

The
**EMPLOYEES
PROVIDENT FUNDS
AND MISCELLANEOUS
PROVISIONS ACT, 1952**

Bare Act



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THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

(ACT NO. 19 OF 1952)¹

(4th March, 1952)

An Act to provide for the Institution of Provident Funds ²[***] ³[Pension Fund], and Deposit-Linked Insurance Fund] for Employees in Factories and other Establishments.

BE it enacted by Parliament as follows:—

1. Short title, extent and application.- ⁴[(1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

⁵[(3) Subject to the provisions contained in section 16, it applies-

- (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which ⁶[twenty] or more persons are employed, and
- (b) to any other establishment employing ⁷[twenty] or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than ⁸[twenty] as may be specified in the notification.

⁹[(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of the section 16 where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.]

¹⁰[(5) An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty.]

¹¹[***]

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

- ¹[(a) "appropriate Government" means-

1 For Statement of Objects and Reasons, see Gaz. of India, 1952, Pt. II, S. 2, pp 67-69.

2 Subs. by Act 99 of 1976 sec. 16, for "and family pension fund" (w.e.f.1-8-1976).

3 Subs. by Act 25 of 1996, sec. 2, for "family pension fund" (w.e.f.16.11.1995).

4 Subs. by Act 99 of 1976, sec. 17, for sub-section (1) (w.e.f.1-8-1976).

5 Subs. by Act 94 of 1956, sec. 2, for sub-section (3).

6 Subs. by Act 46 of 1960, sec. 2, for "fifty" (w.e.f.31-12-1960).

7 Subs. by Act 46 of 1960, sec. 2, for "fifty" (w.e.f.31-12-1960).

8 Subs. by Act 46 of 1960, sec. 2, for "fifty" (w.e.f.31-12-1960).

9 Subs. by Act 33 of 1988 (w.e.f.1.8.1988).

10 Ins. by Act 46 of 1960, sec. 2, (w.e.f.31-12-1960).

11 Proviso omitted by Act 16 of 1971 (23-4-1971).

- (i) in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil field or a controlled industry, ²[or in relation to an establishment having departments or branches in more than one State,] the Central Government; and
 - (ii) in relation to any other establishment, the State Government;]
- ³[(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;]
- (b) "basic wages" means all emoluments which are earned by an employee while on duty or ⁴[on leave or on holidays with wages in either case] in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include--
- (i) the cash value of any food concession;
 - (ii) any dearness allowance (that is to say, all cash payments by whatever named called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;
 - (iii) any presents made by the employer;
- (c) "contribution" means a contribution payable in respect of a member under a Scheme ⁵[or the contribution payable in respect of an employee to whom the Insurance Scheme applies];
- (d) "controlled industry" means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;
- ⁶[(e) "employer" means-
- (i) in relation to an establishment which is a factory, the owner or the occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and
 - (ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the

1 Subs. by Act 22 of 1958, sec. 2, for clause (a).

2 Ins. by Act 22 of 1965, sec. 2 (w.e.f. 24.11.1964).

3 Ins. by Act 33 of 1988, sec. 3 (w.e.f. 1.8.1988).

4 Subs. by Act 33 of 1988, sec. 3, for "on leave with wages" (w.e.f.1.8.1988).

5 Ins. by Act 99 of 1976 sec. 18 (w.e.f.1-8-1976).

6 Subs. by Act 94 of 1956, sec. 4, for clause (e).

- affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent; such manager, managing director or managing agent;]
- (f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of ¹[an establishment], and who gets, his wages directly or indirectly from the employer, ²[and includes any person]-
- (i) employed by or through a contractor in or in connection with the work of the establishment;
- (ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961) or under the standing orders of the establishment;]
- ³[(ff) "exempted employee" means an employee to whom a Scheme ⁴[or the Insurance Scheme, as the case may be,] would, but for the exemption granted under ⁵[***] section 17, have applied;
- (fff) "exempted ⁶[establishment]" means ⁷[an establishment] in respect of which an exemption has been granted under section 17 from the operation of all or any of the provisions of any Scheme ⁸[or the Insurance Scheme, as the case may be], whether such exemption has been granted to the ⁹[establishment] as such or to any person or class of persons employed therein;
- (g) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;
- ¹⁰[***]
- (h) "Fund" means the provident fund established under a Scheme;
- (i) "industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;
- ¹¹[(ia) "Insurance Fund" means the Deposit-Linked Insurance Fund established under sub-section (2) of section 6C;
- (ib) "Insurance Scheme" means the Employees' Deposit-linked Insurance Scheme framed under sub-section (1) of section 6C;]
- ¹²¹³[(ic)] "manufacture" or "manufacturing process" means any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise

1 Subs. by Act 94 of 1956, sec. 3, for "a factory".

2 Subs. by Act 33 of 1988, sec. 3, for certain words (w.e.f.1.8.1988).

3 Ins. by Act 37 of 1953, sec. 3.

4 Ins. by Act 99 of 1976 sec. 18 (w.e.f.1-8-1976).

5 The words "sub-section (1)" omitted by Act 28 of 1963, sec. 2 (w.e.f. 30-11-1963).

6 Subs. by Act 94 of 1956, sec. 3, for "factory".

7 Subs. by Act 94 of 1956, sec. 3, for "a factory".

8 Ins. by Act 99 of 1976 sec. 18 (w.e.f.1-8-1976).

9 Subs. by Act 94 of 1956, sec. 3, for "factory".

10 Clauses (gg) and (ggg) omitted by Act 25 of 1996 sec. 3 (w.e.f.16.11.1995). Earlier clauses (gg) and (ggg) were ins. by Act 25 16 of 1971. sec.14 w.e.f. 23-4-1971).

11 Ins. by Act 99 of 1976 sec. 18 (w.e.f.1-8-1976).

12 Subs. by Act 28 of 1963, sec. 2, for clause (ia) (w.e.f.30-11-1963).

13 Clause (ia) re-lettered as clause (ic) by Act 99 of 1976 sec. 18 (w.e.f.1-8-1976).

treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;

- (j) "member" means a member of the Fund;
- (k) "occupier of a factory" means the person who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- ¹[(kA) "Pension Fund" means the Employees' Pension Fund established under sub-section (2) of section 6-A;
- (kB) "Pension Scheme" means the Employees' Pension Scheme framed under sub-section (1) of Section 6-A];
- ²[(ka) "prescribed" means prescribed by rules made under this Act;
- (kb) "Recovery Officer" means any officer of the Central Government, State Government or the Board of Trustees constituted under section 5A, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act];
- ³[(l) "Scheme" means the Employees' Provident Fund Scheme framed under section 5;]
- ⁴[(ll) "Superannuation", in relation to an employee who is the member of the Pension Scheme, means the attainment, by the said employee, the age of fifty-eight years.]
- ⁵[(m) "Tribunal" means the Employees' Provident Funds Appellate Tribunal constituted under section 7D;]

⁶[2A. Establishment to include all departments and branches.- For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situated in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.]

⁷[3. Power to apply Act to an establishment which has a common provident fund with another establishment.- Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment, and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to such other establishment.]

4. Power to add to Schedule I.- (1) The Central Government may, by notification in the Official Gazette, add to Schedule-I any other industry in respect of the employees whereof it is of opinion that a Provident Fund Scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule-I for the purposes of this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

1 Ins. by Act 25 of 1996 sec. 3 (w.r.e.f. 16-11-1995).

2 Ins. by Act 33 of 1988, sec. 3 (w.e.f.1.8.1988).

3 Subs. by Act 16 of 1971 sec. 14, for clause (1) (w.e.f.23-4-1971).

4 Ins. by Act 25 of 1996, sec. 3 (w.r.e.f.16.11.1995).

5 Ins. by Act 33 of 1988, sec. 3 (w.e.f.1.8.1988).

6 Ins. by Act 46 of 1960, sec. 3, (w.e.f.31-12-1960).

7 Subs. by Act 94 of 1956, sec. 5, for section 3.

5. Employees' Provident Fund Scheme.- ¹[(1)] The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the ²[establishments] or class of ³[establishments] to which the said scheme shall apply ⁴[and there shall be established, as soon as may be after the framing of the scheme, a fund in accordance with the provisions of this Act and the Scheme.]

⁵[(1-A) The fund shall vest in, and be administered by, the Central Board constituted under Section 5-A.

(1-B) Subject to the provisions of this Act, a Scheme framed under sub-section (1) may provide for all or any of the matters specified in Schedule-II.]

⁶[(2) A scheme framed under sub-section (1) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.]

7[(5A. Central Board.- (1) The Central Government may, by notification in the Official Gazette, constitute with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act referred to as the Central Board) consisting of the following ⁸[persons, as members], namely:

- (a) ⁹[a Chairman and a Vice-Chairman] to be appointed by the Central Government;
- ¹⁰[(aa) the Central Provident Fund Commissioner, *Ex-officio*;
- (b) not more than five persons appointed by the Central Government from amongst its officials;
- (c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf appointed by the Central Government;
- (d) ¹¹[Ten persons] representing employers of the establishment to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; and
- (e) ¹²[Ten persons] representing employees in the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf.

(2) The terms and conditions subject to which a member of the Central Board may be appointed and the time, place and procedure of the meetings of the Central Board shall be such as may be provided for in the Scheme.

1 Section 5 re-numbered as sub-section (1) thereof by Act 37 of 1953, sec. 4.

2 Subs. by Act 94 of 1956, sec. 3, for "factories".

3 Subs. by Act 94 of 1956, sec. 3, for "factories".

4 Added by Act 37 of 1953, sec. 4.

5 Ins. by Act 28 of 1963, sec. 3 (w.e.f. 30-11-1963).

6 Ins. by Act 37 of 1953, sec. 4.

7 Ins. by Act 28 of 1963, sec. 4 (w.e.f. 30-11-1963).

8 Subs. by Act 33 of 1988, sec. 4, for "persons" (w.e.f. 1.8.1988).

9 Subs. by Act 33 of 1988 sec. 4, for "a Chairman" (w.e.f. 1.8.1988).

10 Ins. by Act 33 of 1988 sec. 4, (w.e.f. 1.8.1988).

11 Subs. by Act .33 of 1988 sec. 4, for "six persons" (w.e.f. 1.8.1988).

12 Subs. by Act .33 of 1988 sec. 4, for "six persons" (w.e.f. 1.8.1988).

(3) The Central Board shall ¹[, subject to the provisions of Section 6-A ²[and Section 6-C]] administer the fund vested in it in such manner as may be specified in the Scheme.

(4) The Central Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme ³[, the ⁴[Pension] Scheme and the Insurance Scheme].

⁵(5) The Central Board shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor-General of India, specify in the Scheme.

(6) The accounts of the Central Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Central Board to the Comptroller and Auditor-General of India.

(7) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Central Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government Accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Central Board.

(8) The accounts of the Central Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Central Board which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General.

(9) It shall be the duty of the Central Board to submit also to the Central Government an annual report of its work and activities and the Central Government shall cause a copy of the annual report, the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the Central Board thereon to be laid before each House of Parliament].

⁶5AA. Executive Committee.- (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.

(2) The Executive Committee shall consist of the following persons as members, namely:-

- (a) a Chairman appointed by the Central Government from amongst the members of the Central Board;
- (b) two persons appointed by the Central Government from amongst the persons referred to in clause (b) of sub-section (1) of Section 5-A;

1 Ins. by Act 16 of 1971 sec. 15 (w.e.f. 23-4-1971).

2 Ins. by Act 99 of 1976 sec. 19 (w.r.e.f.1-8-1976).

3 Subs. by Act 99 of 1976, sec. 19, for "and the Family Pension Scheme" (w.e.f. 1.8.1976).

4 Subs. by Act 25 of 1996, sec. 4, for "Family Pension" (w.r.e.f. 16.11.1995).

5 Ins. by Act 33 of 1988, sec. 4 (w.e.f.1.8.1988).

6 Ins. by Act 33 of 1988, sec. 5 (w.e.f. 1.8.1988).

- (c) three persons appointed by the Central Government from amongst the persons referred to in clause (c) of sub-section (1) of Section 5-A;
- (d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause (d) of sub-section (1) of Section 5-A;
- (e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause (e) of Sub-section (1) of Section 5-A;
- (f) the Central Provident Fund Commissioner, *ex-officio*.

(3) The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme.]

1[5B. State Board.- (1) The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees (hereinafter in this Act referred to as the State Board), in such manner as may be provided for in the Scheme.

(2) A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.

(3) The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.

2[5C. Board of Trustees to be body corporate.- Every Board of Trustees constituted under Section 5-A or Section 5-B shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

3[5D. Appointment of Officers.- (1) The Central Government shall appoint a Central Provident Fund Commissioner who shall be the Chief Executive Officer of the Central Board and shall be subject to the general control and superintendence of that Board.

(2) The Central Government may also appoint ⁴[a Financial Adviser and Chief Accounts Officer] to assist the Central Provident Fund Commissioner in the discharge of his duties.]

(3) The Central Board may appoint, ⁵[subject to the maximum scale of pay, as may be specified in the scheme, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and] such other officers and employees as it may consider necessary for the efficient administration of the scheme, ⁶[, the ⁷[Pension] Scheme and the Insurance Scheme.

1 Ins. by Act 28 of 1963, sec. 4 (w.e.f. 30-11-1963).

2 Ins. by Act 28 of 1963, sec. 4 (w.e.f. 30-11-1963).

3 Ins. by Act 28 of 1963, sec. 4 (w.e.f. 30-11-1963).

4 Subs. by Act 33 of 1988, sec. 6, for certain words (w.e.f.1.8.1988).

5 Ins. by Act 33 of 1988, sec. 6 (w.e.f.1.8.1988).

6 Subs. by Act 99 of 1976, sec. 20, for "and the Family Pension Scheme" (w.e.f. 1.8.1976).

7 Subs. by Act 25 of 1996, sec. 4, for "Family Pension" (w.r.e.f. 16.11.1995).

(4) No appointment to ¹[the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Adviser and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' post under the Central Government] shall be made except after consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary in regard to any such appointment-

- (a) for a period not exceeding one year; or
- (b) if the person to be appointed is at the time of his appointment-
 - (i) a member of the Indian Administrative Service, or
 - (ii) in the service of the Central Government or a State Government or the Central Board in a ²[Group 'A' or Group 'B' post].

(5) A State Board may, with the approval of the State Government concerned, appoint such staff as it may consider necessary.

(6) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner, ³[and the Financial Adviser and Chief Accounts Officer] shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Fund.

⁴(7) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of officers and employees under clause (a), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.]

(8) The method of recruitment, salary and allowances, discipline and other conditions of service of officers and employees of a State Board shall be such as may be specified by that Board, with the approval of the State Government concerned.]

⁵[5DD. Acts and proceeding of the Central Board or its Executive Committee or the State Board not to be invalidated on certain grounds.- No act done or proceeding taken by the Central Board or the Executive Committee constituted under Section 5-AA or the State Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the

1 Subs. by Act 33 of 1988, sec. 6, for "Class I or Class II post" (w.e.f. 1.8.1988).

2 Subs. by Act 33 of 1988, sec. 6, for "Class I or Class II post" (w.e.f.1.8.1988).

3 Subs. by Act 33 of 1988, sec. 6, for certain words (w.e.f.1.8.1988).

4 Subs. by Act 33 of 1988, sec. 6, for sub-section (7) (w.e.f. 1.8.1988).

5 Ins. by Act 33 of 1988, sec. 7 (w.e.f.1.8.1988).

constitution of, the Central Board or the Executive Committee or the State Board, as the case may be.]

1[5E. Delegation.- The Central Board may, delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers], subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme, ²[the ³[Pension] Scheme and the Insurance Scheme.

4[6.] Contribution and matters which may be provided for in Schemes.-
⁵[***] The Contribution which shall be paid by the employer to the Fund shall be ⁶[⁷ten per cent]] of the basic wages, ⁸[dearness allowance and retaining allowance (if any), for the time being payable to each of the employees ⁹[(Whether employed by him directly or by or through a contractor)], and the employee's contributions shall be equal to the contribution payable by the employer in respect of him and may, ¹⁰[if any employee so desires, be an amount exceeding ¹¹ten per cent] of his basic wages, dearness allowance and retaining allowance (if any), subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section]:

¹²[Provided that in its application to any establishment or class of establishments which the Central Government, after making such enquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words ¹³["ten per cent"], at both the places where they occur the words ¹⁴[twelve per cent] shall be substituted]:

Provided further that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

¹⁵[*Explanation 1.-* For the purposes of this ¹⁶[section], dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

1 Subs. by Act 33 of 1988, sec. 8, for certain words (w.e.f.1.8.1988).

2 Subs. by Act 99 of 1976, sec. 20, for "and the Family Pension Scheme" (w.e.f. 1.8.1976).

3 Subs. by Act 25 of 1996, sec. 4, for "Family Pension" (w.r.e.f. 16.11.1995).

4 Subs-s. (1) of s. 6 numbered as S. 6 by Act 28 of 1963, s. 5.

5 Brackets and figures omitted by Act 28 of 1963 (w.e.f. 30-11-1963).

6 Subs. by Act 33 of 1988, sec. 9, for "six and a quarter per cent" (w.e.f.1.8.1988).

7 Subs. by Act No.10 of 1998, deemed to have come into force from 22.9.1997

8 Subs. by Act 46 of 1960, sec. 4 for "and the dearness allowance" (w.e.f. 31-12-1960).

9 Ins. by Act 28 of 1963, sec. 5 (w.e.f. 30-11-1963)

10 Subs. by Act 33 of 1988, sec. 9, for certain words (w.e.f.1.8.1988).

11 Subs. by Act No.10 of 1998, deemed to have come into force from 22.9.1997

12 Subs. by Act 33 of 1988, sec. 9, for certain words (w.e.f.1.8.1988).

13 Subs. by Act 10 of 1998, sec. 2, for "eight and one third per cent." and "ten per cent." respectively (w.r.e.f. 22.9.1997).

14 Subs. by Act 10 of 1998, sec. 2, for "eight and one third per cent." and "ten per cent." respectively (w.r.e.f. 22.9.1997).

15 Original Explanation re-numbered as Explanation 1 by Act 46 of 1960, sec. 4, (w.e.f.31-12-1960).

16 Subs. by Act 28 of 1963, sec. 5, for "sub-section" (w.e.f. 30-11-1963).

¹[*Explanation 2.*- For the purposes of this ²[[section] `retaining allowance' means an allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.]

³[***]

4[6A. Employees' Pension Scheme.- (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for-

- (a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and
- (b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,-

- (a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent, of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;
- (b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;
- (c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;
- (d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

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

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that Scheme.

(7) A Pension Fund Scheme, framed under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session

1 Ins. by Act 46 of 1960, sec. 4, (w.e.f. 31-12-1960).

2 Subs. by Act 28 of 1963, sec. 5, for "sub-section" (w.e.f. 30-11-1963).

3 Sub-section (2) and (3) omitted by Act 28 of 1963, sec. 5 (w.e.f. 30-11-1963), sub-section (3) was ins. by Act 37 of 1953, sec. 5.

4 Subs. by Act 25 of 1996, sec. 5, for sections 6A and 6B (w.r.e.f. 16-11-1995). Earlier sections 6A and 6B were ins. by Act 61 of 1971, sec. 18 (w.e.f. 23-4-1971).

or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme 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 scheme.]

1[***]

2[6C. Employees' Deposit Linked Insurance Scheme.- (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-Linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-Linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee, as the Central Government may, by notification in the Official Gazette, specify.

Explanation.- For the purposes of this sub-section, the expressions 'dearness allowance' and 'retaining allowance' have the same meaning as in Section 6.

3[***]

(4)(a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

4[***]

(5) The Insurance Fund shall vest in the Central Board and be administered by it in such manner as may be specified in the Insurance Scheme.

(6) The Insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) The Insurance Scheme may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.]

5[6D. Laying of Schemes before Parliament.- Every scheme framed under Section 5, Section 6-A and Section 6-C shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making

1 Subs. by Act 25 of 1996, sec. 5, for sections 6A and 6B (w.e.f. 16-11-1995). Earlier sections 6A and 6B were ins. by Act 61 of 1971, sec. 18 (w.e.f. 23-4-1971).

2 Ins. by Act 99 of 1976 sec. 21 (w.e.f. 1-8-1976).

3 Sub-section (3) omitted by Act No.25 of 1996, sec. 6 (w.r.e.f. 16-11-1995).

4 Clause (b) omitted by Act No.25 of 1996, sec. 6 (w.r.e.f. 16-11-1995).

5 Ins. by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15.5.1986).

any modification in the scheme, or both Houses agree that the scheme should not be framed, the scheme 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 scheme.

7. Modification of Scheme.- (1) The Central Government may, by notification in the Official Gazette, add to ¹[amend or vary, either prospectively or retrospectively, the Scheme, the ²[Pension] Scheme, or the Insurance Scheme as the case may be].

³[(2) Every notification issued under Sub-section (1) shall be laid, as soon as may be after it is issued, before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the sessions or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree 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.]

4[7A. Determination of moneys due from employers.- ⁵[(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner or any Assistant Provident Fund Commissioner may by order,-

- (a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and
- (b) determine the amount due from any employer under any provision of this Act, the Scheme or the ⁶[Pension] Scheme or the Insurance Scheme, as the case may be,

and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary.]

(2) The Officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely-

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

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purpose of Section 196, of the Indian Penal Code (45 of 1860).

1 Subs. by Act 99 of 1976, sec. 22, for "Family Pension" (w.e.f. 1.8.1976).

2 Subs. by Act 25 of 1996, sec. 4, for "Family Pension" (w.e.f. 16.11.1995).

3 Subs. by Act 4 of 1986, sec. 2 and Sch., for sub-section (2) (w.e.f. 15.5.1986).

4 Ins. by Act 28 of 1963, sec. 6 (w.e.f. 30-11-1963).

5 Subs. by Act 33 of 1988, sec. 10, for sub-section (1) (w.e.f. 1.8.1988).

6 Subs. by Act 25 of 1996, sec. 4, for "Family Pension" (w.r.e.f. 16.11.1995).

(3) No order ¹[***] shall be made under sub-section (1), unless ²[the employer concerned] is given a reasonable opportunity of representing his case.

³[(3-A) Where the employer, employee or any other person required to attend the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so, the officer conducting the inquiry may decide the applicability of the Act or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record].

⁴[(4) Where an order under Sub-section (1) is passed against an employer *ex-parte*, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the officer.

Explanation.- Where an appeal has been preferred under this Act against an order passed *ex-parte* and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the *ex-parte* order.

(5) No order passed under this Section shall be set aside on any application under sub-section (4) unless notice thereof has been served on the opposite party.]]

⁵**[7B. Review of orders passed under section 7-A-** (1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:

Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.

(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(4) Where the officer is of the opinion that the application for review should be granted, he shall grant the same:

Provided that,-

1 The words "determining the amount due from any employer" omitted by Act 33 of 1988, sec. 10, (w.e.f.1.8.1988).

2 Subs. by Act 33 of 1988, sec. 10, for "the employer" (w.e.f.1.8.1988).

3 Ins. by Act 33 of 1988, sec. 10 (w.e.f. 1.8.1988).

4 Subs. by Act 33 of 1988, sec. 10, for sub-section (4) (w.e.f.1.8.1988).

5 Ins. by Act 33 of 1988, sec. 11 (w.e.f. 1.7.1997).

The Employees Provident Funds and Miscellaneous Provisions Act, 1952 Notes



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