

Provident Fund Act, 1925

19 of 1925

[27 August 1925]

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An Act to amend and consolidate the law relating to Government and other Provident Funds. WHEREAS it is expedient to amend and consolidate the law relating to Government and other Provident Funds: It is hereby enacted as follows:--

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Provident Funds Act, 1925 .
- (2) It extends to the whole of India 2[except the State of Jammu and Kashmir] 3[.
- (3) It shall come into force on such date 4[as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,--

- (a) " compulsory deposit" means a subscription to, or deposit in, a

Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance, 5[or the payment of subscriptions or premia in respect of a family pension fund], and includes any contribution 6[and any interest or increment which has accrued under the rules

1. For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 122. This Act has been declared to be in force in the district of khondmals by Regulation 4 of 1936, s, 3 and Sch.; and the district of Angul by Regulation 5 of 1936, s. 3 and Sch; also partially extended to Berar by C. P. and Berar Act 4 of 1941; amended partially in U. P. by U. P. Act 19 of 1953. The Act has been extended to Goa, Daman and diu by Regulation 12 of 1962, s. 3 and Sch; to Pondicherry (w. e. f. 1- 10- 1963) by Regulation 7 of 1963. s. 3 and Sch. I, to Dadra and Nagar Haveli (w. e. f. 1- 7- 1965) by Regulation 6 of 1963, s. 2 and Sch. I, and to Laccadive, Minicoy and amindivi Islands (w. e. f. 1- 10- 1967) by Regulation 8 of 1965, s. 3 and Sch.

2. Subs. by Act 3 of 1951. s. 3 and Sch; for" except part B States".

3. The words" including British Baluchistan" omitted by the A. O. 1948. 4. 1st April, 1926, Gazette of India, 1925, Pt. I, p. 1182. 5. Ins. by Act 1 of 1930, s. 2. 6. The words" credited in respect of any such subscription or deposit" omitted by s. 2, ibid.

of the fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;

(b) " contribution" means any amount credited in a Provident Fund, by 1[any authority administering the Fund], by way of addition to, 2[a subscription to or deposit or balance at the credit of an individual account in,] the Fund; and" contributory Provident Fund" means a Provident Fund the rules of which provide for the crediting of contributions;

(c) " dependant" means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund, namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son s widow and child, and, where no parent of the subscriber or depositor is alive, a paternal grand- parent;

(d) " Government Provident Fund" means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of 3[the Secretary of State, the Central Government, the Crown

Representative or any State Government] for any class or classes of 4[persons in the service of the Government] or 5[of persons employed in educational institutions or employed by bodies existing solely for educational purposes], 6[and references in this Act to the Government shall be construed accordingly];

(e) " Provident Fund" means a fund in which subscription or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions 7[and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund;

(f) 8[" Railway administration" means--

(i) any company administering a railway or tramway in 9[any part of India] either under a special Act of Parliament

1. Subs. by Act 28 of 1925, s. 2, for" the authority by which the Fund has been constituted". 2. Subs. by Act 1 of 1930, s. 2, for" or otherwise in respect of, a subscription to, or deposit in." 3. Subs. by the A. O. 1937, for" the Government". 4. Subs. by Act 25 of 1942, s. 3 and Sch. II, for" its employees". 5. Subs. by Act 7 of 1927, s. 2, for" for teachers in educational institutions". 6. Ins. by the A. O. 1937. 7. The words" credited in respect of such subscriptions or deposits" omitted by Act 1 of 1930. s. 2. 8. Subs. by the A. O. 1937, for the original cl. (f). 9. Subs. by Act 3 of 1951, s. 3 and Sch., for" a part A State or a Part C State".

1[of the United Kingdom] or an Indian law, or under contract with the Government, or

(ii) the manager of any railway or tramway administered by the 2[Central Government] or by a State Government, and includes, in any case referred to in sub- clause (ii), the 2[Central Government] or the State Government, as the case may be]

(g) " Railway Provident Fund" means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees.

3. Protection Of Compulsory Deposits :-

(1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 , (5 of 1920 .) shall be entitled to, or have

may claim on, any such compulsory deposit.

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund to any dependant of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall, subject to any deduction authorised by this Act and, save where the dependant is the widow or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and shall, subject as afore- said, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor

4. Provisions Regarding Re- Payments :-

(1) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the or balance, as the case may be, to the subscriber or depositor, or, if he is dead, shall--

(a) if the sum or balance, or any part thereof, vests in a dependant under the provisions of section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf; or

1. Ins. by the A. O. 1950. 2. Subs. by the A. O. 1948, for" Federal Railway Authority".

(b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (a), to any person nominated to receive it under the rules of the Funds, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or

(c) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same,--

(i) to any person nominated to receive it under the rules of the Fund on production by such person of probate of letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1889 1[, (7 of 1889 .) or under the Bombay Regulation VIII of 1827 , entitling the holder thereof to receive

payment of such sum, balance or part, or

(ii) where no person is so nominated, to any person who produces such probate, letters or certificate: Provided that, where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall after making any deduction authorised by this Act and any payment due under clause (a) to or on behalf of the widow or children of the subscriber or depositor--

(i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or

(ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it.

(2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government or the railway administration, as the case may be, from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

1. See now the Indian Succession Act, 1925 (39 of 1925).

5. Rights Of Nominees :-

(1) Notwithstanding anything contained in any law for the time being in force or in any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund, purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring before the sum has become payable or before the sum, having become payable, has been paid, the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all other persons, to receive such sum or part thereof, as the case may be, unless--

(a) such nomination is at any time varied by another nomination made in like manner or expressly cancelled by notice given in the

manner and to the authority prescribed by those rules, or
(b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein,-- and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon the said person, become void and of no effect: Provided that where provision has been duly made in the nomination in accordance with the rules of the Fund, conferring upon some other person such right in the stead of the person deceased, such right shall, upon the decease as aforesaid of the said person, pass to such other person.]

(2) Notwithstanding anything contained in 2[the Indian Succession Act, 1925], (39 of 1925 .) or the Bombay Regulation VIII of 1827 , any 3[person, who becomes entitled as aforesaid, may be granted] a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased.

(3) 4[The provisions of this section as amended by sub- section (1) of section 2 of the Provident Funds (Amendment) Act, 1946 , (11 of 1946 .) shall apply also to all such nominations made before the date of the commencement of that Act:

1. Subs. by Act 11 of 1946, s. 2, for the original sub- section. 2. Subs. by Act 35 of 1950, s. 3 and Sch. II, for" the Succession Certificate Act, 1889 ". 3. Subs. by Act 11 of 1946, s. 2. for" such person shall, on the death of the subscriber or depositor, be entitled to the grant of". 4. Added by s. 2, *ibid*.

Provided that the provisions of this section as so amended shall not operate to affect any case, in which before the said date any sum has been paid, or has under the rules of the Fund become payable in pursuance of any nomination duly made in accordance with those rules.

6. Power To Make Deductions :-

When the sum standing to the credit of any subscriber or depositor in any Government or Railway Provident Fund which is a contributory Provident Fund becomes payable, there may, if the authority 1[specified in this behalf in the rules of the Fund] so directs, be deducted therefrom and paid to 2[Government or the Railway administration, as the case may be,]--

(a) any amount due under a liability incurred by the subscriber or

depositor to 2[Government or the Railway administration], but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or
(b) where the subscriber or depositor has been dismissed from 3[his employment] for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the commencement thereof, the whole or any part of the amount of any such contributions, interest and increment.

6A. Section 6A :-

Withholding or recovery of Government contributions in case of Central Government officers taking up, without prior permission, commercial employment within two years of their retirement.

(1) In this section, unless the context otherwise requires,--

(a) " Central Government officer" means a subscriber to, or depositor in, a contributory provident fund constituted by the Central Government, who, immediately before his retirement, is a member of a Central Service Class I, but does not include an officer appointed under a contract of service for a specified term;

(b) " commercial employment" means employment in any capacity [including that of an agent] under any company, co- operative society, firm or individual engaged in trading, commercial, industrial, financial or Professional business and includes also--

(i) a directorship of a company;

(ii) the holding of any office, whether elective or other wise, such as that of president, chairman, manager, secretary, treasurer, by whatever name called in a co- operative society; and

1. Subs. by Act 28 of 1925, s. 3, for" by which the Fund has been constituted". 2. Subs. by s. 3, *ibid.*, for" that authority". 3. Subs. by s. 3, *ibid.*, for" the employment of that authority". 4. Ins. by Act 46 of 1975, s. 2 (w. e. f. 7- 2- 1977).

(iii) the setting up of practice, either independently or as partner of a firm, as adviser of consultant in matters in respect of which the Central Government officer,--

(A) has no professional qualifications and the matters in respect of which the practice is to be set up or is carried on are relatable to his official knowledge or experience, or

(B) has professional qualification, but the matters in respect of which such practice is to be set up are such as are likely to give his clients an unfair advantage by reason of the posts held by him under the Central Government, or

(C) has to undertake work involving liaison or contact with the offices or officers of Central Government, but does not include employment in or under a corporation or company wholly or substantially owned or controlled by Government or employment in or under a body controlled or financed wholly or substantially by Government;

(c) " Government contributions" means contributions made after the commencement of the Provident Funds (Amendment) Act, 1975 , (46 of 1975 .) in respect of any period after such commencement, by the Central Government or by a State Government or by a local authority within the meaning of the Local Authorities Loans Act, 1914 (9 of 1914 .);

(d) " Prescribed" means prescribed by rules made by the Central Government by notification in the Official Gazette.

(2) No Central Government officer shall have any right to the Government contributions made to his credit in a contributory provident fund in any case where he takes up commercial employment at any time before the expiry of two years from the date of his retirement without the prior permission of the Central Government. Explanation 1.-- For the purposes of this sub- section and sub- section (7)," date of retirement" in relation to a Central Government officer re- employed after retirement without any break either in the same or any other Class I post under the Central Government or any other equivalent post under a State Government, shall mean the date on which such Central Government officer finally ceases to be re- employed in Government service. Explanation 2.-- A Central Government officer permitted by the Central Government to take up a particular commercial employment during his leave preparatory to retirement shall be deemed, for the purposes of this sub- section, to have obtained prior permission of the Central Government for his continuance in such employment after retirement.

(3) Subject to the provisions of sub- section (4), the Central Government may, by order in writing, on an application made in the prescribed form by a Central Government officer, grant, subject to such conditions, if any, as it may deem necessary, permission, or refuse, for reasons to be recorded in the order, permission, to such officer to take up the commercial employment specified in the application.

(4) In granting or refusing permission under this section to a Central Government officer for taking up any commercial

employment, the Central Government shall have regard to the following factors, namely:--

(a) the nature of the employment proposed to be taken up and the antecedents of the employer;

(b) whether his duties in the employment which he proposes to take up might be such as to bring him into conflict with Government;

(c) whether the officer while in service had any such dealing with the employer under whom he proposes to seek employment as might afford a reasonable basis for the suspicion that such officer had shown favours to such employer;

(d) any other relevant factors which may be prescribed.

(5) Where within a period of sixty days of the date of receipt of an application under sub-section (3), the Central Government does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the Central Government shall be deemed to have granted the permission applied for.

(6) Where the Central Government grants the permission applied for subject to any conditions or refuses such permission, the applicant may, within thirty days of the receipt of the order of the Central Government to that effect, make a representation against any such condition or refusal and the Central Government may make such orders thereon as it deems fit: Provided that no order other than an order cancelling such condition or granting such permission without any conditions shall be made under this sub-section without giving the person making the representation an opportunity to show cause against the order proposed to be made.

(7) If any Central Government officer takes up any commercial employment at any time before the expiry of two years from the date of his retirement without the prior permission of the Central Government or commits a breach of any condition subject to which permission to take up

any commercial employment has been granted to him under this section, it shall be competent for the Central Government to declare by order in writing and for reasons to be recorded therein that he shall not be entitled to such part of the Government contributions made in relation to such officer as may be specified in the order and if he has received payment thereof, to direct that he shall refund to the Central Government an amount equivalent to such part of the Government contributions: Provided that no such order shall be made without giving the officer concerned an opportunity of showing cause against such declaration or direction:

Provided further that in making any order under this sub-section, the Central Government shall have regard to the following factors, namely:--

- (i) the financial circumstances of the officer concerned;
- (ii) the nature of, and the emoluments from, the commercial employment taken up by the officer concerned;
- (iii) such other relevant factors as may be prescribed.

(8) Any amount required to be refunded by an order under sub-section (7) may, if it is not refunded within the prescribed period, be recovered as arrears of land revenue.

(9) Every order passed by the Central Government under this section shall be communicated to the officer concerned.

(10) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act or the rules applicable to any contributory provident fund.

(11) Every rule made by the Central Government under this section 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 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 rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

7. Protection For Acts Done In Good Faith :-

No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

8. Power To Apply The Act To Other Provident Funds :-

(1)] The 2[appropriate Government] may, by notification in the Official Gazette, direct that the provisions of this Act 3[(except section

1. The original s. 8 re- numbered as sub- section (1) of that section by Act 1 of 1930. s. 3. 2. Subs. by the A. O. 1937, for" L. G.". 3. Ins. by Act 46 of 1975, s. 3 (w. e. f. 7- 2- 1977).

6A)] shall apply to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local Authorities Loans Act, 1914 , (9 of 1914 .) and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government.

(2) 1[The 2[appropriate Government] may, by notification in the Official Gazette, direct that the provisions of this Act 3[(except section 6A)] shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule, or of any group of such institutions, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and the authority having custody of the Fund were the Government: Provided that section 6 shall apply as if the authority making the contributions referred to in that section were the Government.

(3) The 2[appropriate Government] may, by notification in the Official Gazette, add to the Schedule the name of any public institution it may deem fit, and any such addition shall take effect as if it had been made by this Act.]

(4) 4[In this section" the appropriate Government" means--

(a) in relation to a cantonment authority, a port authority for a major port, and any institution which, or the objects of which, appear to the Central Government to fall within List I in the Seventh Schedule to 5[the Constitution], the Central Government; and

(b) in other cases, the state Government. Explanation.--" The State Government" in relation to an institution registered under the Societies Registration Act, 1860 , (21 of 1860 .) means the State government of the State in which the society is registered.

9. Savings As To Estates Of Soldiers :-

Nothing in section 4 or section 5 shall apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act. 1893 , applies. (56 and 57 Vict., c. 5.)

10. Repeals :-

Rep. by the Repealing Act. 1927 (12 of 1927), s. 2 and Sch.

1. Added by Act 1 of 1930, s. 3. 2. Subs. by the A. O. 1937, for" G. G. in C." 3. Ins. by Act 46 of 1975, s. 3 (w. e. f. 7- 2- 1977). 4. Ins. by the A. O. 1937. 5. Subs. by the A. O.1950, for" the

Government of India Act, 1935 "