

APPENDIX IV

**PROVIDENT FUNDS ACT, 1925**

(Act No. XIX of 1925)

(As amended from time to time)

[ 27<sup>th</sup> August 1925 ]

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, except the State of Jammu and Kashmir.

(3) It shall come into force on such date 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 (or the payment of subscriptions or premia in respect of a family pension fund) and includes any contribution 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 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 any authority administering the fund, by way of addition to, 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) “dependent” 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 the Secretary of State, the Central Government, the Government Representative or any State Government for any class or classes of persons in the service of the Government or of persons employed in

educational institutions or employed by bodies existing; solely for educational purposes and references in this Act to the Government shall be construed accordingly;

- (e) “Provident Fund” means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions and any interest or increment accruing on such subscriptions, deposits or contributions and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the fund ;
- (f) “Railway administration” means---
  - (i) any company administering a railway or tramway in any part of India either under a special Act or Parliament 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 Central Government or by a State Government, and includes, in any case referred to in sub-clause (ii), the Central Government or the State Government, as the case may be ; and
- (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 or any receiver appointed under the Provident Insolvency Act, 1920 (V of 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 dependent 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 the Act and, save where the dependent 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 dependent, and shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependent before the death of the subscriber or depositor.

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 authorised by the 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 dependent under the provisions of Section 3, pay the same to the dependent or to such person as may be authorised 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 Indian Succession Act, 1925 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 certificates:

Provided that, where the whole or any part of any sum standing to the credit of 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 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 Courts 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.

**5. Rights of Nominees.** —(1) Notwithstanding anything contained an 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 some other 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 instead 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 the Indian succession Act, 1925 (xxxix of 1925) or the Bombay Regulation VIII of 1827 any person, who becomes entitled as aforesaid 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 or probate or letters of administration to the estate of the deceased.

(3) The provision of this section as amended by sub-section(1) of Section of the Provident Funds (Amendment) Act, 1946, (II of 1946) (correction (1) above), shall apply as to all such nominations made before the date of commencement of that Act; Provided that the provisions of this section as so amended shall not operate to effect any case, in which before the said date any sum has been paid or has under the rules of the funds 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 specified in this behalf in the rules of the fund so directs, be deducted therefrom and paid to Government or the Railway administration, as the case may be—

- (a) any amount due under a liability incurred by the subscriber or depositor to Government or 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 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.

**6-A. 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 by does not include an officer appointed under a contract of service for a specified terms;
- (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 otherwise, such as that of president, chairman, manager, secretary, treasurer, by whatever name called in a co-operative society; and
- (iii) the setting up of practice, either independently or as partner of a firm, as adviser or 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 client an unfair advantage by reasons of the post 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 contribution” means contributions made after the commencement of the Provident Fund (Amendment ) Act, 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 ;
- (d) “Prescribed” means prescribed by rules made by 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 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 the 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.

(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 causes 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 provisions 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 modifications 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 other Provident Funds.**—(1) The appropriate Government may, by notification in the Official Gazette, direct that the provisions of this Act (except section 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 (IX 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) The appropriate Government may, by notification in the Official Gazette direct that the provisions of this act (except section 6A) shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the schedules 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 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 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) 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 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 Regulation Act, 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.

**10.Repeals.**—(Repealed by the Repealing Act 1927 (12 of 1927) 5.2 & Sch.)

## THE SCHEDULE

### List of Institutions

(See sub-section (2) of section 8)

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28.A group Committee of the sleeper pool of Indian Railways.

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37. The Indian Railway Conference Association.

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