

* Chapter 19 *
* Unit II - Employees
provident funds and miscellaneous
provisions act, 1952 *

Even when there was no legislation requiring to provide Provident fund schemes for the benefit of employees, yet these schemes were introduced by some organisations.

The Three schemes have been formulated by Central government under this Act.

These schemes confers significant social security benefits on workers.

1) Employees Provident Fund Schemes, 1952.

2) The employees pension Scheme, 1995.

3) The Employees Deposit - linked Insurance Scheme, 1976.

* APPLICATION OF THE ACT -

1) Every establishment where 20 or more persons are employed, which is a factory engaged in any industry specified in Schedule 1.

2) OR any other establishment specified by central government by notification in official gazette, where 20 or more persons are employed.

3) Central government shall give notice within two months for establishment or persons less than 20 as may be prescribed in notification.

4) Section 1(3)(b) :- It empowers Central Government to apply Act to trading or commercial establishments whether those establishments are factories or not.

* Non - applicability of the Act to Certain establishments.

• Section 16(1) : It provides that Act shall not apply to following establishments,

- Establishments registered under Co-operative Societies Act, 1912 or any other law related to Co-operative Societies, where less than 50 workers employed working without aid of power.

- Those establishments which are under the control of Central or state Government whose employees entitled to get benefit of provident fund or pension.

- Those establishments which are set up under ~~control~~ any Central, Provincial or state Act and whose employees are entitled to get benefit of provident fund & pension.

* SCHEMES UNDER THE ACT

I] Employees Provident fund scheme.

- The Central Government has framed 'Employees Provident fund scheme'.

- The fund is administrated by Central Board constituted under Section 5A.

• Administration of funds

Section 5(A) : It provides that Central Government may constitute a Board of Trustees, for territories to which this Act extends by notification in official Gazette.

• Class of employees entitled & required to join P.F

Every employee working in factory or any other establishment to which this scheme applies shall be member of fund from the date of joining factory or establishment other than excluded employee.

• Excluded employee means -

1) Employee who have withdrawn full amount of accumulation.

2) Employee whose salary exceeds 15,000 per month as an apprentice.

* Contributions.

Section 6 :- Contribution paid by employer shall be 10% of basic wages. Employees contribution shall be equal to contribution payable by employer. Each contribution shall be calculated nearest rupee, fraction or rupee less than 50 paise should be ignored. Dearness allowance should include any food concession given to employee.

- Investment - The amount received in provident fund invested by Board of Trustees according to investment pattern approved by Government of India.
 - Members of P.F will get interest on money invested by them.
 - The rate of interest of each financial year is recommended by board of trustees.
- Advances / withdrawals - Advances from P.F can be taken from following purpose :
 - 1) Non - refundable advance for payment of premia towards a policy of life insurance.
 - 2) Withdrawal for purchasing a dwelling house or flat for or for ~~construct~~ construction of dwelling house.

- 2) Non-refundable advance to member due to temporary closure of any factor / establishment for more than 15 days.
- 4) Non-refundable advance in case of hospitalisation which is lasting one month or more or any major surgical operation in hospital, or for any disease.
- 5) Non-refundable advance for treatment of family member or employee who has been hospitalised for 1 month or more.
- 6) Non-refundable advances in case of marriage of son/daughter, self-marriage or for education of son/daughter.
- 7) Non-refundable advances to physically handicapped members.
- 8) Withdrawals for repayment of loans in special cases.
- 9) Non-refundable advances in case of damage to property due to calamities of nature.
- 10) Non-refundable advance to members affected by cut in the supply of electricity.

2] Employees Pension Scheme -

- This scheme is compulsory for all members of family pension scheme, 1971. It is also compulsory for all members of P.F.

- To get benefits of this scheme minimum 10 years service is required for entitlement of pension.

- Normal superannuation pension is payable on attainment of 58 years age.

- Pension at discount rate is also payable on attainment of age of 50 years.

- This scheme provides payment of monthly pension in following cases.

- Superannuation attaining age of 58 years.
- Retirement.
- Permanent total disablement.
- Death, during service.
- Death after retirement / superannuation / disablement.
- Children pension.
- Orphan pension.

3] Employees deposit linked Insurance Scheme -

- The purpose of this scheme is to provide life insurance benefit to employees, or establishment to

which this act applies.

- Application of the scheme

It is applicable to all factories / establishment to which Employees P.F & Misc. provisions Act applied.

All employees who are members of P.F in both exempted & unexempted establishment are covered under the scheme.

- Contribution to Insurance fund :-

Employer is require to pay contributions into I.F at rate of 1% of total basic wages, dearness allowance etc.

Employees are not required to contribute to insurance fund.

- Administrative Expenses.

The employer of establishments to which this Act applies shall pay all charges to I.F (insurance fund)

- Nomination

The nomination made by member under Employee P.F scheme shall be treated as nomination under this scheme.

- Payment of assurance benefit

In case of death of member, amount equal to average in account of deceased in last 12 months / period of membership whichever is less shall be paid to person eligible to receive amount.

- Exemption from scheme.

Factories / establishments which have Insurance scheme providing more benefits than those provided under the scheme shall be exempted from scheme.

* DETERMINATION OF MONEYS DUE FROM EMPLOYERS.

- Determination of moneys due.

Section 7A - It vests powers of determining the amount due from employer under provisions and deciding dispute regarding applicability in central P.F commissioner.

Additional P.F commissioner, Deputy P.f commissioner or Regional P.f Commissioner may conduct such inquiry as he may consider to be necessary.

- Mode of recovery of moneys due from employee.

Section 8 - It prescribes the mode of recovery of moneys due from employees by Central P.F commissioner or a officer authorised by him as same manner as on arrear of land revenue.

- Recovery of moneys due employers & contractors.

Section 8A - When employer pays any contribution of employee employed by contractor,

Shall be recovered by employer from deduction from any amount payable to contractor under any contract or as a debt payable by contractor.

iv) Measures for recovery of amount due from employer.

The authorised officer under this act shall issue a certificate for recovery of amount due from employer to recovery officer.

The recovery officer has got powers to attach or sell the property of employer & can call for arrest & detention of employer.

The authorised officer can grant time to employer to make payment of dues.

v) Priority of payment of contributions over the debts.

Section 11 :- It provides that contribution towards P.F should be kept superior with respect to other payments of employer. Even when the employer become insolvent or winding up order has been made P.F shall kept superior.

* EMPLOYER NOT TO REDUCE WAGES.

Section 12 - It provides that employer is prohibited not to reduce directly or indirectly wages or any employee to whom the scheme applies.

Employer should not reduce quantum of benefits in nature of old age pension, gratuity or P.F to which the employee is entitled under terms of employment, express or implied, simply by reason of his liability for payment of any contribution to fund.

* TRANSFER OF ACCOUNTS

Section 13A(1) - It provides that when an employee in an establishment to which this Act applies leaves his employment and gets re-employment in another establishment to which this act does not apply, P.F of establishment left by him shall be transferred within such time as prescribed by C. Govt.

Sub-section (2) - Provides that when employee employed in establishment to which act does not apply, leaves his employment & obtain re-employment in establishment to which act applies amount of accumulation P.F

of -e of establishment left by him shall be transferred to P.F of establishment in which he is re-employed.

* POWER TO EXEMPT

Section 17 - It authorises the appropriate government to grant exemptions to certain establishments or persons from all or any provisions of scheme. Exemption shall be granted by notification in Official Gazette.