

SYNOPSIS

14. Appointment of officers of Central Board:
15. Schemes:
16. Funds:
17. Contribution in respect of employees and contractors:
18. Fund to be recognised under Act 43 of 1961:
19. Priority of payment of contributions over other debts:
20. Chapter not to apply to certain establishments:
21. Authorising certain employers to maintain provident fund accounts:
22. Transfer of accounts:
23. Appeal to Tribunal:

14. Appointment of officers of Central Board:

(1) The Central Government may appoint a Central Provident Fund Commissioner who shall be the Chief Executive Officer of the Central Board and shall also function as head of the Employees' Provident Fund Organisation.

Explanation.--For the purposes of this Code, the expression "Employees' Provident Fund Organisation" means the organisation consisting of officers and employees of the Central Board.

(2) The Central Provident Fund Commissioner shall be subject to the general control and superintendence of the Central Board in the discharge of his functions under this Code.

(3) The Central Government shall also appoint a Financial Advisor and Chief Accounts Officer to assist the Central Provident Fund Commissioner in the discharge of his duties.

(4) The Central Board may appoint, 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 Provident Fund Scheme, the Pension Scheme and the Insurance Scheme or other responsibilities assigned to the Central Board from time to time by the Central Government.

(5) No appointment to 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 the Central Board in a Group 'A' or Group 'B' post.

(6) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner 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 Provident Fund.

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(7) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners 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:

Provided further that the salary and allowances of the officers specified in this clause shall not exceed the scale of pay respectively provided in the Provident Fund Scheme:

(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.

**15. Schemes:**

(1) The Central Government may, by notification--

(a) frame a scheme to be called the Employees' Provident Fund Scheme for which the provident funds shall be established under this Chapter for employees or for any class of employees and

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specify the establishments or class of establishments to which the said scheme shall apply;

(b) frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for--

(i) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies;

(ii) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and

(iii) nominee pension;

(c) 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 Chapter applies;

(d) frame any other scheme or schemes for the purposes of providing social security benefits under this Code to self-employed workers or any other class of persons; and

(e) modify any scheme referred to in clauses (a), (b), (c) and (d) by adding thereto, amending or varying therein, either prospectively or retrospectively.

(2) Subject to the provisions of this Chapter, the schemes referred to in clauses (a), (b) and (c) of sub-section (1) may provide for all or any of the matters respectively specified in Part A, Part B and Part C of the Fifth Schedule.

(3) The schemes may provide that all or any of its provisions shall take effect either prospectively or retrospectively on and from such date as may be specified in that behalf in the scheme.

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16. Funds:

(1) The Central Government may, for the purposes of--

(a) the Provident Fund Scheme, establish a Provident Fund where the contributions paid by the employer to the fund shall be ten per cent. of the wages for the time being payable to each of the employees (whether employed by him directly or by or through a contactor), and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten per cent. of the wages, 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:

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

Provided further that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of employees' contributions and the period for which such rates shall apply for any class of employee;

(b) the Pension Scheme, establish a Pension Fund in the manner specified in that scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,--

(i) such sums from the employer's contribution under clause (a) not exceeding eight and one-third per cent. of the wages or such

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per cent. of wages as may be notified by the Central Government;

(ii) such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies;

(iii) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;

(c) the Insurance Scheme, establish a Deposit-Linked Insurance Fund in the manner specified in that scheme by that Government into which there 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 wages or such per cent. of wages as may be notified by the Central Government for the time being payable in relation to such employee:

Provided that 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 this clause, 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 the Insurance Scheme.

(2) The Provident Fund, the Pension Fund and the Insurance Fund shall vest in, and be administered by, the Central Board in such manner as may be specified in the respective schemes.

## **17. Contribution in respect of employees and contractors:**

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(1) The amount of contribution (that is to say, the employer's contribution as well as the employee's contribution in pursuance of any scheme and the employer's contribution in pursuance of the Insurance Scheme) and any charge for meeting the cost of administering the fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him may recover from such employee, the employee's contribution under any scheme by deduction from the wages payable to such employee.

(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (1) from the wages payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

### **18. Fund to be recognised under Act 43 of 1961:**

For the purposes of the Income-tax Act, 1961, the Provident Fund shall be deemed to be a recognised provident fund within the meaning of clause (38) of section 2 of that Act:

Provided that nothing contained in the said Act shall operate to render ineffective any provision of the Provident Fund Scheme (under which the Provident Fund is established) which is repugnant to any of the provisions of that Act or of the rules made thereunder.

### **19. Priority of payment of contributions over other debts:**

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Notwithstanding anything contained in any other law for the time being in force, any amount due under this Chapter shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

**20. Chapter not to apply to certain establishments:**

(1) This Chapter shall not apply--

(a) to any establishment registered under the Co-operative Societies Act, 1912 (2 of 1912) or under any other law for the time being in force in any State relating to co-operative societies employing less than fifty persons and working without the aid of power; or

(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(c) to any other establishment set up under any Central or State or any other law for the time being in force and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that law governing such benefits; or

(d) to the employees who, immediately before the commencement of this Code, were receiving benefits of Provident Fund under any Central or State enactment.

(2) If the Central Government is of the opinion that having regard to the financial position of any class of establishment or other

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circumstances of the case, it is necessary or expedient so to do, it may, by notification and subject to such conditions, as may be specified in the notification, exempt, whether prospectively or retrospectively, that class of establishments from the operation of this Chapter for such period as may be specified in the notification.

**21. Authorising certain employers to maintain provident fund accounts:**

(1) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer by an order in writing, to maintain a provident fund account in relation to the establishment, in such manner as may be prescribed by the Central Government and subject to such terms and conditions as may be specified in the Provident Fund Scheme:

Provided that no authorisation shall be made under this sub-section if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Code during the three years immediately preceding the date of such authorisation.

(2) Where an establishment is authorised to maintain a provident fund account under sub-section (1), the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Provident Fund Scheme.

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(3) Any authorisation made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Code:

Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.

## **22. Transfer of accounts:**

Where an employee,--

(a) employed in an establishment to which this Chapter applies, relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or

(b) employed in an establishment to which this Chapter does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which this Chapter applies, then, his accumulated amount in provident fund account or pension account, as the case may be, shall be transferred or dealt with in the manner as may be specified in the Provident Fund Scheme or the Pension Scheme, as the case may be.

## **23. Appeal to Tribunal:**

(1) Any person aggrieved by an order passed by any authority in regard to the following matters may prefer an appeal to the Tribunal constituted by the Central Government, namely:--

(a) determination and assessment of dues under section 125 relating to Chapter III; and

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(b) levy of damages under section 128 relating to Chapter III.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and accompanied by such fees as may be prescribed by the Central Government.

(3) No appeal under clause (a) of sub-section (1) by the employer shall be entertained by the Tribunal unless he has deposited with Social Security Organisation concerned twenty-five per cent. of the amount due from him as determined by an officer under section 125.

(4) The Tribunal shall endeavour to decide the appeal within a period of one year from the date on which the appeal has been preferred.