

PROVIDENT FUNDS ACT, 1925

19 of 1925

[27th August, 1925]

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"The Provident Funds Act at present provides that any sums standing to the credit of depositors in Provident Funds to which the Act applies at the decease of the depositor and which are payable, under the rules of the Fund to the widow or children of the deceased shall vest in such widow or children. Such sums do not, therefore, form part of the estate of the deceased, and the interests of the widow and children are thereby fully protected. It is considered that this provision is unduly restrictive, and that the same degree of protection should be accorded to other dependants of the deceased besides his widow and children. Otherwise, the accumulations of a depositor, who dies before such accumulations are disbursed to him, may be held to be liable to meet the debts of the deceased, and the object of the Provident Fund in Question may be frustrated. The Act protects compulsory deposits in a Provident Fund from attachments but not from assignments which may have been made to take effect on the depositor's retirement or on his death. On the other hand, the rules regulating the General Provident Fund, which is one of the most important funds to which the Act applies, provide that Government will not be bound by or recognise any assignment or encumbrance executed or attempted to be created which affects the disposal of the accumulations of a depositor who dies before retirement. The validity of this provision is open to question. It is considered that.

in order to give effect to the object for which Provident Funds have been constituted, it should be made clear that, with certain exceptions, in spite of debts, liabilities, assignments or any form of encumbrance, the depositor, on retirement, or his dependants or nominees, if he dies before retirement or after retirement, but before actual disbursement, should receive intact the accumulations at his credit in the fund. The exceptions proposed to the provision are as follows:- (i) The rights of third parties obtained before the proposed amendment comes into operation should be protected: and (ii) in the case of contributory Provident Funds, the authority by which the fund was constituted should be entitled to withhold amounts not exceeding the total contributions made by the authority and the interest or increment on such contributions, if those amounts are due to the authority under a liability incurred by the depositor. or if the depositor is dismissed from the authority's employment or resigns his employment within five years of the commencement thereof Again, under the Act as it stands, apart from the amounts which vest in the widow or children of a depositor, the disbursement of the accumulations in a fund at the time of the death of a depositor is impossible if the total assets exceed Rs. 2,000 without the production of probate or letters of administration or a succession certificate It is considered desirable to permit such disbursement of the accumulations if the amount does not exceed Rs. 5,000 instead of Rs. 2,000 at present. A corresponding provision is contained in the Government Savings Bank Act under which the amount of a deposit which can be disbursed in this manner is Rs. 3,000 as compared with Rs. 1,000 before the Act. was amended in 1917. Similarly under Securities Act, 1920, on the death of a person who was entitled to a Government security or securities, the prescribed officer may now determine who is the person entitled to the security or securities, if they do not in the aggregate exceed Rs. 5,000. without the production of probate, letters of administration or a succession certificate. It has further been considered desirable to provide definitely in the Act for the rights of nominees and also to indicate that a deposit is a compulsory deposit within the meaning of the Act and continues to be so long as it remains in the hands of the administrators of the fund despite the existence of an option permitting withdrawal from the fund on the condition that the amount withdrawn shall be expended on the taking out of. or on contributions towards, an insurance policy. In order to give effect to these suggestions and also to certain other minor points it is

considered desirable to amend the existing Act and to re-enact it in a consolidated form."-Gazette of India. 1924, Part V, p. 122. Amending Act 46 of 1975; At present every retired Central Service Class I officer entitled to pension is prohibited from taking up commercial employment before the expiry of two years from the date of his retirement unless he obtains the previous sanction of the President for taking up such employment. If such a pensioner accents any commercial employment without the previous sanction of the President. no pension is payable to him in respect of any period for which he is so employed or for such longer period as the President may direct [vide R.10 of the Central Civil Services (Pension) Rules, 1972.] 2. In the interest of purity of administration. it is considered necessary to impose similar restrictions, with suitable safeguards in the case also of members of Central Services Class I entitled to the benefits of a contributory Provident Fund. For this purpose. the Bill seeks to amend the Provident Funds Act. 1925. 3. The Bill seeks to achieve the above object.-S.O.R-Gaz. of Ind., 24-3-1975. Pt. II, S. 2. Ext.. p.1 289

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 ¹[except the State of Jammu and Kashmir ² [* * *].

(3) It shall come into force on such date" as the Central Government may, by notification in the Official Gazette. appoint.

1. Substituted for the words "except Part B States" by the Part B States (Laws) Act. 1951 (3 of 1951). section 3 and Schedule (1-4-1951).

2. The words "including British Baluchistan" were repealed by A.C.A.O., 1948.

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 ¹[or the payment of subscriptions or premia in respect of a family pension fund], and includes any

contribution ² [* * *] and any interest or increment which has accrued under the rules of the fund on any such subscription, deposit or contribution, and also any such sub- scription. deposit contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency:

1. Inserted by the Provident Funds (Amendment) Act. 1930 (I of 1930), Section 2.
2. The words "credited in respect of any such subscription or deposit" were re- pealed. the Provident Funds (Amendment) Act. 1930 (I of 1930), Section 2.

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 Offi- cial Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 , shall be entitled to, or have any 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 authorized by law to receive payment on his behalf, shall, subject to any deduction authorized 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 aforesaid, 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

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4. Provisions regarding repayments :-

(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 authorized by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum 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 authorized by law to receive payment on his behalf; or

(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 Fund, 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 or 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, 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 authorized 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 authorized 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.