the investments made and properties and assets acquired from out of the Fund; and
 - (g) proceeds of loans raised by the Governing Body.

4. Mode of payment by, and recovery from establishments.– (1) Every establishment or a part thereof, the total income of which in any year of account commencing on or after the date of closing of accounts on 30th of June or 31st of December, as the case may be, is not less than rupees five hundred thousand, shall be liable to pay to the Fund in respect of that year a sum equal to two percent of its total income.

(2) Every establishment liable under the Act shall pay the amount due from it by depositing in the Head of Account prescribed by the Governing Body within thirty days from the closing of accounts through the Authority.

(3) The establishment shall on or before the specified date for filing of returns of income or a statement under the Income Tax Ordinance, 2001 shall pay

the amount due under subsection (2) and shall furnish the proof of payment along with a copy of income tax return to the Authority.

(4) The officer authorized by the Authority shall, by order in writing, determine the amount due from an establishment under the Act if any, after taking into account the amount paid by the establishment in respect of that year and the establishment shall pay the amount so determined or any difference in respect thereof on or before the date specified in the order.

(5) Any change by way of enhancement or reduction in the total income shall be given effect by adjustment of the amount due under this section.

(6) Any amount paid by an establishment under this section, on the basis of an order in an appeal under the Act, to have been paid in excess shall be refunded to the establishment or shall be adjusted against the liability under the Act in the succeeding year of account on the request of the employer.

(7) The payment made by an establishment to the Fund under this section shall be treated as expenditure for purposes of assessment of income tax.

(8) Where assessment of income under the Act for any year is not finally made on or before the specified date, the establishment shall pay the amount as required under this section for that year on the basis of average of income assessed during the preceding two years.

(9) Difference of an amount paid under this section shall be adjusted on the finalization of assessment of income for a particular year.

(10) Where any establishment fails to pay willfully or otherwise the amount due from it under the Act, it shall without prejudice to any other liability to which it may be subject under the Act or any other law for the time being in force, be liable to pay an amount equal to fifteen percent per annum of the amount due from it, in addition to the amount payable by such establishment.

(11) Where an industrial establishment is not found registered with the Federal Board of Revenue established under the Federal Board of Revenue Act, 2007 (IV of 2007), the Authority shall issue a notice and a form of statement for purposes of assessing, determining and requiring the establishment to make a payment under the Act.

(12) An establishment may file an appeal against any order passed by an officer authorized under subsection (4) to the appellate tribunal established under the Punjab Revenue Authority Act 2012 (*XLIII of 2012*).

(13) If an establishment fails to make a payment under this section, the amount payable shall be recovered by the Authority in the manner prescribed under the Punjab Sales Tax on Services (Recovery) Rules 2012 and be deposited in the Head of Account of the Fund immediately after defraying all the expenses to the Authority to the extent and in manner as may be prescribed.

(14) Where an amount of Fund due from an establishment under the Workers Welfare Fund Ordinance, 1971 (*XXXVI of 1971*), for a particular income or year of account as the case may be, has not been paid, it shall be paid by such establishment under the Act.

(15) If an establishment fails to make a payment under the Act, the amount payable to the extent of previous five tax or income years shall be determined and recovered under the provisions of the Act.

5. Payment of additional amount.– (1) Every establishment referred to in subsection (1) of section 4 shall, in addition to the amount payable by it under that subsection in respect of any year of account, shall pay such amount as the Government may determine on the recommendation of a Committee constituted under subsection (2) thereafter in this section referred to as the Committee.

(2) For purposes of subsection (1), the Government may constitute one or more Committees, and where it constitutes more than one Committee, it shall specify the area or class of establishments in relation to which each such Committee shall perform its functions.

(3) A Committee constituted under subsection (2) shall consist of a Chairman, who shall be an employee of the Government, and not more than three other members to be appointed by the Government of whom:

- (a) one shall be appointed from amongst the employers or, as the case may be, in the area or class of establishments in relation to which the Committee is to perform its functions; and
- (b) one shall be appointed from amongst the workers or, as the case may be, in the area or class of establishments in relation to which the Committee is to perform its functions.

(4) The Committee shall examine the financial and other circumstances of an establishment and make recommendations as to the amount, if any, to be paid by such establishment in addition to the amount payable by the establishment under subsection (1) of section 4 of the Act.

(5) The Committee shall submit its recommendations to the Governing Body which shall forward the recommendations together with its own observations, if any, to the Government and the Government shall take an appropriate action thereon.

(6) The Committee shall have the power to require any establishment to furnish such information as it may consider necessary for the performance of its functions and if an establishment fails to furnish the required information, the Committee shall make its recommendations on the basis of such information as may be available to the Committee.

(7) The provisions of section 4 shall apply, *mutatis mutandis*, to an amount payable under subsection (1) of this section.

6. Liability to be discharged by certain persons.– Any liability imposed on an establishment under the Act shall be deemed to be the liability of the person who is an employer in relation to an establishment.

7. Purposes for which the Fund may be applied.– The Fund may be applied for:

- (a) financing of projects connected with the establishment of housing estates or construction of residential accommodation and educational institutions for the workers and their families;
- (b) financing of other measures including education, training, skill development, apprenticeship, marriage grants, death grants and talent scholarships for the welfare of the workers and their families;
- (c) expenditures in respect of the cost of management and administration of the Fund;
- (d) repayment of loans raised by the Governing Body; and
- (e) investment in securities and other ventures for profit approved as approved by the Government.

CHAPTER III GOVERNING BODY

8. Constitution of the Governing Body.– (1) As soon as may be after the commencement of the Act, the Government shall, by notification in the official Gazette, constitute a Governing Body to whom shall be entrusted the management and administration under the Act.

(2) The Governing Body shall be a body corporate by the name notified by the Government, having perpetual succession and a common seal with power, subject to the provisions of the Act, to contract, acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued.

(3) The Secretariat of the Governing Body shall be at such place as the Government may by notification in the Official Gazette, specify.

(4) All decisions of the Governing Body shall be expressed in terms of the opinion of the majority of the members of the Governing Body present in a meeting and, in the event of an equality of votes, the Chairperson shall have a casting vote.

(5) The Government may issue directions to the Governing Body regarding policy matters including the matters relating to workers welfare schemes.

(6) A casual vacancy in the office of a member of the Governing Body shall be filled, as soon as may be, in the prescribed manner, by nomination of another person and the person so nominated to fill such vacancy shall hold office for the unexpired term of his predecessor.

(7) The Governing Body shall consist of:

- (a) Secretary to the Government, Labour and Human Resource Department – Chairperson;
- (b) Commissioner, Provincial Employees' Social Security Institute; member
- (c) Director General Labour Welfare, Punjab; member
- (d) Chairman Punjab Revenue Authority; member
- (e) Commissioner, Mines Labour Welfare; member
- (f) Secretary Punjab Workers Welfare Fund; member

- (g) one representative each not below the rank of an Additional Secretary from Finance, Industries, Commerce and Investment, Communication and Works and School Education Departments of the Government; members
- (h) three representatives of the employers; members
- (i) three representatives of the workers; and member
- (j) any other member co-opted by the Governing body. member

(8) The members mentioned under clause (h) and (i) of subsection (7) shall respectively be nominated by the Government in such manner as may be prescribed.

(9) The members of the Governing Body other than the official members shall hold office for a period of two years and on such terms and conditions as may be prescribed.

(10) No act or proceedings of the Governing Body shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of the Governing Body.

(11) The quorum for the meeting shall be at least two *ex officio* members and one member each from the employers and the employees.

9. Secretary.— (1) There shall be a Secretary of Punjab Workers Welfare Fund to be appointed by the Governing Body with prior approval of the Government.

(2) The Secretary shall perform such functions and shall exercise such powers as may be prescribed.

(3) The Secretary shall be the Chief Executive Officer of the Fund.

10. Appointment of the employees.— (1) The employees of the Workers Welfare Board constituted under the Workers Welfare Ordinance, 1971 (*XXXVI of 1971*) other than those who are on deputation from other departments and corporations, shall continue as employees under the Act.

(2) The Governing Body may, with the prior approval of the Government, also appoint such other employees as it may consider necessary for the efficient performance and administration of the Fund.

(3) The Governing Body shall determine the terms and conditions of service of the employees with the prior approval of the Government.

(4) The Chairperson of the Governing Body shall be the appointing authority for the employees.

11. Governing Body to lay down procedure etc.— As soon as may be after its constitution, the Governing Body shall, with the previous approval of the Government, lay down the policy and regulations for efficient and effective administration of the Fund including the procedure for:

- (a) making applications for the Fund;
- (b) information to be furnished in respect of applications of the Fund;

- (c) the principles to be followed and priorities to be fixed in such applications;
- (d) incurring expenditure in respect of cost of management and administration of welfare schemes;
- (e) getting accounts of the Funds annually audited;
- (f) regulating other matters necessary for, connected with or incidental to the discharge of its functions under the Act; and
- (g) extending and regulating workers welfare schemes including eligibility criteria and further administration of such schemes.

12. Functions of the Governing Body.— The functions of the Governing Body shall be to:

- (a) allocate the amounts of Fund to an Authority of the Government and any body corporate for any of the purposes of the Act in the manner as may be prescribed;
- (b) sanction expenditure in respect of the administration and management of the Fund;
- (c) invest in the securities and term deposits with the commercial banks approved by the Government;
- (d) dispose of the moveable and immovable property of the Fund with the prior approval of the Government;
- (e) raise loans and to take measures for discharging such loans;
- (f) invest in other ventures of profit with prior approval of the Government;
- (g) do or cause to be done all acts and things necessary or desirable for the proper administration of the Fund;
- (h) do or cause to be done all things ancillary or incidental to any of the aforesaid functions; and
- (i) give recommendation to the Government to review the investment policy.

13. The President, his powers and functions of the President.—(1) The Minister for Labour and Human Resource, Punjab shall be the President of the Fund.

(2) The President of the Fund shall exercise such powers and perform such functions as may be prescribed.

14. Money allocated from the Fund.— Any money allocated under the Act as grant-in-aid and shall vest in the Government, an Authority or body corporate, to whom it is allocated, but it shall not be applied by the executing Authority to any purpose other than that for which it is allocated, or permitted by the Governing Body.

15. Maintenance of books of account etc.— The Governing Body shall:

- (a) cause to be maintained such books of account as may be prescribed;
- (b) cause to be prepared in the prescribed manner an annual statement of account;
- (c) cause the accounts of the Fund to be audited annually by the Director General Audit, Punjab or an auditor who is a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (*X of 1961*); and
- (d) submit to the Government, the statement referred to in clause (b) together with the report of the auditor thereon.

CHAPTER IV MISCELLANEOUS

16. Delegation of powers.— The Governing Body may direct in writing that all or any of its powers and functions under section 12 may, subject to such limitations, restrictions or conditions, if any, as may be imposed by it from time to time, be also exercised or performed by the Secretary.

17. Power to make rules.— (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of the Act.

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

- (a) terms and conditions of appointment of the members of the Governing Body;
- (b) manner in which the Governing Body shall conduct its business, including the number of members required to form a quorum at meetings thereof;
- (c) books of account to be maintained by the Fund and the form of its statements of account;
- (d) procedure to be followed for determination of utilization of funds; and
- (e) formulation of investment policy, constitution of investment Committee and its terms of references.

18. Application of other laws.— The provisions of the Punjab Sales Tax on Services Act 2012 (*XLII of 2012*) and the rules made thereunder in the matters of charge, additional charge, recovery and appeals shall *mutatis mutandis* apply to the collection and payment of contribution under the Act in so far as they relate to:

- (a) manner and mode of payment;
- (b) registration or sign-up and de-registration or de-signup;
- (c) keeping and calling of records and audit;
- (d) assessment, adjudication and enforcement;
- (e) penalties, prosecution and appeals; and

(f) all other allied and ancillary matters;

19. Removal of difficulties.— (1) The Government may pass such order for removing any difficulty or for bringing the provisions of the Act into effective operation as it may deem fit.

(2) The power under this section shall not be exercised after the expiry of three years from the commencement of the Act.

20. Bar of suits, prosecution and other legal proceedings.— (1) No suit shall be brought in any Civil Court to set aside or modify any order passed, any assessment made, any penalty or default surcharge imposed or collection of any fund made under the Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Government or against any public servant in respect of any order passed in good faith under the Act.

(3) Notwithstanding anything in any other law for the time being in force, no investigation or inquiry shall be undertaken or initiated by any authority owned or controlled by the Government against any officer or official for anything done in his official capacity under the Act, except with the permission of the competent Authority.

21. Exemption from taxes.— (1) Notwithstanding anything contained in any other law for the time being in force, the Government may, by order in writing, exempt the Fund from any tax, duty, or rate leviable by the Government or by a local authority under the control of the Government.

(2) The Government may request the Federal Government to exempt the income of the Fund including capital gains from the income tax under the provisions of the Income Tax Ordinance, 2001.

22. Repeal and saving.— (1) The Workers' Welfare Fund Ordinance, 1971 (*XXXVI of 1971*) is hereby repealed.

(2) Notwithstanding the repeal of the Workers' Welfare Fund Ordinance, 1971 (*XXXVI of 1971*), all orders, rules or regulations made, notifications issued, actions and proceeding taken under the repealed Ordinance shall continue to remain in force until altered amended or repealed under the provisions of the Act.