



TAMIL NADU GOVERNMENT GAZETTE

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Part IV—Section 2

Tamil Nadu Acts and Ordinances

CONTENTS

	<i>Pages.</i>
Acts :	
No. 4 of 2011—Tamil Nadu Non-Resident Tamils' Welfare Act, 2011	44-52
No. 5 of 2011—Tamil Nadu Marine Fishing Regulation (Amendment) Act, 2011	53
No. 6 of 2011—Tamil Nadu Appropriation Act, 2011.	55-61
No. 7 of 2011—Tamil Nadu Appropriation (Vote on Account) Act, 2011.	63-69

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 1st March 2011 and is hereby published for general information:—

Act No. 4 of 2011.

An Act to provide for the constitution of a Welfare Fund to grant relief, to ensure the welfare of and to pay pension and other benefits to the Non-Resident Tamils and to promote companies or co-operative societies or societies or other institutions of Non-Resident Tamils for their welfare.

WHEREAS, it is expedient to provide for the constitution of a Welfare Fund to grant relief, to ensure the welfare of and to pay pension and other benefits to the Non-Resident Tamils and to promote companies or co-operative societies or societies or other institutions of the Non-Resident Tamils for their welfare.

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

Short title and
commence-
ment.

1. (1) This Act may be called the Tamil Nadu Non-Resident Tamils' Welfare Act, 2011.

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

Definitions.

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

(a) "Board" means the Board established under section 10;

(b) "company" means a company registered under the Companies Act, 1956;

Central Act
I of 1956.

(c) "contribution" means the sum of money payable to the Fund under section 5;

(d) "co-operative society" means a co-operative society registered under the Tamil Nadu Co-operative Societies Act, 1983;

Tamil Nadu
Act 30 of
1983.

(e) "deemed member" means a Non-Resident Tamilian (abroad) or Non-Resident Tamilian (India), whose membership has ceased owing to his return to Tamil Nadu but who is paying the contribution continuously to the Fund under the proviso to sub-section (6) of section 5;

(f) "dependent" means the family member of a member of the Fund and in the absence of a family, unmarried and unemployed brother and sister or widowed sister of the member;

(g) "director" means the director of the Board;

(h) "family" means,—

(i) wife, in the case of a male person or husband, in the case of a female person;

(ii) son, who has not attained the age of twenty one years and unmarried or widowed daughter including such son or daughter adopted legally;

(iii) father, mother, unmarried sister and minor brother, who are solely dependent on the member and in the absence of such dependents, major son and married daughter;

(j) "Fund" means the "Tamil Nadu Non-Resident Tamils' Welfare Fund" constituted under section 5;

(k) "Government" means the State Government;

(l) "Managing Director" means the Managing Director of the Board;

(m) "member" means a member of the Fund;

(n) "Non-Resident Tamilian (abroad)" means a Tamilian holding a Indian passport and is employed or residing abroad for livelihood with the VISA of the foreign country;

(o) "Non-Resident Tamilian (India)" means a Tamilian who is employed or residing in India outside the State but does not include employees of the Central Government, State Government, Local Self Government or Public Sector Undertakings of both the Central and State Governments or Autonomous Institution;

(o) "prescribed" means prescribed by the rules made under this Act;

(p) "Scheme" means the Non-Resident Tamils' Welfare Scheme made by the Government under section 3;

(q) "Special Aid Fund" means the Special Aid Fund constituted under section 9;

(r) "State" means the State of Tamil Nadu;

(s) "Tamilian" means a person born or domiciled in the State;

Explanation.— For the purposes of this Act, a person domiciled in the State means that any person born outside the State but resides in the State continuously for a period of not less than three years .

3. (1) The Government may, by notification, by means of a Scheme provide for the registration of members and make provisions for the purpose of ensuring social security and welfare of the Non-Resident Tamils (abroad) and Non-Resident Tamils (India).

Scheme.

(2) The Scheme made under sub-section (1) may provide for the matters specified in the Schedule to this Act.

(3) The Government may, in consultation with the Board, by notification, add to, amend or vary all or any of the provisions of the aforesaid Scheme or substitute another Scheme for any Scheme made by it.

4. If any question arises whether any Scheme applies to a Non-Resident Tamilian (abroad) or Non-Resident Tamilian (India), the matter shall be referred to such authority as may be prescribed in this behalf, whose decision shall be final.

Disputes regarding application of the Scheme.

5. (1) There shall be a Fund constituted in the name and style as Tamil Nadu Non-Resident Tamils' Welfare Fund under the scheme and all monies received from the sources as specified in sub-section (3) shall be credited to such Fund.

Contribution to the Fund.

(2) The Board shall hold the Fund in any of the Nationalized Banks or any of the Co-operative Banks under the control and supervision of the Tamil Nadu State Co-operative Bank or any other Bank as may be decided by the Board, with the approval of the Government. Such an account shall be jointly operated by any two of the authorized signatories of the Board, one of them being the Managing Director.

(3) The contributions to the Fund shall be made by the sources specified in sub-sections (4), (5), (6) and (8) and such other sources, as may be specified in the Scheme.

(4) Every Non-Resident Tamilian (abroad) member shall pay an amount of rupees three hundred per month and every such member returned back and settled permanently in Tamil Nadu shall pay an amount as specified in sub-section (6) to the Fund as contribution.

(5) Every Non-Resident Tamilian (India) member shall pay an amount of rupees one hundred per month and every such member returned back and settled permanently in Tamil Nadu shall pay an amount as specified in sub-section (6) to the Fund as contribution.

(6) Every deemed member shall pay an amount of rupees fifty per month to the Fund as contribution.

(7) The contributions to the Fund referred to in sub-sections (4), (5) and (6) shall be remitted to the Fund within such period and in such manner, as may be prescribed.

(8) The Government shall pay every financial year to the Fund by way of grant, an amount equal to two per cent of the contribution paid under sub-sections (4) and (5).

(9) The Government may in consultation with the Board, by notification, revise the rates of contribution to the Fund once in three years taking into account the amount required for the implementation of the Scheme.

(10) The following shall also be credited to the Fund, namely:-

(a) loans or advances given by the Government of India or the State Government or Public Sector Undertakings or any other institution or organisation;

(b) donations from any individual or any organization in India or abroad or from any Government agencies in India or abroad or from any other source;

(c) application fee, registration fee or any other fee collected under this Act;

(d) any amount borrowed by the Board under section 17;

(e) any profit or interest or dividend or other returns on any investment or share made by the Board;

(f) any unclaimed amount of the members under any of the provisions of this Act, as may be prescribed; and

(g) any amount raised by the Board by any other source, for augmenting the resources of the Fund.

(11) All the expenditures relating to the implementation of the Scheme shall be met from the Fund including the contingent expenditure in the administration of the Scheme.

Utilization of
the Fund.

6. The Fund may be utilized for all or any of the following purposes, namely:-

(a) for the payment of pension to the members other than those who are continuing abroad or in other States of India and deemed members, who had completed sixty years of age and had remitted contribution for a period of not less than five years;

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

Explanation.—For computing the period of five years under this section, the contributions given by the person as a member and as a deemed member shall be counted.

(c) for the refund of the amount of contribution remitted by the members who had become unable to work for more than two years due to permanent physical disability or due to death;

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

(e) for the payment of financial assistance for the medical treatment of the members affected with major illness, as may be prescribed;

(f) for the payment of financial assistance for the marriage of the women members and daughters of the members and for maternity benefit to women members;

(g) for giving financial assistance or loans or advances to the members for the construction of dwelling house or for the purchase of land or for the purchase of land and building or for the maintenance of house or for the education facilities to the children of the members;

(h) for the payment of self-employment assistance or loans to seek self-employment to the deemed members;

(i) for the payment of financial assistance to a member who suffers permanent physical disability, which incapacitated him to attend any work for his livelihood;

(j) for investment in any company or firm or co-operative society or in any other society or institution constituted under the provisions of this Act; and

(k) for such other purposes specified in the Scheme.

Membership.

7. (1) Every Non-Resident Tamilian (abroad) who has completed eighteen years of age, but not completed fifty-five years of age, shall be entitled to register himself as a member of the Fund, immediately on obtaining the emigration clearance and before leaving the State in the manner specified in the Scheme.

(2) Every Non-Resident Tamilian (India), who has completed eighteen years of age, but not completed fifty-five years of age and who resides for more than six months in any place in India outside the State shall be entitled to register himself as a member of the Fund in the manner specified in the Scheme.

(3) Notwithstanding anything contained in sub-sections (1) or (2), every Non-Resident Tamilian (abroad) or Non-Resident Tamilian (India) who left Tamil Nadu prior to the commencement of the Scheme, may register himself as a member of the Fund within such period and in such manner as may be specified in the Scheme.

(4) The registration fee in respect of a member shall be rupees two hundred:

Provided that the Government may, by notification, revise the registration fee once in three years.

8. (1) If any member commits any offence punishable under this Act or violates any provision specified in the Scheme for the payment of contribution, his membership shall cease forthwith and may be reinstated on such terms as may be specified in the Scheme.

Cessation of Membership.

(2) If a Non-Resident Tamilian (India) returns to the State leaving his employment or residence outside the State and resides permanently within Tamil Nadu, his membership shall cease:

Provided that such a member is entitled to continue as a deemed member of the Fund on continuous payment of contribution to the Fund until he attains the age of sixty years on such terms as may be specified in the Scheme.

(3) If a member or deemed member joins any Government service or quasi-Government service or any other pensionable service, his membership shall cease from the date on which he joins such service and is entitled for the refund of the amount of contribution hitherto paid by him.

9. (1) A Special Aid Fund may be constituted by the Board from donations received from any individual or association in India or abroad or from Government agencies or the Central Government or State Governments or from State Government Undertakings or from any other source, to provide medical aid or any other essential aid as may be specified in the Scheme to the Non-Resident Tamils (abroad), who have completed fifty-five years of age.

Special Aid Fund for Non-Resident Tamils (abroad).

(2) The Special Aid Fund shall be vested in the Board and be administered by the Board.

10. (1) The Government may, by notification, establish a Board to be called the "The Tamil Nadu Non-Resident Tamils' Welfare Board" for implementing and administering the Scheme.

Establishment of Board.

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

(3) The Board shall consist of thirteen directors, from time to time, nominated by the Government, as hereinafter provided, namely:-

(a) Five directors representing the Non-Resident Tamils (abroad);

(b) Two directors representing the Non-Resident Tamils (India);

(c) Four directors representing the Government;

(d) One director representing the Overseas Manpower Corporation Ltd;

(e) One director representing the Commissionerate of Rehabilitation and Welfare of Non-Resident Tamils.

(4) The Managing Director of the Board shall be appointed by the Government from amongst the directors representing the Government.

(5) After nomination of all the members of the Board and appointment of the Managing Director, the Government shall, by notification, publish their names.

(6) The meetings of the Board and procedures to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject to the approval of the Government be regulated by the Board itself.

(7) The Board may, with the previous approval of the Government, delegate to the Managing Director or to any director of the Board or to any other officer of the Board, such of its powers and functions under this Act, as it may consider necessary for the efficient administration of the Fund, subject to such restrictions and conditions, as it thinks fit.

(8) An amount not exceeding five per cent of the total contributions to the Fund in every financial year, as may be fixed by the Government, from time to time, may be expended towards payment of salary to the officers and staff of the Board and other office expenses.

(9) In exercise of the powers and discharge of its functions under this Act, the Board shall be bound by such directions as the Government, may, for reasons stated in writing, give to it from time to time.

Term of office
of the
Directors.

11. (1) The term of office of the directors other than *ex-officio* directors nominated under sub-section (3) of Section 10 shall be three years.

(2) Notwithstanding anything contained in sub-section (1), the Government may, at any time, for reasons to be recorded in writing, remove any director other than an *ex-officio* director of the Board from his office and such removal shall be made after giving him a reasonable opportunity of showing cause against the proposed removal:

Provided that it shall not be necessary to record in writing, the reasons for removal or to give an opportunity of showing cause against the proposed removal, if the Government are of the opinion that it is not expedient in the public interest, to record the reasons in writing or to give such opportunity.

Powers and
duties of the
Board.

12. (1) The Board shall be responsible for administering the Scheme, and shall exercise such powers and perform such functions as may be conferred on it by the Scheme.

(2) The Board may take such measures as it may deem fit for administering the Scheme.

(3) The Board shall submit to the Government as soon as may be, after the first day of April every year, the annual report on the working of the Scheme during the preceding year ending on the thirty-first March of the year. Every report so received shall be laid as soon as may be after it is received before the Legislative Assembly if it is in session, or in the session immediately following the date of receipt of the report.

Disqualifications
and removal.

13. (1) No person shall be chosen as, or continue to be, a director of the Board who—

- (a) is a salaried officer of the Board; or
- (b) is or at any time has been adjudged insolvent; or
- (c) is found to be a lunatic or becomes of unsound mind; or
- (d) is or has been convicted of any offence involving moral turpitude.

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

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

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

(3) A director other than an *ex-officio* director of the Board removed under clause (a) of sub-section (2) shall be disqualified for re-nomination as a director of the Board for a period of three years from the date of his removal, unless otherwise ordered by the Government.

(4) A director other than an *ex-officio* director of the Board removed under clause (b) of sub-section (2) shall not be eligible for re-nomination until he is declared by an order of the Government to be no longer ineligible.

Resignation by
directors.

14. Any director other than an *ex-officio* director of the Board may, at any time, resign his office by writing under his hand addressed to the Government, and his office shall, on acceptance of resignation by the Government, become vacant.

15. In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the Government and the vacancy shall be filled not later than ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the director in whose place he is nominated would have held it, if the vacancy had not occurred:

Filling up of vacancies.

Provided that during any such vacancy, the continuing directors may Act as if no vacancy has occurred.

16. (1) The Government may, in such manner as may be prescribed, appoint such number of Officers and Staff as they consider necessary for assisting the Board to exercise its powers and perform its functions under this Act.

Appointment of Officers and Staff.

(2) The method of appointment, salary and allowances, discipline and other conditions of service of the Officers and Staff appointed under sub-section (1) shall be such as may be prescribed.

17. 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 Scheme.

Power of Board to borrow.

18. The Board may promote public limited companies or private limited companies under the Companies Act, 1956, co-operative societies under the Tamil Nadu Co-operative Societies Act, 1983 or societies under the Tamil Nadu Societies Registration Act, 1975 or any other institution with the investment or share of members of the Board or the Government, for such purposes or activities or business and on such terms and conditions as the Board may, from time to time decide, with the prior approval of the Government.

Promotion of companies, co-operative societies, societies and other institutions by Board.

19. The Board may subject to the approval of the Government of India or of the State Government Act as a guarantor for the Non-Resident Tamils (abroad) proceeding on employment, on accepting security deposit from such Non-Resident Tamils, on such terms and conditions as may be prescribed.

Board to Act as Guarantor.

20. (1) If any member defaults in the payment of contribution continuously for a period of not less than six months, the Managing Director or any other officer authorized by the Board in this behalf, after giving an opportunity of being heard, by order, determine the amount of contribution due under the provisions of this Act and specify the period within which the same will have to be paid.

Power to determine the amount due and recover damages.

(2) If the amount so determined is not paid by the member within the period specified by the Board, the Board may, in addition, recover from him damages, not exceeding twenty five per cent of the amount of arrears, as it may think fit.

(3) The Government may, by notification, appoint an officer not below the rank of Deputy secretary to Government as appellate authority for the purpose of this Act.

(4) Any person aggrieved by an order made under sub-section (1) may, within sixty days from the date of receipt of that order, prefer an appeal before the appellate authority under sub-section (3) and such officer may, after making such enquiry, pass such orders thereon as he deems fit.

(5) The Government may, either *suo motu* or on application, call for the records of the appellate authority and make such enquiry, if found necessary and pass such orders modifying, revising or cancelling the order of the appellate authority or remand the matter for fresh decision, as they deem fit:

Provided that, an application for revision under this sub-section shall be made within thirty days from the date of receipt of the order of the appellate authority:

Provided further that, no order shall be passed under this sub-section, without giving the person who may be affected thereby, an opportunity of being heard

Central Act
1 of 1956.

Tamil Nadu Act
30 of 1983.

Tamil Nadu Act
27 of 1975.

Directors of Board etc., to be public servants.

21. Every director of the Board including the Managing Director and every other officer and employee of the Board appointed under section 16 shall, when acting or purporting to act in pursuance of any of the provisions of this Act or any rule or the Scheme made thereunder be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Central Act
XLV of 1860.

Penalty.

22. (1) Whoever contravenes the provisions of this Act or the rules or the notifications or the Scheme made thereunder or 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 three months or with fine which may extend to five thousand rupees or with both.

(2) Every offence punishable under this Act shall be tried in a Court of First Class Judicial Magistrate.

(3) No Court shall take, cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made with the previous sanction of the Managing Director.

Offences by companies.

23. (1) Where an offence against any of the provisions of 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 has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence 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 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 trust, a firm, a society or other association of individuals; and

(b) “director” in relation to—

(i) a firm, means a partner in the firm;

(ii) a society, a trust or other association of individuals, means the person who is entrusted, under the rules of the society, trust or other association, with the management of the affairs of the society, trust or other association, as the case may be.

Protection of action done in good faith.

24. No suit, prosecution or other legal proceedings shall lie against the Government or the Board or Managing Director or any other Officer of the Board for anything which is in good faith done or intended to be done under this Act, or any rule made or notification or order or the Scheme issued thereunder.

Enquiry into working of Board.

25. (1) The Government may, at any time, appoint any person to investigate or enquire into the working of the Board or the Scheme and submit a report to the Government in that behalf.

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

Supersession of Board.

26. (1) If the Government, on consideration of the report referred to in sub-section (1) of section 22 or otherwise, is of the opinion,—

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

(b) that the Board has persistently made default in the discharge of its functions or has exceeded or abused its powers, the Government may, by notification, supersede the Board and reconstitute it in the prescribed manner, within a period of twelve months from the date of supersession. The period of supersession may be extended for sufficient reasons by a like notification, by not more than six months:

Provided that before issuing a notification to supersede the Board 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 explanations and objections, if any, of the Board.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be exercised and performed by the Government, or by such Officer or Officers, as the Government may appoint for this purpose.

(3) When the Board is superseded, the following consequences shall enure, that is to say:—

(a) all the Directors of the Board shall, as from the date of publication of the notification under sub-section (1) vacate their office;

(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 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 and on the reconstitution of the Board, such funds and property shall revert in the Board.

27. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including a balance-sheet in such form as may be prescribed.

Accounts and audit.

(2) The accounts of the Board shall be audited annually by such qualified persons, as the Government may appoint in this behalf.

(3) The auditor shall, at all reasonable time, have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require or examine any member or Officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon shall be forwarded annually to the Government before such date as the Government may specify in this behalf.

(5) The Board shall comply with such directions as the Government may after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit shall be paid out of the funds of the Board.

28. 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 any other Officer authorized by the Government or the Managing Director or any Officer authorized by the Board.

Bar of Jurisdiction of Civil Court.

29. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires, by order, not inconsistent with the provisions of this Act, do anything which appears to be necessary or expedient for the purpose of removing the difficulty:

Power to remove difficulties.

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

30. (1) The Government may make rules for carrying out all or any of the purposes of this Act.

Power to make rules.

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

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

(3) Every rule made or notification or order issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

THE SCHEDULE.

[See sub-section (2) of section 3]

Matters for which provision may be made in the Scheme.

- (1) Registration of Non-Resident Tamils as members of the Fund.
- (2) The time and manner in which contribution shall be made to the Fund and the manner in which the contribution may be recovered and deposited in the Fund.
- (3) Head quarters of the Board and for constitution of committee for assisting the Board.
- (4) Travelling Allowance, Daily Allowance and Sitting Fee for the Managing Director and the Directors.
- (5) The manner in which accounts shall be kept, the investment of monies 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.
- (6) The conditions under which withdrawals from the Fund may be permitted, any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
- (7) For purposes other than those specified in section 6 for which the Fund may be utilised.
- (8) The Form in which a member shall furnish particulars about himself and his family.
- (9) For nomination of a person to receive any family pension or other benefit of a member on his death and the procedure for the cancellation or variation of such nomination.
- (10) Maintenance of registers and records with respect to members.
- (11) The form or design of identity card for the members and for issuance, custody and replacement thereof.
- (12) The powers and responsibility which may be exercised by the officers appointed under this Act.
- (13) The procedure for defraying the expenditure incurred in the administration of the Fund.
- (14) The procedure for paying pension, family pension, grants other benefits or loans and advances from the Fund.
- (15) The manner and the procedure for the constitution of companies, societies, co-operative societies and other institutions by the Board for benefit of the members under section 18.
- (16) Other essential aids which may given from the Special Aid Fund.
- (17) Maintenance of Accounts of, administration of and procedure for providing aid from the Special Aid Fund.

(By order of the Governor)

S. DHEENADHAYALAN,
Secretary to Government,
Law Department.