

GOVERNMENT OF JAMMU AND KASHMIR

**1. The J&K Employees' Provident Funds
[and
Miscellaneous Provisions]
Act, 1961**

**2. The Employees' Provident Fund Scheme,
1961

and**

**3. The Employees' Deposit Linked*
Insurance Scheme, 2000.**

***[Inserted vide Act No. XIV of 1999 dated 22-11-99]**

**Provident Fund Commissioner
Jammu and Kashmir**

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THE JAMMU AND KASHMIR EMPLOYEES PROVIDENT FUNDS ACT, 1961

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PART-II
THE JAMMU AND KASHMIR EMPLOYEES PROVIDENT
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PREAMBLE

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PART I

THE JAMMU AND KASHMIR EMPLOYEES' PROVIDENT FUNDS ACT, 1961

**THE JAMMU AND KASHMIR
EMPLOYEES' PROVIDENT FUNDS ACT, 1961**

(Act No. XV of 1961)

[21-3-1961]

An Act to provide for the institution of Provident Funds for employees in factories and other establishments.

Be it enacted by the Jammu and Kashmir State Legislature in the Twelfth Year of the Republic of India as follows :—

1. *Short title, extent and application.*—(1) This Act may be called the Jammu and Kashmir Employees' Provident Funds Act, 1961.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) Subject to the provisions contained in section 18, it applies—

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which ¹[ten or more] persons are employed ²[at any time] ; and

(b) to any other establishment or business which the Government may, by notification in the Government Gazette, declare to be an establishment for the purposes of this Act.

(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 18 where it appears to the Government, whether on an application made to it in this behalf or otherwise that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment it may, by notification in the Government Gazette, apply the provisions of this Act to that establishment.

(5) An establishment to which this Act, applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below ¹[ten].

1. Amended vide Act No. XVI of 2012 dated 25-10-2012.

2. Added vide Act No. XVII of 1984 dated 16-04-1984.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) **‘basic wages’** means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract or employment and which are paid or payable in cash to him, but does not include :—
- (i) the cash value of any food concession ;
 - (ii) any dearness allowance (that is to say all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment ; and
 - (iii) any presents made by the employer ;
- (b) **‘contribution’** means a contribution payable in respect of a member under a scheme
- (c) **‘employer’** means—
- (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a Manager of the factory under clause (f) of sub-section (1) of section 7 of the Jammu and Kashmir Factories Act, 1957, the person so named ; and
 - (ii) in relation to any other establishment, the person who is the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a Manager, Managing Director or Managing Agent, such manager, managing director or managing agent ;
- (d) **‘employee’** means any person whose services are non-pensionable and who is employed for wages in any kind of

work, manual or otherwise in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer and includes any person employed by or through a contractor in or in connection with the work of the establishment ;

- (e) **‘exempted employee’** means an employee to whom a scheme would but for the exemption granted under sub-section (1) of section 19, have applied ;
- (f) **‘exempted establishment’** means an establishment in respect of which an exemption has been granted under section 19 from the operation of all or any of the provisions of any scheme, whether such exemption has been granted to the establishment as such or to any person or class of persons employed therein ;
- (g) **‘factory’** means any premises including the process thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether, with the aid of power or without the aid of power ;
- (h) **‘Fund’** means the provident fund established under a scheme ;
- (i) **‘industry’** means any industry specified in Schedule I, and includes any other industry added to the schedule by notification under section 5 ;
- (j) **‘manufacture’** ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal
- (k) **‘member’** means a member of the Fund ;
- (l) **‘occupier of factory’** means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a Managing Agent, such Agent shall be deemed to be the occupier of the factory ; and
- (m) **‘Scheme’** means a scheme framed under this Act.

3. *Establishment to include all departments and branches.*—For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situated in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.

4. *Power to apply Act to an establishment which has a common Provident Fund with another establishment.*—Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishments, the Government may, by notification in the Government Gazette direct that provisions of this Act shall also apply to such other establishment.

5. *Power to add to Schedule.*—The Government may, by notification in the Government Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

6. *Employees' Provident Funds Scheme.*—(1) The Government may, by notification in the Government Gazette, frame a scheme to be called, the Employees' Provident Funds Scheme for the establishment of Provident Fund under this Act, for employees or for any class of employees and specify the establishments or class of establishments, to which the said scheme shall apply and there shall be established, as soon as may be, after the framing of the scheme, a Fund in accordance with the provisions of this Act and the Scheme.

(2) A scheme framed under sub-section (1) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the scheme.

7. *Contributions and matters which may be provided for in schemes.*—(1) The contribution which shall be paid by the employer to the Fund shall be ¹[12%] of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable to each of the employees, and the employees contribution shall be equal to the contribution payable by the employer in respect of him and may, if any

employee so desires and if the scheme makes provision therefor, be an amount not exceeding ¹[14%] of his basic wages, dearness allowance and retaining allowance (if any) :

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

Explanation 1 :—For the purposes of this sub-section dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

Explanation 2 :—For the purposes of this sub-section, “retaining allowance” means an allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working for retaining his services.

(2) Subject to the provisions contained in sub-section (1) any scheme may provide for all or any of the matters specified in Schedule II.

(3) Where under the provisions of any scheme, any Board of Trustees is constituted for administering the Fund, such Board of Trustees shall be a body corporate, under the name specified in the scheme, having perpetual secession and a common seal and shall by the said name sue and be used.

²[7-A. *Employees Deposit Linked Insurance Scheme.*—(1) The Government may by notification in the Government Gazette 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 Act applies.

(2) There shall be established as soon as may be after the framing of the Insurance Scheme a Deposit Linked Insurance Fund into which 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

1. Amended vide Act No. VI of 2013 dated 25-04-2013.
2. Inserted vide Act No. XIV of 1999 dated 22-11-1999.

more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee as the Government may, by notification in the Government Gazette, specify.]

8. *Modification of Scheme.*—The Government may, by notification in the Government Gazette, add to, amend or vary any scheme framed under this Act.

¹[8-A. *Determination of monies due from employers.*—(1) Any officer authorised by the Government in this behalf may, by order, determine the amount from any employer under any provision of this Act or the scheme and for this purpose may conduct such inquiry as he may deem necessary.

(2) The officer while holding any inquiry under this section shall have the powers as are vested in a court under the Code of Civil Procedure, Samvat 1977, for trying a suit in respect of the following matters, namely :—

- (a) enforcing the attendance of any person or examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavit ; and
- (d) issuing commissions for examination of witness, and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Ranbir Penal Code, Samvat 1989.

(3) No order determining the amounts due from any employer shall be made under sub-section (1) unless the employer is given a reasonable opportunity of representing his case.

(4) ²[x x x]

1. Inserted vide Act No. XIV of 1999 dated 22-11-1999.
2. Omitted vide Act No. IV of 2010 dated 20-04-2010.

¹["8-B. *Review.*—Any person who is aggrieved by an order passed under section 8-A, but from which no appeal has been filed under section 8-C may, within twenty days from the date of order, apply for a review of the order to the officer authorized who passed the order and the officer authorized may, after affording an opportunity of being heard to the applicant and other interested parties, issue such orders thereon as he thinks fit :

Provided that such officer may also on his own motion but after affording a reasonable opportunity of being heard to the parties concerned review his order if he is satisfied that it is necessary to do so on any justifiable ground.

8-C. *Appeal.*—(1) Any person aggrieved by an order passed under section 8-A or section 8-B may prefer an appeal to the Provident Fund Commissioner within twenty days from the date of such order and the Provident Fund Commissioner may, after affording a reasonable opportunity of being heard to the parties concerned, make such order thereon as he thinks fit.

(2) An order made under this section shall be final and shall not be questioned in any court of law.]”

9. *Mode of recovery of monies due from employers.*—Any amount due—

- (a) from the employer in relation to an establishment to which any scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 16, accumulations required to be transferred under sub-section (2) of section 17 or any charges payable by him under any other provision of this Act or of any provision of the scheme ; or
- (b) from the employer in relation to an exempted establishment in respect of any damages recoverable under section 16 or any charges payable by him to the Government under any provision of this Act or under any of the conditions specified under section 19.

may if the amount is in arrears, be recovered by the Government in the same manner as an arrear of land revenue.

¹[9-A. *Recovery of monies by employer and contractors.*—(1) The amount of contribution (that is to say the employer's contribution) as well as the employees' contribution and any charges on the basis of such contributions 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 by the contractor under contract or as debt payable by the contractor.

(2) A contractor from whom the amount mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him may recover from such employee the employees' contribution by deduction from the basic wages, dearness allowance and retaining allowance (if any), 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 basic wages, dearness allowance, and retaining allowance (if any), payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

Explanation :—In this section the expressions, “dearness allowance” and “retaining allowance” shall have the same meanings as in section 7.]

10. *Protection against attachment.*—(1) The amount standing to the credit of any member in the Fund or of any exempted employee in a provident fund shall not in any way be capable or being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member or the exempted employee and no such amount shall be liable to be taken over by any receiver appointed under any law relating to insolvency for the time being in force

(2) Any amount standing to the credit of a member in the Fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the scheme or the rules of the provident fund shall, subject to any deduction authorised by the said scheme or rules, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or the exempted employee.

11. *Priority of payment of contributions over other debts.*— Where any employer, is declared to be insolvent or, being a company an order for its winding up is made, the amount due.—

- (a) from the employer in relation to an establishment to which any scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 16, accumulation required to be transferred under sub-section (2) of section 17 or any charges payable by him under any other provision of this Act or of any provision of the Scheme ; or
- (b) from the employer in relation to an exempted establishment in respect of any contribution to the provident fund in so far as it relates to exempted employees, under the rules of the provident fund, damages recoverable under section 16 or any charges payable by him to the Government under any provision of this Act or under any of the conditions specified under section 19 ;

shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under any law relating to insolvency or companies for the time being in force in the State, are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

12. *Employer not to reduce wages etc.*—No employer in relation to an establishment to which any scheme applies shall, by reason only of his liability for the payment of any contribution to the Fund or any charges, under this Act or the Scheme, reduce, whether directly or indirectly, the wages of any employee to whom the scheme applies or the total quantum of benefits in the nature of old-age pension, gratuity or provident fund to which the employee is entitled under the terms of his employment express or implied.

13. *Inspectors.*—(1) The Government may, by notification in the Government Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act or of any scheme, and may define their jurisdiction.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any scheme have been complied with in respect of an establishment to which any scheme applies or for the purpose of ascertaining whether the provisions of this Act or any scheme are applicable to any establishment to which the scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 19 are being complied with by the employer in relation to an exempted establishment—

- (a) require an employer to furnish such information as he may consider necessary ;
- (b) at any reasonable time enter any establishment or any premises connected therewith and require anyone found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment ;
- (c) examine, with respect to any matter relevant to any of the purpose aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the establishment ;
- (d) make copies of, or take extracts from, any book, register or other documents maintained in relation to the establishment ;
and
- (e) exercise such other powers as the scheme may provide.

(3) Every Inspector shall be deemed to be public servant within the meaning of section 21 of the Jammu and Kashmir Ranbir Penal Code, Svt. 1989.

14. *Penalties.*—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under any scheme or of enabling any other persons to avoid such payment knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) A scheme framed under this Act may provide that any person who contravenes or makes default in complying with any of the provisions thereof, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupee, or with both .

(3) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 19 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(4) No court shall take cognizance of any offence punishable under this Act or under any scheme except on a report in writing of the facts constituting such offence made with the previous sanction of such authority as may be specified in this behalf by the Government, by an Inspector appointed under section 13.

15. *Offence by companies.*—(1) If the person committing an offence under this Act or the scheme made thereunder is a company, every person who at the time of the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such persons liable to any punishment, if he proves that the offence was

committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act or the scheme thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any Director or Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :—For the purposes of the section—

- (a) ‘**Company**’ means any body corporate and includes a firm and other association of individuals ; and
- (b) ‘**Director**’ in relation to a firm, means a partner in the firm.

16. *Power to recover damages.*—Where an employer makes default in the payment of any contribution to the Fund or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 17 or in the payment of any charges payable under any other provision of this Act or of any scheme or under any of the conditions specified under section 19, the Government may recover from the employer such damages not exceeding twenty-five per cent of the amount of arrears, as it may think fit to impose.

17. *Special provisions relating to existing Funds.*—(1) Subject to the provisions of section 19, every employee who is a subscriber to any provident fund of an establishment to which this Act applies shall, pending the application of a scheme to the establishment in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed.

(2) On the application of any scheme to an establishment the accumulations in any provident fund of the establishment standing to

the credit of the employees who become members of the fund established under the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the scheme be transferred to the Fund established under the Scheme, and shall be credited to the accounts of the employees entitled thereto in the Fund.

¹[18. *Act not to apply to establishments registered under Co-operative Societies Act.*—(1) This Act shall not apply to any establishment registered or deemed to have been registered under the Jammu and Kashmir Co-operative Society Act, 1960 or under any law for the time being in force relating to Co-operative Societies, employing less than five persons and working without the aid of power].

19. *Power to exempt.*—(1) The Government may, by notification in the Government Gazette, and subject to such conditions as may be specified in the notification exempt from the operation of all or any of the provisions of any scheme :

- (a) any establishment to which this Act applies, if, in the opinion of the Government, the rules of its provident fund with respect to the rates contribution are not less favorable than those specified in section 7 and the employee are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Act or any scheme in relation to the employees in any other establishment of a similar character ; or
- (b) any establishment if the employees of such establishment are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the Government is of opinion that such benefits, separately or jointly, or on the whole not less favorable to such employees than the benefits provided under this Act or any scheme in relation to employees in any other establishment of a similar character.

Explanation :—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (a), namely :—

- (i) the amount of accumulations in the provident fund shall be invested in such manner as the Government may direct ;
- (ii) the amount of accumulations to the credit of an employee in the provident fund shall, whenever he leaves his employment and obtains re-employment in another establishment to which this Act applies, be transferred, within such time as may be specified in this behalf by the Government, to the credit of his account in the provident fund of the establishment in which he is re-employed or, as the case may, in the Fund established under the scheme applicable to the establishment.

(2) Any scheme may make provision for exemption of any person or class of persons employed in any establishment to which the scheme applies from the operation of all or any of the provisions of the scheme, if such person or class of persons is entitled to benefits in the nature of provident fund, gratuity, or old-age pension and such benefits separately or jointly are on the whole not less favourable than the benefits provided under this Act or the scheme :

Provided that no such exemption shall be granted in respect of a class of persons unless the Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

(3) Where any person or class of persons employed in an establishment is exempted from the operation of all or any of the provisions of any scheme under sub-section (2), the employer in relation to such an establishment,—

- (a) shall in relation to the provident fund, old-age pension, and gratuity to which such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment, provide for such facilities, for inspection and pay such inspection charges, as the Government may direct ; and
- (b) shall not, at any time after the exemption without the leave of the Government, reduce the total quantum of benefits in the nature of old-age pension, gratuity or provident fund to which

such person or class of persons was entitled at the time of the exemption.

20. *Protection for acts done in good faith.*—No suit or other legal proceeding shall lie against an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or under any scheme.

21. *Delegation of powers.*—The Government may direct that any power or authority or jurisdiction exercisable by it under this Act or any scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

22. *Power to remove difficulties.*—If any difficulty arise in giving effect to the provision of this Act and in particular of any doubt arise as to—

- (i) whether an establishment which is a factory, is engaged in any industry specified in Schedule I ;
- (ii) whether any particular establishment or business is an establishment falling within the class of establishments to which this Act applies by virtue of notification under clause (b) of sub-section (3) of section 1 ;
- (iii) the number of persons employed in an establishment ; or
- (iv) the number of years which have elapsed from the date in which an establishment has been set up ; or
- (v) whether the total quantum of benefits to which an employee is entitled has been reduced by the employer ;

the Government may by order, make such provision or give such direction not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty and the order of the Government in such cases shall be final.

SCHEDULE I

An industry engaged in the manufacture of any of the following namely :—

1. Cement.
2. Cigarettes.
3. Electrical, mechanical or general engineering products.
4. Iron and steel.
5. Paper.
6. Textile made wholly or in part of cotton or wool, jute or silk, whether natural or artificial.

Explanation :—In this schedule without prejudice to the ordinary meaning of the expression used therein—

- (a) the expression ‘Electrical’ ‘Mechanical’ or General Engineering products includes—
- (1) machinery and equipment for the generation, transmission, distribution or measurements of electrical energy and motors including cables and wires ;
 - (2) telephones, telegraph and wireless communication apparatus ;
 - (3) electric lamps (not including glass bulbs) ;
 - (4) electric fans and electrical domestic appliances ;
 - (5) storage and dry batteries ;
 - (6) radio receivers and sound reproducing instruments ;
 - (7) machinery used in industry (including textile machinery) other than electrical machinery and machine tools ;
 - (8) boiler and prime movers, including internal combustion engines, marine engines and locomotive ;
 - (9) machine tools, that is to say metal and wood working machinery ;
 - (10) grinding wheels ;

- (11) ships ;
 - (12) automobiles and tractors ;
 - (13) bolts, nuts and rivets ;
 - (14) power driven pumps ;
 - (15) bicycles ;
 - (16) hurricane lanterns ;
 - (17) sewing and knitting machines ;
 - (18) mathematical and scientific instruments ;
 - (19) products of metal rolling and rerolling ;
 - (20) wire, pipes, tubes and fittings ;
 - (21) ferrous and non-ferrous castings ;
 - (22) safe, vaults and furniture made of iron or steel alloys ;
 - (23) cutlery and surgical instruments ;
 - (24) drums and containers ; and
 - (25) parts & accessories of products specified in items 1 to 24.
- (b) the expression 'Iron and steel' including pig iron, ingots, blooms, billets and rolled or rerolled, products into basic forms and tool and alloy steel ;
- (c) the expression 'textiles' includes the products of carding, spinning, weaving, finishing and dyeing yarn and fabrics, printing, knitting and embroidering.
7. Matches.
 8. Edible oils and fats.
 9. Sugar.
 10. Rubber and rubber products.
 11. Electricity including the generation, transmission and distribution thereof.
 12. Tea.

13. Printing including the process of composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding.
14. Glass.
15. Stoneware pipes.
16. Sanitary wares.
17. Electrical porcelain insulators of high and low tension.
18. Refractories.
19. Tiles.
20. The mineral oiling refining industry.
21. Heavy and fine chemicals, including—
 - (i) Fertilizers ;
 - (ii) Turpentine ;
 - (iii) Rosin ;
 - (iv) Medical and pharmaceutical preparations ;
 - (v) Toilet preparations ;
 - (vi) Soaps ;
 - (vii) Inks ;
 - (viii) Intermediates dyes, colour, flakes and tonners ; and
 - (ix) Fatty acids.
22. Indigo.
23. Lac including shellac.
24. Non-edible vegetable and animal oils and fats.
25. Tea plantations.
26. Coffee plantations.

27. Rubber plantations.

28. Cardamom plantations

29. Pepper plantations.

30. Leather or leather goods.

31. Wood articles.

32. Sport articles.

33. Road Motor Transport Estab.

34. Automobiles Service and Repairs

SRO- 317- LAB of 1961

Dated 1-8-1961

35. Vegetables preservation industry which is engaged in the preparation or production of any of the following articles, namely :—

(i) Canned and bottled fruits juices and pulp.

(ii) Canned and bottle vegetables.

(iii) Frozen fruits and vegetables.

(iv) Jams, jellies and marmalades.

(v) Tomoto products ketchup and sauces.

(vi) Squashes, crushes, cordials and ready to serve beverages or any other beverages containing fruit juice or fruit pulp.

(vii) Preserved, candied and crystallised fruits and peels.

(viii) Chutneys.

(ix) Any other unspecified item relating to the preservation or canning of fruits or vegetables.

SRO-220

Dated 23-6-1965

36. Confectionery Industry.
37. Manufacture of buttons, brushes, plastic and plastic products and stationery products.
38. Aerated water industry, that is to say any industry engaged in manufacture of aerated water, soft drinks and carbonated water.
39. Every trading and commercial estab. engaged in the purchase, sale or storage of any goods, including estab. of exporters, importers, advertisers, commission agents and brokers, and commodity and stock exchanges, but not including banks or warehouses established under any Central or State Act.
40. Laundry and laundry services.
41. Theatres where dramatic performance or other forms of entertainment are held and where payment is required to be made for admission as audience or spectators.
42. Societies, clubs or associations which provide board or lodging or both or facility for amusement or any other service to any of their guests on payment.
43. Companies, societies, associations, clubs or troupes which give any exhibition of acrobatic or other performance or both in any area, circular or otherwise or perform or permit any other form of entertainment in any place, other than a theatre, and require payment for admission into such exhibition or entertainment as spectators or audience.
- SRO-220
Dated 23-6-1965
- SRO-221
Dated 23-6-1965

44. Canteens.	}	SRO-221 Dated 23-6-1965
45. Newspaper establishments.		
46. Hotels.	}	SRO-324 Dated 31-8-1965
47. Restaurants.		
48. Establishment engaged in storage or transport or distribution of petroleum or natural gas.		
49. Cinemas including preview theatres.		
50. Limestone-mines.	}	SRO-325 Dated 31-8-1965
51. Plywood.		
52. Rice milling.		
53. Dal milling.		
54. Flour milling.		
54-A. Employees' Provident Funds Org.	}	SRO-241 Dated 2-6-1966
55. Water Works Establishment.	}	SRO-174 Dated 20-4-1970
56. The J&K Social Welfare Advisory Board—	}	SRO-325 Dated 31-5-1972
(i) Family and Child Welfare Projects ;		
(ii) Welfare Extension Projects (C. D.) ; and		
(iii) Balwadies in Demonstration Projects.		

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| 57. All Private Educational Institutions whether recognised or not or aided by the State or Central Government employing five or more persons. | } | SRO-293
Dated 7-9-1988 |
| 58. Public Works Department. | | |
| 59. Irrigation and Flood Control Deptt. | } | SRO-293
Dated 24-9-1979 |
| 60. J&K Project Construction Corp. | | |
| 61. Development Authorities. | | |
| 62. Khadi and Village Industries Board. | | |
| 63. Municipalities & Local Bodies. | | |
| 64. Chartered or Registered Accountants. | | |
| 65. Engineers, Architects and Engineering Contractors engaged in building and construction, designing and consultancy services. | | |
| 66. Travel agencies. | | |
| 67. Agriculture, Horticulture, Floriculture establishments including farms. | | |
| 68. Private Hospitals, Medical Institutions and Nursing Homes. | | |
| 69. Geology and Mining Deptt. | } | SRO-700
Dated 31-12-1979 |
| 70. J&K State Financial Corporation. | | |
| 71. Jammu Rural Bank Ltd. | } | SRO-189
Dated 7-4-1980 |

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| 72. Establishments of tailoring engaged in cutting, fitting and sewing. | } | SRO-194
Dated 8-4-1980 |
| 73. Establishments of Brick Kilns engaged in production, sale, purchase and storage. | | |
| 74. Saw Mills. | } | SRO-170
Dated 23-4-1981 |
| 75. J&K State Co-operative Bank. | } | SRO-315
Dated 14-7-1981 |
| 76. Co-operative Land Development Bank, Jammu/Srinagar, | | |
| 77. Land Mortgage Bank, Jammu/Srinagar. | | |
| 78. Allaqaie Dehati Bank, Srinagar. | | |
| 79. Citizen Co-operative Bank, Jammu. | } | |
| 80. Central Co-operative Bank Ltd. Jammu/Srinagar. | } | SRO-110
Dated 30-3-1984 |
| 81. Kamaraz Rural Bank Kashmir. | | |
| 82. Finance Companies (Except Banks not included in Schedule I of the aforesaid Act). | | |
| 83 University. | } | SRO-53
Dated 1-2-1990 |
| 84. Construction of Hydroelectric Projects, Irrigation Dams and allied works. | } | SRO-205
Dated -2-2004 |

SCHEDULE II

[*See Section 7 (2)*]

**MATTERS FOR WHICH PROVISION MAY BE MADE IN A
SCHEME**

1. The employees or class of employees who shall join the fund and the conditions under which employees may be exempted from joining the fund or from making any contribution.

2. The time and manner in which contributions shall be made to the Fund by employers and by or on behalf of employees, the contributions which an employee may, if he so desires, make under sub-section (1) of section 7, and the manner in which such contributions may be recovered.

3. The payment by the employer of such sums of money as may be necessary to meet the cost of administering the fund and the rate at which and the manner in which the payment shall be made.

4. The constitution of boards of trustees for the administration of funds each of which shall consist of—

(a) nominees of the Government.

(b) representatives of the employers and employees concerned, nominated by the Government after consultation with the employers and employees concerned or with such of their respective organisations as are representative of their interests, provided that the number of representatives of the employees shall in no case be less than the number of representatives of the employers.

5. The number of trustees of any board, the terms and conditions subject to which they may be nominated, the time, place and procedure of meetings of the board, the appointment of officers and other employees of the board, and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of monies belonging to the fund in accordance with any direction issued or conditions specified by the Government, the preparation of the Budget, the audit of accounts and the submission of reports to the Government,

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

8. The fixation by the Government in consultation with the board of trustees concerned of the rate of interest payable to members.

9. The form in which an employee shall furnish particulars about himself and his family whenever required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.

11. The registers and records to be maintained with respect to employees and the returns to be furnished by employers.

12. The form or design of any identity card token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this schedule.

14. The contraventions or defaults which shall be punishable under sub-section (2) of section 14.

15. The further powers, if any, which may be exercised by Inspectors.

16. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 17 and the mode of valuation of any assets which may be transferred by the employers in this behalf.

17. The conditions under which a member may be permitted to pay premium on life insurance from the Fund.

18. Any other matter which may be necessary or proper for purpose of implementing the scheme.

GOVERNMENT OF JAMMU AND KASHMIR
HEALTH DEPARTMENT (LABOUR)

Notification

Srinagar

No. 327 LAB. of 1961 Dated 26-9-1961

In exercise of the powers conferred by section 6 of the Jammu and Kashmir Employees' Provident Funds Act, 1961, the Government hereby frames the following Employees' Provident Fund Scheme, 1961, namely :—

EMPLOYEES' PROVIDENT FUNDS SCHEME, 1961

CHAPTER I

Preliminary

1. *Short title and application.*—(1) This Scheme may be called the Employees' Provident Funds Scheme, 1961.

(2) This Scheme shall be deemed to have come into force on and from the 1st day of June, 1961.

(3) Subject to the provisions of sections 18 and 19 of the Act, this Scheme shall apply to all factories and other establishments and business to which the Act applies or is applied under sub-section (3) or sub-section (4) of section 1 or section 4 thereof.

2. *Definitions.*—In this Scheme, unless, the context otherwise requires :—

- (a) "Act" means the Jammu and Kashmir Employees' Provident Funds Act, 1961 (XV of 1961) ;
- (b) "Board" means a Board of Trustees constituted under this Scheme ;

- (c) “Children” means legitimate children and includes adopted children if the Commissioner is satisfied that under the personal law of the member adoption of a child is legally recognised ;
- (d) “Commissioner” means a Commissioner for Jammu and Kashmir Employees’ Provident Funds appointed under this Scheme ¹[and includes Deputy and [Assistant] Provident Fund Commissioner] ;
- (e) “Continuous service” means uninterrupted service and includes service which is interrupted by sickness, accident, authorised leave, strike which is not illegal, or cessation of work not due to the employees’ fault ;
- (f) “excluded employee” means—
- (i) an employee who, having been a member of the Fund withdraw the full amount of his accumulations in the Fund under sub-paragraph (1) of paragraph 74 ;
 - (ii) an employee whose pay, at the time he is otherwise entitled to become a member of the Fund exceeds ²[10,000/-] rupees per month.

Explanation :—‘Pay’ includes basic wages with dearness allowance and cash value of food concessions admissible thereon.

- (iii) an employee employed by a contractor in any operation not directly connected with any manufacturing process carried on the factory or other establishment.

Explanation :—In respect of an employee employed by a contractor who is not an excluded employee under this paragraph, the principal employer shall be responsible for complying to the certified standing orders applicable to the factory.

- (iv) an apprentice.

1. Substituted vide SRO-174 dated 9-5-2002.
2. Amended vide SRO-323 dated 03-10-2006.

Explanation :—An apprentice means a person who according to the certified standing orders applicable to the factory or establishment, is an apprentice, or who is declared to be an apprentice by the authority specified in this behalf by the Government.

(g) “family” means—

- (i) in the case of a male member, the wife, children whether married or unmarried and dependent parents of the member, and the widow and children of a deceased son of the member :

Provided that if a member proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance, she shall no longer be deemed to be a part of the member’s family for the purpose of this Scheme, unless the member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded ; and

- (ii) in the case of a female member, the husband and children of the member, the dependent parents of the member or of the husband and the widow and children of a deceased son of the member :

Provided that if a member by notice in writing to the Commissioner express her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of the member’s family for the purpose of this Scheme, unless the member subsequently cancels in writing any such notice ;

Explanation :—In either of the above two cases, if the child of a member has been adopted by another person and if under the personal law of the adopter, adoption is legally recognised, such a child shall be considered as excluded from the family of the member.

- (h) “Financial year” means the year commencing on the first day of April ;

- (i) “Government security” means—
 - (a) a security, created and issued (by the State or the-Central Government) for the purpose of raising a public loan, and having one of the following forms, namely :—
 - (i) stock transferable by registration in the books of Bank ; or
 - (ii) a promissory note payable to order ; or
 - (iii) a bearer bond payable to bearer ; or
 - (iv) a form prescribed in this behalf.
 - (b) any other security created and issued by the State or the Central Government.
- (j) “Prescribed” means prescribed by rules made under the Act ;
- (k) “Promissory note” includes a Treasury bill.
- (l) “Inspector” means a person appointed as such under section 13 of the Act ;
- (m) “Quarter” means a period of three months commencing on the first day of January, the first day of April, the first day of July and the first day of October of each year ;
- (n) “Seasonal factory” means a factory which is exclusively engaged in the manufacture of sugar, turpentine, rosin, or fruit products ;
- (o) “Seasonal establishment” means a plantation of tea or coffee,
¹[Hotel Industry, Jam Industry, Walnut Processing Industry]
²[Canning and Jam Industries] ;
- (p) “Trustee” means a member of a Board of Trustees ; and
- (q) all other words and expressions shall have the meaning respectively assigned to them in the Act.

1. Added vide SRO-166 dated 12-4-1973.

2. Added vide SRO-430 dated 4-8-1979.

CHAPTER II

BOARD OF TRUSTEES

3. *Board of Trustees.*—Subject to the provisions hereinafter contained, the Fund shall vest in and be administered by a Board of Trustees consisting of the following persons, namely :—

- (a) a Chairman nominated by the Government ;
- (b) three persons nominated by the Government ;
- (c) three persons representing employers in the industries or establishments or business to which this Scheme applies nominated by the Government in consultation with the representatives of such organisation of employers as may be recognised by the Government for the purpose ; and
- (d) three persons representing employees in the industries or establishments or business to which this Scheme applies nominated by the Government in consultation with such organisation of employees as may be recognised by the Government for the purpose.

4. *Term of office.*—(1) The Chairman of the Board and every trustee of the Board referred to in clause (b) of paragraph 3 shall hold office during the pleasure of the Government.

(2) The term of office of the trustees of the Board referred to in clauses (c) and (d) of paragraph 3 shall be five years commencing from the date on which their nomination is notified in the Government Gazette :

Provided that any such trustee shall, notwithstanding the expiry of the said period of five years, continue to hold office until the nomination of his successor is notified in the Government Gazette.

(3) Any trustee referred to in sub-paragraph (2) nominated to fill a casual vacancy shall hold office for the remaining period of the term of office of the trustee in whose place he is nominated.

(4) An outgoing trustee shall be eligible for renomination.

5. *Resignation.*—A trustee of the Board may resign his office by letter in writing address to the Government and his office shall fall

vacant from the date on which his resignation is accepted by the Government.

6. *Cessation and restoration of Trusteeship.*—If a trustee fails to attend three consecutive meetings of the Board without obtaining leave of absence from the Chairman of the Board, he shall cease to be a trustee :

Provided that the Government may restore him to Trusteeship, if it is satisfied that there were reasonable grounds for his absence.

7. *Disqualifications for Trusteeship.*—(1) A person shall be disqualified for being nominated as, or for being a trustee :—

- (i) if he is declared to be of unsound mind by a competent court ;
or
- (ii) if he is an undischarged insolvent ; or
- (iii) if before or after the commencement of the Act he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether any person is disqualified under sub-paragraph (1), it shall be referred to the Government and the decision of the Government on any such question shall be final.

8. *Removal from trusteeship.*—The Government may remove from office any trustee of the Board if in its opinion such trustee has ceased to represent the interest which he purports to represent on the Board :

Provided that no such trustee shall be removed unless a reasonable opportunity is given to such trustee and the body whom he represents, of making any representation against the proposed action.

9. *Absence from the State.*—(1) Before a non-official trustee leaves the State :—

- (a) he shall intimate the Chairman of the Board, of the dates of his departure from and expected return to the State ; or
- (b) if he intends to absent himself for a period longer than six months, he shall tender his resignation.

(2) If any trustee leaves the State for a period of six months or more without intimation to the Chairman of the Board, he shall be deemed to have resigned from the Board.

10. *Meetings.*—(1) A Board of trustees shall, subject to the provisions of paragraph (11), meet at such place and time as may be appointed by the Chairman.

(2) The Chairman may, whenever he thinks fit, and shall within fifteen days of the receipt of a requisition in writing from not less than one-third of the members, call a meeting thereof.

11. *Notice of meeting and list of business.*—Notice of not less than 15 days from the date of posting, containing the date, time and place of every ordinary meeting together with a list of business to be conducted at the meeting, shall be despatched by registered post or by special messenger to each trustee present in the State :

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary, shall be deemed sufficient.

12. *Chairman to preside at meetings.*—The Chairman of the Board shall preside at every meeting of the Board at which he is present. If the Chairman is absent at any time, the trustees shall elect one of their members to preside over the meeting and the trustee so elected shall exercise all the powers of the Chairman at the meeting.

13. *Quorum.*—(1) No business shall be transacted at a meeting of the Board unless at least three trustees are present, of whom at least one shall be from among those nominated under clause (c) and at least one from among those nominated under clause (d) of paragraph 3.

(2) If at any meeting the number of trustees is less than the required quorum, the Chairman shall adjourn the meeting to a date not later, than seven days from the date of the original meeting informing the trustees of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of trustees present.

¹["13-A. *Nomination of a substitute during the absence of the trustee/member of the Board.*—(1) If a trustee or a member is unable to attend any meeting of the Board he may, by a written instrument signed by him, addressed to the Chairman of the Board and explaining the reasons for his inability to attend the meeting appoint any representative of his Department/Organisation to represent him on the Board :

Provided that no such appointment shall be valid unless :—

- (i) such appointment has been approved by the Chairman of the Board ; and
- (ii) the instrument making appointment has been received by the Chairman of the Board at least three days before the date fixed for meeting.

(2) A substitute appointment under sub-paragraph (1) shall have all the rights and powers of a trustee or member in relation to the meeting of the Board in respect of which he is appointed and shall receive allowances and be under obligations as if he were a trustee or a member appointed under the Act and the Scheme respectively.

(3) Notwithstanding anything contained in this paragraph a trustee or a member appointing a substitute for attending any meeting of the Board shall continue to be liable for misappropriation or misapplication of the Fund by the substitute and shall also be liable for any act or misfeasance or non-feasance committed in relation to the Fund by the substitute appointed by him.”

14. *Disposal of business.*—Every question considered at a meeting of the Board shall be decided by a majority of the votes of the trustees present and voting. In the event of an equality of votes the Chairman shall exercise a casting vote :

Provided that the Chairman may, if he thinks fit, direct that any question shall be decided by the circulation of necessary papers to trustees present in the State and by securing their opinions in writing. Any such question shall be decided in accordance within the opinion of the majority of trustees received within the time limit allowed and if the opinions are equally divided, the opinion of the Chairman shall prevail :

Provided further that any trustee may request that the question referred to trustees for written opinion be considered at a meeting of the Board and thereupon the Chairman may, and if the request is made by not less than 2 trustees, shall direct that it be so considered.

15. *Minutes of meetings.*—(1) The minutes of a meeting of the Board showing *inter-alia* the names of the trustees present thereat shall be circulated to all trustees present in the State not later than one month from the date of the meeting, The minutes shall thereafter be recorded in a minutes book as a permanent record :

Provided that if another meeting is held within a period of one month and ten days, the minutes shall be circulated so as to reach the trustees at least ten days before such meeting.

(2) The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modification, if any, as may be considered necessary at the next meeting.

16. *Acts of the Board not invalid by reason of defect in its constitution etc.*—No act or proceeding of the Board shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Board.

17. *Fees and allowance.*—(1) The travelling allowance of an official trustee shall be governed by the rules applicable to him for journeys performed on official duties and shall be paid by the authority paying his salary.

(2) Every non-official trustee shall be paid a daily allowance at the rate admissible to the First Class Officers of the Government for each day on which he attends the meeting of the Board and T. A. at 37 p. per mile or at such rates as may be fixed by the Government from and to his usual place of business or from and to the place the journey is actually performed, whichever is less.

Explanation :—(1) No daily or travelling allowance in respect of any day or journey, as the case may be, shall be claimed under this paragraph by a trustee, if he has drawn or will draw allowance for the same from his employer or as a member of any legislature or of any committee or conference constituted or convened by Government and no travelling allowance shall be claimed if he uses a means of transport provided at the expense of Government or his employer.

Explanation :—(2) Where the journey is performed by road between places connected by railway, road mileage shall be paid only if the trustee certifies that the journey was undertaken by road to avoid loss of time which the journey by railway would have entailed and the distance travelled does not exceed 75 miles in a single journey.

CHAPTER III

**APPOINTMENT AND POWERS OF COMMISSIONER AND
OTHER STAFF OF BOARD OF TRUSTEES**

18. *Provident Fund Commissioner.*—The Government shall appoint a Commissioner who shall be the Chief Executive Officer of the Board and shall be subject to its general control and superintendence.

(2) The Commissioner shall not undertake any work unconnected with his office without the previous sanction of the Government.

(3) The Commissioner appointed under this paragraph may at any time for reasons to be recorded in writing and after he is given an opportunity of being heard be removed by the Government.

(4) The Commissioner shall receive such salary and allowances and shall be subject to such conditions of service as may be specified in this behalf from time to time by the Government.

(5) The Commissioner while attending the meetings of the Board may take part in its deliberations but shall not be entitled to vote.

(6) The Government may appoint as many ¹[Dy.] and ¹[Asstt.] Provident Fund Commissioners as it may consider necessary for the administration of this scheme.

(7) ¹[The Dy. and Asstt. Provident Fund Commissioner shall be under the control and superintendence of the Provident Fund Commissioner.]

²[18-A. *Opening of provincial and other offices.*—The Board may with the approval of the Government open such provincial offices as it may consider desirable for the proper implementation of the Scheme.]

19. *Secretary of the Board.*—(1) The Government shall appoint a Secretary to the Board if and when it is constituted.

1. Substituted vide SRO-458 dated 13-10-1981.

2. Inserted by vide SRO-156 dated 10-8-1984.

(2) The Secretary to the Board shall, in consultation with the Chairman, convene meetings of the Board, keep a record of its minutes and shall take necessary steps for carrying out the decisions of the Board.

20. *Staff*.—(1) The Commissioner may employ such staff as the Chairman of the Board may consider necessary for the efficient administration of the Scheme :

Provided that the sanction of the Government shall be obtained for the creation of a post in the grade of ¹[Rs. 5000-8000] or above if the duration of the post is likely to exceed six months :

Provided further that the appointment to a post carrying the grade of ¹[Rs. 7500-12000] or above shall be made by the Government in consultation with the Public Service Commission :

Provided also that references relating to all appointments made under this sub-paragraph shall be placed before the next meeting of the Board for information.

(2) Subject to the provisions of this paragraph regulations regarding the method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff shall be laid down by the Board with the approval of the Government :

Provided that the scale of pay and allowances of the members of the staff shall generally be in accordance with the scales sanctioned by the Government for similar posts under its control.

21. *Administrative and financial powers of the Commissioner*.—
(1) The Commissioner may, without reference to the Board, sanction expenditure on contingencies, supplies and services and purchase of articles required for administering the Fund subject to financial provision in the budget and subject to the limits up to which the Commissioner may be authorised to sanction expenditure on any single item from time to time by the Board with the approval of the Government.

(2) The Commissioner may also exercise such administrative and financial powers other than those specified in sub-paragraph (1) above, as may be delegated to him from time to time by the Board with the approval of the Government.

(3) The Commissioner may delegate from time to time the administrative and financial powers delegated to him by the Board to any officer under his control or superintendence to the extent considered suitable by him for the administration of the scheme. A statement of such delegation shall be placed before the next meeting of the Board for information.

¹[21-A. *Powers of the Board.*—(1) The Board may, by a resolution, empower its Chairman to sanction expenditure, subject to such limits as may be specified in the resolution, on contingencies, supplies and purchases of articles required for administering the Fund subject to financial provisions in the budget, where such expenditure is beyond the limits up to which the Commissioner is authorised to sanction expenditure on any single item.

(2) All sanctions of expenditure made by the Chairman in pursuance of sub-paragraph (1) shall be reported to the Board as soon as possible after the sanction of the expenditure.]

22. *Powers of the Government until the Board is constituted.*— Until the Board is constituted, the Government shall administer the Fund and may exercise any of the powers and discharge any of the functions of the Board :

Provided that on the constitution of the Board the Government shall transfer amounts standing to the credit of the Fund to the Board.

CHAPTER IV

MEMBERSHIP OF THE FUND

23. *Classes of employees entitled and required to join the Fund.*—(1) (a) Every employee employed in or in connection with the work of a factory or other establishment or business to which this Scheme applies, other than an excluded employee shall be entitled and required to become a member of the Fund from the beginning of the month following that in which this scheme comes into force in such factory or other establishment or business, if on the date of such coming into force he has completed three months continuous service or has actually worked for not less than 60 days during a period of three months or less in that factory or other establishment or business or in any other factory or other establishment or business under the same employer, or partly in one and partly in the other ¹[or has been declared permanent in any such factory or other establishment whichever is the earliest.]

(b) Every employee employed in or in connection with the work of factory or other establishment or business to which this scheme applies, other than an excluded employee shall also be entitled and required to become a member of the Fund from the beginning of the month following that in which this scheme comes into force in such factory or other establishment or business if, on the date of such coming into force, such employee is a subscriber to a provident fund maintained in respect of the factory or other establishment or business or in respect of any other factory or establishment or business under the same employer :

Provided that where the scheme applies to a factory or other establishment or business on the expiry of cancellation of an order of exemption under section 19 of the Act, every employee who but for the exemption would have become and continued as a member of the Fund, shall become a member of the Fund forthwith.

(2) After this Scheme comes into force in a factory or other establishment or business, every employee employed in or in connection with the work of that factory or establishment or business, other than an excluded employee, who has not become a member already shall also be entitled and required to become a member from the beginning of the month following that in which he completes three months continuous service or has actually worked for not less than 60 days during a period of three months or less in that factory or other establishment or business or in any other factory or establishment or business under the same

employer, or partly in one and partly in the other or has been declared permanent in any such factory or other establishment, whichever is the earliest.

(3) An excluded employee employed in or in connection with the work of a factory or other establishment or business to which this scheme applies shall, on ceasing to be such an employee, be entitled and required to become a member of the Fund from the beginning of the month following that in which he ceased to be such employee, provided that on the date on which he cease to be an excluded employee he has completed three months continuous service or has actually worked for not less than 60 days during a period of three months or less in the factory or other establishment or business or in any other factory or establishment or business under the same employer or partly in one and partly in the other or has been declared permanent in any such factory or other establishment whichever is the earliest.

(4) On re-election of an employee or a class of employees exempted under paragraph 26 or paragraph 27 to join the fund or on the expiry or cancellation of an order under that paragraph, every employee, who but for such exemption would have become and continued as a member of the Fund, shall forthwith become a member thereof.

(5) Every employee who is a member of a private provident fund maintained in respect of an exempted factory or other establishment or business and who, but for the exemption would have become and continued as a member of the Fund, shall on joining a factory or other establishment or business to which this Scheme applies, become a member of the Fund forthwith.

(6) Notwithstanding anything contained in this paragraph, the Commissioner may, on the joint request in writing of any employee of a factory or other establishment or business to which this scheme applies and his employer, enrol such employee as a member or allow ¹[In Clauses (1) (a), (2) & (3) in Para 23 the word and figures “completed Three months continuous service or has actually worked for not less than 60 days during a period of three months, or less” wherever occurring, has been replaced by the words “ from the date of joining the factory or establishment or business”.]

1. Amended vide SRO-121 dated 7th May, 2008

him to contribute on more than ¹[Rs. 10,000/-] of his pay per month if he is already a member of the Fund and thereupon such employee shall be entitled to the benefits and shall be subject to the conditions of the Fund, provided that the employer gives an undertaking in writing that he shall pay the administrative charges payable and comply with all statutory provisions in respect of such employee.

Explanation I.—For the purposes of this paragraph, “continuous service” shall mean uninterrupted service, but include service which is interrupted by sickness, accidents, authorised leave, strike which is not illegal or involuntary unemployment :

Provided that all illegal strike shall not constitute a break in the service of an employee where his employer has condoned the break in continuous service due to such illegal strike or where an employee is continued in employment without prejudice to his continuity of service, either as a result of a settlement between him and the employer or an award.

Explanation II.—An computing the period of work for 60 days under this paragraph—

- (a) periods of involuntary unemployment caused by stoppage of work due to shortage of raw, materials or fuel, changes in the line of production, breakdown of machinery or any other similar cause ;
- (b) periods of authorised leave ; and
- (c) in case of female employee, periods of maternity leave for any number of days not exceeding twelve weeks shall also be deemed to be days on which the employee has worked in the factory or other establishment or business :

Provided that subject to maximum of 60 days, in respect of a seasonal factory or other establishment or business, an employee, who during the period a seasonal factory or other establishment or business was in operation during three months, has actually worked in the factory or other establishment or business for not less than 2/3rd of the period the factory or other establishment or business was in operation during those three months, shall be deemed to have completed three months continuous service in the factory or other establishment or business

24. *Retention of membership.*—(1) A member of the Fund shall continue to be a member until he withdraws under paragraph 74 the amount standing to his credit in the Fund or is covered by a notification of exemption under section 19 of the Act or an order of exemption under paragraph 27.

Explanation :—In the case of claim for refund by a member under sub-paragraph (2) of paragraph 74, the membership of the Fund shall be deemed to have been terminated from the date the payment is authorised to him by the authority specified in this behalf by the Commissioner irrespective of the date of claim.

(2) Every member employed as an employee other than an excluded employee, in a factory or other establishment or business to which this scheme applies, shall contribute to the Fund, and the contribution shall also be payable to the fund in respect of him by the employer. Such contributions shall be in accordance with the rate specified in paragraph 29:

Provided that subject to the provisions contained in sub-paragraph (6) of paragraph 23 and in sub-paragraph (1) of paragraph 26, or sub-paragraph (I) of paragraph 30 where the monthly pay of such a member exceeds ¹[ten thousand rupees] the contribution payable by him, and in respect of him by the employer shall be limited to the amounts payable on a monthly pay of ¹[ten thousand rupees] including dearness allowance and cash value of food concession.

25. *Resolution of doubts.*—If any question arise whether an employee is entitled or required to become or continue as a member, or as regards the date from which he is so entitled or required to become a member, the decision thereon of the Commissioner shall be final :

Provided that no decision shall be given unless both the employer and the employee have been heard.

26. *Election for continuance of membership of certain other Provident Funds.*—Notwithstanding anything to the contrary contained in paragraph 23, a subscriber other than an excluded employee to

Provident Fund recognised under the Indian Income Tax Act, (II of 1922) or to which the Jammu and Kashmir Provident Fund Act, Svt. 1988 applies, shall become a member of the Fund unless he elects, by an application in Form-I sent to the Commissioner—

- (a) in the case of subscriber to whom this Scheme applies on or before the.....not later than.....
- (b) in the case of subscriber to whom this Scheme applies at any time after thewithin 3 months of the date on which the scheme become applicable to him, to continue to subscribe to such Provident Fund and in that case he shall not be required or be entitled to become a member of the Fund :

Provided that the Commissioner may, for reason, to be recorded in writing entertain any such application after the expiry of the period specified in this paragraph :

Provided further that the above option to continue to subscribe to an existing Provident Fund shall be allowed to an employee in a factory or other establishment or business only if its Provident Fund Rules with respect to contribution are in conformity with or are more favourable to employees than those specified in the Act or the Scheme.

Explanation :—In this paragraph, “existing Provident Fund” includes a Provident Fund established in pursuance of an award under the Jammu and Kashmir Industrial Disputes Act, Svt. 2006 or a collective agreement between workers and employers.

27. *Exemption of a class of employees.*—(1) The Commissioner may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme and class of employees to whom the Scheme applies :

Provided that such class of employees is entitled to benefits in the nature of provident fund, gratuity or old-age pension according to the rules of the factory or other establishment or business and such benefits separately or jointly are on the whole not less favourable than the benefits provided under the Act and the Scheme.

(2) Where any class of employees is exempted as aforesaid, the employer shall in respect of such class of employees maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charge and invest provident fund collections in such manner as the Government may direct.

(3) A class of employees exempted under sub-paragraph (1) or the majority of employees constituting such class may by an application to the Commissioner make a declaration that the class of employees shall become members of the Fund.

(4) No class of employees shall be granted exemption or permitted to apply out of exemption more than once on each account.

28. *Transfer of accumulations from existing Provident Funds.*—(1) Every authority in charge of, or entrusted with the management of, any provident fund in existence on 3rd October, 1961, the accumulations wherein are to be transferred to the Fund under sub-section (2) of section 17 of the Act, shall before the 1st day of December, 1961 or such later date as the Board may fix in this behalf—

- (i) send to the Commissioner a statement showing the amount standing to the credit of each subscriber on the date of the transfer, the total accumulations to the credit of subscribers generally on that date and the advances, if any, taken by the subscribers ;
- (ii) transfer to the Fund in the manner specified in sub- paragraph (2) the total accumulation standing to the credit of subscribers in relation to each factory ; and
- (iii) transfer to the Board all pass books, books of account and other documents relating to the said accumulations.

(2) All accumulations standing to the credit to the subscriber, however invested, shall be transferred to the Fund by the authority aforesaid in cash :

Provided that where the whole or any part of such accumulations consists investments in Government securities the authority making the transfer to the Fund shall transfer those securities at the price for which they were actually purchased or transfer a sum equivalent to such price.

In case, however, the whole or any part of such accumulations is invested in National Savings Certificates or National Plan Savings Certificate, the appreciated value of such certificates at the time of the transfer will be taken into account in determining the amount of the accumulations to be transferred, provided that the difference between the face value of such certificates and their appreciated value at the time of the transfer has already been credited to the accounts of the subscribers.

Explanation :—The total amount of provident fund accumulations includes interest thereon and the authority in charge of the Fund shall transfer in cash any balance of interest on investments which happens to be undistributed on the date of the transfer, or realised, or realisable for the period prior to the registration of the securities in the name of the Board of Trustees Jammu and Kashmir Employees' Provident Fund.

(3) Any cash transferred under sub-paragraph (2) shall be deposited in any office or branch of the Reserve Bank of India or Jammu and Kashmir Bank Ltd. to the credit of the Board, and the receipt obtained in respect thereof shall be forwarded to the Commissioner :

Provided that where there is no office or branch of either of the Banks at the place where the factory or other establishment or business is situated the amount shall be credited to the Board at the nearest Treasury or Sub-Treasury.

(4) The accumulations transferred to the Fund, in accordance with this paragraph shall be credited to the account of each of the members of the Fund, to the extent to which he may be entitled thereto having regard to the statement furnished by the authority aforesaid.

(5) When the accumulations in any such Provident Fund as is referred to in sub-paragraph (1) have been so transferred to the Fund, the Commissioner may, by notification in the Government Gazette declare that the subscribers of such provident fund have now become members of the Fund and that the accumulations aforesaid have now become vested in the Board.

CHAPTER V

CONTRIBUTIONS

29. *Contributions.*—(1) The contributions payable by the employer under the Scheme shall be at the rate of ¹[12%] of the basic wages and the dearness allowance (including the cash value of any food concession) payable to each employee to whom the Scheme applies.

(2) The contribution payable by the employee under the Scheme shall be equal to the contribution payable by the employer in respect of such employee :

Provided that in respect of any employee to whom the scheme applies, the Commissioner may, if the employee so desire, allow such employee to contribute an amount not exceeding ²[14%] of the basic wages and the dearness allowance (including the cash value of any food concession) payable to him.

(3) The contributions shall be calculated on the basis of the basic wages and dearness allowance (including the cash value of any food concession) actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis.

Explanation :—In respect of a seasonal factory, the amount paid to an employee as retainers allowance during the off seasons, when the factory is not in operation shall be deemed to be wages for purposes of this Scheme and be taken into account for calculating the contributions.

(4) Each contribution shall be calculated to the nearest quarter of a rupee, 12.5 P or more to be counted as the next higher quarter of a rupee.

30. *Payment of contributions.*—The employer shall, in the first instance pay both the contributions payable by itself (in this scheme referred to as the employer's contribution) and also, on behalf of the

1. Amended vide Act No. XVI of 2012 dated 25-10-2012.
2. Amended vide Act No. IV of 2013 dated 25-04-2013.

member employed by him, the contributions payable by the member (in this Scheme referred to as the member's contribution).

31. *Employer's share not to be deducted from the members.*— Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wages of a member or otherwise to recover it from him.

32. *Recovery of a member's share of contribution.*—(1) The amount of a member's contribution paid by the employer shall notwithstanding the provisions in this Scheme or any law for the time being in force or any contract to the contrary be recoverable by means of deduction from the wages of the member and not otherwise :

Provided that no such deduction may be made from any wage other than that which is paid in respect of the period or part of the period in respect of which the contribution is payable :

Provided further that the employer shall be entitled to recover the employees share from a wage other than that which is paid in respect of the period for which the contribution has been paid or is payable where the employee has in writing given a false declaration at the time of joining service with the said employer that he was not already a member of the Fund :

Provided also that where no such deduction has been made on account of an accidental mistake or a clerical error, such deduction may, with the consent in writing of the Inspector, be made from the subsequent wages.

(2) Deduction made from the wages of a member paid on daily, weekly or fortnightly basis should be totalled up to indicate the monthly deductions.

(3) Any sum deducted by an employer from the wages of an employee under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contributions in respect of which it was deducted.

CHAPTER VI

DECLARATION, CONTRIBUTION CARDS AND RETURNS

33. *Declaration by persons already employed at the time of institution of the Fund.*—Every person who is required or entitled to become a member of the Fund shall be asked forthwith by his employer to furnish and shall, on such demand, furnish to him, for communication to the Commissioner particulars concerning himself and his nominee required for the declaration form in Form-2. Such employer shall enter the particular in the declaration form and obtain the signatures or a thumb impression of the person concerned.

34. *Declaration by persons taking up employment after the Fund has been established.*—The employer in relation to a factory or other establishment or business shall, before taking any person into employment, ask him to state in writing whether or not he is a member of the Fund, and if he is, ask for the Account Number and for the name and particulars of the last employer. If he is unable to furnish the Account Number, he shall, require such person shall, on demand, furnish to him for communication to the Commissioner, particulars regarding himself and his nominee required for the declaration form. Such employer shall enter the particulars in the declaration form and obtain the signatures or thumb impression of the person concerned.

35. *Preparation of contribution cards.*—The employer shall prepare a contribution card in Form-3 or 4, as may be appropriate, in respect of every employee in his employment at the commencement of the Scheme or who is taken into employment after that date and who is required or entitled to become or is a member of the Fund including those who produce an Account Number and in respect of whom no fresh Declaration Form is prepared.

36. *Duties of employers.*—(1) Every employer shall send to the Commissioner, within fifteen days of the commencement of this Scheme, a consolidated return in such form as the Commissioner may specify, in duplicate of the employees required or entitled to become members of the Fund showing the basic wages and dearness allowance including the cash value of any food concession paid to each of such employees.

(2) Every employer shall send to the Commissioner within fifteen days of the close of each month a return,—

- (a) in duplicate, in Form-5, of the employees qualifying to become members of the Fund for the first time during the preceding month together with the declaration in Form-2 furnished by such qualifying employees and with a statement showing the basic wages and dearness allowance including the cash value of any food concession of each such employee ; and
- (b) in duplicate, in such form as the Commissioner may specify, of the employees leaving service of the employer during the preceding month.

(3) Every employer shall send to the Commissioner within fifteen days of the commencement of every half year, beginning from 1st April, and 1st October, a consolidated return in duplicate to replace the one furnished under sub-paragraph (1) above.

(4) Every employer shall maintain such accounts in relation of the amounts contributed to the Fund by him and by his employees as the Board may, from time to time, direct and it shall be the duty of every employer to assist the Board in making such payments from the Fund to his employees as are sanctioned by or under the authority of the Board.

(5) Notwithstanding anything hereinbefore contained in this paragraph, the Board may issue such directions to employers generally as it may consider necessary or proper for the purpose of implementing the Scheme and it shall be the duty of every employer to carry out such directions.

¹[36-A. *Employer to furnish particulars of ownership.*—Every employer shall, furnish to the Commissioner in Form-5-A particulars of owners, occupiers, directors, partners, manager or any other person or persons who have the ultimate control over the affairs of such factory or establishment and also notify any change in such particulars within fifteen days of such change, to the Commissioner by registered post and in such other manner as may be specified by the Commissioner.]

37. *Allotment of Account Number.*— On receipt of the information referred to in paragraphs 33, 34 and 35, the Commissioner shall promptly allot an Account Number to each employee qualifying to become a member and shall communicate the Account Number to the member through the employer.

38. *Mode of payment of contributions.*—(1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which togetherwith his own contribution as well as an administrative charge of such percentage of the total employers' and employees' contributions as may be fixed by the Government, shall within fifteen days of the close of every month pay to the Fund by separate bank drafts or cheques on account of contributions and administrative charges :

Provided that if payment is made by a cheque on an outstation bank, collection charges in respect of both the contribution and the administrative charges at such rate, the Board may determine in this behalf shall be included in the amount for which the cheque is drawn in respect of the administrative charge :

Provided further that where there is no branch of the Jammu and Kashmir Bank at the station where the factory or other establishment or business is situated, the employer shall pay to the Fund, the amount mentioned above by means of State Treasury-Government drafts at par separately on account of contributions and administrative charges.

(2) The employer shall forward to the Commissioner within fifteen days of the close of the month, a monthly consolidated statement in such form as the Commissioner may specify, showing recoveries made from the wages of each employee and the amount contributed by the employer in respect of each such employee.

39. *Fixation of administrative charges.*—The Government may, in consultation with the Board and having regard to the resources of the Fund available for meeting its normal administrative expenses, fix the percentage of administrative charges payable under Sub-Paragraph (1) of paragraph 38.

40. *Contributions to be entered in the contribution card.*— The amount recovered every month from the wages of an employee as well as the contribution made by the employer in respect of each such employee shall be entered by the employer every month in the contribution card opened in the name of each member under this Scheme.

41. *Currency of contribution cards.*—The contribution cards issued under this Scheme shall be current for one year :

Provided that the said period of one year may commence and terminate at such different time in different factories, any other establishment or business as may be decided by the Commissioner from time to time :

Provided further that the cards issued in respect of the first contribution period may be for a period which may be less or more than a year.

42. *Renewal of contribution cards.*—An employer shall, on or before the expiration of the period of currency of the contribution card prepare in respect of each member employed by him a card in Form-3, Form-4 as may be appropriate for the next period of currency.

43. *Submission of contribution cards to the Commissioner.*—Every employer shall within one month from the date of expiration of the period of currency of the contribution cards in respect of members employed by him send the contribution cards to the Commissioner together with a statement in Form-6.

44. *Custody of contribution cards.*—The employer shall retain in his custody the contribution cards in respect of each member employed by him and shall take every precaution against loss or damage of the contribution cards.

45. *Inspection of cards by members.*—Any member making a request in this behalf to the employer shall be permitted to inspect his cards himself or to have same inspected by any person duly authorised by him in writing to do so, within 72 hours of making such request provided that no such request shall be entertained more than once in every two calendar months.

46. *Production of cards and records for inspection by the Commissioner or Inspector.*—Every employer shall, whenever, the Commissioner or any other officer authorised by him in this behalf or an Inspector so requests either in person or by notice in writing, produce before the Commissioner, Officer or Inspector, as the case may be, the records of any member employed by him and any card then in his possession and if so required by the said Commissioner, Officer or Inspector shall deliver such record to the said Commissioner Officer or Inspector, who may, if he things fit, retain the record provided that he shall grant a receipt for every record retained by him.

47. *Supply of cards and forms to employers.*—The Commissioner shall supply to employers, free of charge on demand contribution cards, declaration forms and other forms referred to in this Scheme :

Provided that if any employer desires to obtain any cards or forms in excess of the number which the Commissioner considers to be the requirements of the employer the Commissioner may, if he thinks fit, supply such cards or forms and make such charge therefor as the considers reasonable.

48. *Current Account.*—The Commissioner shall deposit the Bank drafts or cheques received from the employers in the Jammu and Kashmir Bank in the Current Account of the Fund.

CHAPTER VII

ADMINISTRATION OF THE FUND, ACCOUNTS AND AUDIT

49. *Administration Accounts.*—A separate account shall be kept called the “Administrative Accounts” for recording all administrative expenses of the Fund including such administrative charges as the Fund may be authorised to levy.

50. *Provident Fund Account.*—The aggregate amount received as the employer’s and the employees’ contribution to the Fund shall be credited to an account to be called the “Provident Fund Account”.

51. *Interest Suspense Account.*—All interest, rent and other income realised and net profits or losses, if any, from the sale of investments not including therein the transactions of the Administration Account, shall be credited, or debited as the case may be, to an account called the “Interest Suspense Account”. Brokerage and commission on the purchase and sale of securities and other investment shall be included in the purchase or sale price, as the case may be, and not separately charged to the “Interest Suspense Account”.

52. *Investment of monies belonging to Jammu and Kashmir Employees Provident Fund.*—(1) All monies belonging to the Fund shall be deposited in the Jammu and Kashmir Bank or in such other scheduled Banks as may be approved by the Government from time to time or shall be invested, subject to such directions as the Government may from time to time give in the securities mentioned or referred to in clause (a) to (c) of section 20 of the Trusts Act, Svt. 1977 (XLI of 1977). Provided that such securities are payable both in respect of capital and in respect of interest in India.

(2) All expenses incurred in respect of, and loss, if any arising from any investment shall be charged to the Fund.

(3) The Commissioner shall prepare in Form-7 a classified summary of the assets of the Fund as on the 31st March in each year, or on such other date as the Government may specify and shall append it to the annual report submitted under paragraph 80 to the Government.

53. *Disposal of the Fund.*—(1) Subject to the provisions of the Act and of this Scheme the Fund shall not, except with the previous sanction of the Government, be expended for any purpose other than for the payment of sums standing to the credit of individual members of the Fund or to their nominees or heirs or legal representatives in accordance with the provisions of the Scheme.

(2) The Fund shall be operated upon by such officers as may be, authorised in this behalf by the Board.

54. *Expenses of Administration.*—(1) All expenses relating to the administration of the Fund shall be met from the Fund.

(2) The expenses incurred by the Government in connection with the establishment of the Fund shall be treated as a loan and such a loan shall be repaid from the Administration Account.

55. *Forms of Account.*—The accounts of the Fund including “the Administration Account” shall be maintained by the Commissioner in such form and manner as may be specified by the Board with the approval of the Government.

56. *Audit.*—The accounts of the Fund, including the Administration Account shall be audited in accordance with the instructions issued by the Government in consultation with the Accountant General.

57. *Budget.*—(1) The Commissioner shall place before the Board each year in the first fortnight of January a budget showing separately the probable receipts from the contributions and from the levy of administrative charges and the expenditure which it proposes to incur during the following financial year. The budget as approved by the Board shall be submitted for sanction to the Government within a month of its being placed before the Board.

(2) The Government may make such modifications in the Budget as it considers desirable before sanctioning.

¹[(3) The Commissioner may at any time during the year, make budgetary reappropriation of funds sanctioned in the budget by the Government, provided that—

- (a) the amount of reappropriation does not exceed
Rs.1200/- ;

- (b) the total amount sanctioned in the budget by the Government is not exceeded ;
- (c) it is made only for meeting such expenses of administration as are to be met from the Administration Account in accordance with paragraph 54 ; and
- (d) every re-appropriation so made shall be reported by him to the Board at its next meeting.]

58. *Member's Accounts.*—(1) An account shall be opened in the Fund in the name of each member in which shall be credited—

- (a) his contributions ;
- (b) the contributions made by the employer in respect of him ; and
- (c) interest as provided in paragraph 59.

(2) All items of account shall be calculated to the nearest quarter of a rupee ; that is, 12.5 naya paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 paise shall be ignored.

(3) On receipt of the contribution card or cards of a member from his employer or employers at the end of the period of currency of the contribution card, the Commissioner shall compare the entries made in the contribution card or cards with those made in the member's individual account in the office of the Fund and shall rectify any discrepancy found in these entries.

(4) *Inter-state transfer of members.*—Where a member of the Fund ceases to reside in the State and settles in another State, he may apply to the Commissioner in such form as the Commissioner may specify for a transfer of his account to the State Fund in which he takes up residence.

59. *Interest.*—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Government in consultation with the Board.

(2) Interest for the period of currency of the card shall be credited with effect from the last day of the period on the opening balance at the credit of the member on the first day thereof :

¹[Provided that when the amount standing to the credit of the member becomes payable, interest thereon shall be credited under the sub-para up to the end of the month preceding the date of retirement/tender of the payment :]

²[Provided further that the payment of interest shall be restricted to three years from the date of ceasing of the subscription :]

Provided further that the rate of interest to be allowed on claims for refund for the broken currency period shall be the rate fixed for the financial year in which the refund becomes payable.

(3) The aggregate amount of interest credited to the accounts of the members shall be debited to “Interest Suspense Account”.

(4) In determining the rate of interest, the Government shall satisfy itself that there is no overdrawal on the interest suspense account as a result of the debit thereto of the interest credited to the account of members.

1. Inserted vide SRO-479 dated 28-8-1978.
2. Inserted vide SRO-23 dated 1-2-2005.

CHAPTER VIII

Nominations, Payment and withdrawals from the Fund

60. *Nomination.*—(1) Each member shall make in his declaration in Form-2, a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made.

(2) A member may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his discretion.

(3) If a member has a family at the time of making a nomination the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the member has no family, the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member after giving a written notice of his intention of doing so in Form-8. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Commissioner.

61. *Withdrawal from the Fund for payment towards Insurance Policies.*—Any amount with interest thereon standing to the credit of a member in the account of Fund may be withdrawn not more than once in every six months to make a payment towards a policy of life insurance :

Provided that the withdrawal shall not be permitted before the details of the proposed policy have been submitted to the Commissioner in such form as he may specify and accepted by him as suitable. nor shall the withdrawal be permitted in excess of the amount required to pay a premium or subscription actually due for payment within six months of the date of withdrawal :

Provided further that no amount may be withdrawn to make any payment in respect of or for the purpose of purchasing an educational endowment policy if that policy is due for payment in whole or part before the member attains the age of 55 years :

Provided also that amount withdrawn shall not exceed the total contributions of the member up to date of withdrawal.

62. *Commissioner to be satisfied regarding the utilisation of amounts withdrawn.*—(1) A member desiring to withdraw any amount under paragraph 61 shall—

- (a) intimate the reason for the withdrawal to the Commissioner ;
- (b) make arrangements with the Commissioner for the withdrawal ;
- (c) send to the Commissioner, within such period as he may require, a receipt in order to satisfy him that the amount withdrawn was duly applied for the specified purpose.

(2) The Commissioner shall order the recovery of any amount withdrawn, in respect of which he is not satisfied that the amount withdrawn was actually spent for the specified purpose, with interest thereon at the rate provided in para 59 from the emoluments of the member and credit in to his account in the Fund.

63. *Assignment of policies to the Fund.*—(1) The policy within six months after the first withdrawal in respect of it, shall be assigned to the Board as security for the payment of the amount withdrawn and shall be delivered to the Commissioner.

(2) The Commissioner shall, before allowing withdrawal in respect of old policies satisfy himself by reference to the Insurance Company that no prior assignment of the policy exists and the policy is free from all encumbrances.

(3) The terms of the policy shall not be altered nor shall the policy be exchanged for another policy without the prior consent of the Commissioner to whom the details to the alteration or of the new policy shall be furnished in such form as he may specify.

(4) If the policy is not assigned and delivered, any amount withdrawn from the Fund in respect of the policy shall, with interest thereon at the rate provided in paragraph 59 forthwith be repaid by the member to the Fund, or in default be ordered by the Commissioner to be recovered by deduction from the emolument of the member in such installments as he may determine.

(5) A policy to be acceptable under this paragraph shall be effected by the member on his own life and shall be such as may be legally assigned by the member to the Board.

64. *Bonus to be adjusted against the withdrawal.*—A member shall not during the currency of the policy draw any bonus the drawal of which during such currency is optional under the terms of the policy and the amount of any bonus which under the terms of the policy the member has no option to refrain from drawing during its currency shall be paid by him forthwith into the Fund to be adjusted against the amount withdrawn, or in default be recovered by deduction from his emoluments by such installments as the Commissioner may determine.

65. *Re-assignment of Policies.*—(1) When the member—

- (a) permanently retires from service in the industry or establishment or business to which this scheme applies after the attainment of the age of superannuation ; or
- (b) retires on account of permanent and total incapacity for work in any industry or establishment or business to which this Scheme applies due to bodily or mental infirmity as provided in sub-para 74 ; or

- (c) is permitted by the Board or where so authorised by the Board, the Commissioner under sub-para (2) of para 74 to withdraw the amount standing to his credit in the Fund ; or
- (d) repays to the Fund the whole of any amount, withdrawn from the Fund for any of the purposes mentioned in paragraph 61 with interest thereon at the rate provided in paragraph 59 ;

The Board shall re-assign the policy to the member and make it over to him together with a signed notice of the Re-assignment addressed to the Insurance Company.

(2) If the member dies before quitting service, the Board shall re-assign the policy to the beneficiary, if any, or to such person, as may be legally entitled to receive it and shall make over the policy to the beneficiary or to such person together with a signed notice of the re-assignment addressed to the Insurance Company.

66. *Repayment of the amount withdrawn.*—If a policy assigned to the Board matures or otherwise fails due for payment before the member quits service, the Board shall—

(1) If the amount assured together with the amount of any accrued bonus is greater than the whole of the amount withdrawn from the fund in respect of the policy with interest thereon at the rate provided in paragraph 59, re-assign the policy to the member and make it over to him who shall immediately on receipt of the policy monies from Insurance Company repay to the Fund the whole or any amount withdrawn with interest ;

(2) If the amount assured together with the amount of any accrued bonus is less than the whole of the amount withdrawn with interest, realise the amount assured together with any accrued bonus and shall place the amount so realised to the credit of the member in the Fund.

67. *Recovery of the amount withdrawn in certain cases.*—The provisions of sub-paragraph (4) of paragraph 63 applicable to a failure to assign and deliver a policy shall apply—

- (i) if the policy lapses or is assigned, otherwise than to the Board charged or encumbered ; or
- (ii) if the member does not repay the whole of the amount withdrawn with interest under sub-paragraph (1) of paragraph 66.

68. *Advance from the Fund for serious prolonged illness of a member or a member of his family.*—In exceptional cases, a temporary advance may be granted to a member from the amount standing to his credit in the Fund at the discretion of the Commissioner to pay expenses in connection with the serious or prolonged illness of the member or a member of his family actually dependent on him, subject to the following conditions.—

(1) No advance shall be granted unless the Commissioner is satisfied that the applicant's pecuniary circumstances justify it.

(2) An advance shall not exceed three months basic wages** and the dearness allowance including the cash value of any food concession of the member or his own contributions with interest thereon up-to-date, whichever is less.

(3) An advance shall be repaid by the member in such number of equal monthly instalments as the Commissioner may direct ; but such number shall not be less than twelve unless the member so elects or in any case more than twenty four. A member may at his option repay more than one instalment in a month. Each instalment shall be a number of whole rupees the amount of the advance being raised or reduced if necessary to admit of the fixation of such instalments.

(4) (a) and (b) '[x x x x]

(5) The employer shall recover the instalments of advance from the member's wages and pay them to the Fund. The recovery of advance shall commence on the first occasion after the advance is made on which the member's pay for a full month is drawn irrespective of whether the balance is or is not claimed by him :

¹[Provided that next advance shall not be granted before the expiry of six months from the date of liquidation of previous advance except in the cases of serious ailments.]

²68-(A). *Advance from the Fund for the marriage of a daughter of the member or a daughter of his deceased ³[son] or for his own marriage or the marriage of his depended ³[sister].*—(1) A member may be allowed a temporary advance from the amount standing to his credit in the Fund in case of marriage of his daughter or a daughter of his deceased son or for his own marriage or the marriage of his depended *sister :

Provided that no advance shall be granted to a member for his own marriage if his spouse is living.

(2) The advance under this paragraph shall be granted if the employer certifies that to his knowledge the request of the member is genuine and that the applicant's pecuniary circumstances justify grant of such an advance.

(3) An advance shall not exceed ⁴[six] months basic wages and the dearness allowance including the cash value of any food concession of the member or his own contributions with interest thereon up-to-date whichever is less.

(4) The advance shall be repaid by the member in such number of equal monthly instalments as the Commissioner may direct, but such number shall not be less than twelve unless the member so elects, or in any case more than ⁴[forty]. A member may, at his option, repay more

1. Added vide SRO-204 dated 2-7-2004.
2. Inserted vide SRO-4 dated 5-1-1966.
3. Inserted vide SRO-164 dated 10-4-1970.
4. Inserted vide SRO-199 dated 4-4-1978.

than one instalment in a month. Each instalment shall be a number of whole rupees, the amount of the advance being raised or reduced, if necessary, to admit of the fixation of such instalments.

(5) (a) and (b) ¹[x x x x x]

(6) The employer shall recover the instalment of advance from the members wages and pay them to the Fund. The recovery of advance shall commence on the first occasion after the advance is made on which the members pay for a full month is drawn irrespective of whether the balance is or is not claimed by him.

²[Provided that next advance shall not be granted before the expiry of six months from the date of liquidation of previous advance except in the cases of serious ailments.]

³[68-(B). *Advance from the Fund for the repairs of dwelling house of a member.*—(1) A member may be allowed a temporary advance from his account in the fund for executing repairs of his dwelling house provided that no advance shall be granted if an advance has been granted under paragraph 68-A.

(2) The advance shall be granted if the member produces a certificate in this behalf from a Municipal Authority or Town Area Committee or a Tehsildar of the concerned tehsil where there is no Municipal or Town Area Committee ¹[x x x x] or from any gazetted officer, or MLA/MLC or Member of the Board of Trustees, or Manager of the Factory and the employer certifies that the applicant's pecuniary circumstances, justify grant of such an advance.

(3) An advance shall not exceed three month's basic wages and D. A. including cash value of any food concession of the member of his contributions with interest thereon up-to-date whichever is less.

(4) An advance shall be repaid by the member in such number of equal monthly instalments as the Commissioner may direct ; but such number shall not be less than twelve unless the member so elects, or in

1. Omitted vide SRO-550 dated 31-8-1976.

2. Added vide SRO-204 dated 2-7-2004.

3. Inserted vide SRO-372 dated 14-7-1980.

case more than twenty-four. A member may, at his option, repay more than one instalment in a month. Each instalment shall be a number of whole rupees, the amount of the advance being raised or reduced, if necessary to admit of the fixation of such instalments.

(5) (a) and (b) ¹[x x x x x]

(6) The employer shall recover the instalment of advance from the member's wages and pay them to the Fund. The recovery of advance shall commence on the first occasion after the advance is made on which the member's pay for a full month is drawn irrespective of whether the balance is or is not claimed by him.

²[Provided that next advance shall not be granted before the expiry of six months from the date of liquidation of previous advance except in the cases of serious ailments.]

³[68-C. *Advance from the Fund for the Education purposes of the son or daughter of the member or son or daughter of his deceased son.—*

(1) A member may be allowed a temporary advance from his account in the Fund for meeting the expenses for the higher, technical, scientific or professional education purposes of his son or of his daughter or the son or daughter of his deceased son.]

(2) The advance under this paragraph shall be granted if the employer certifies that to his knowledge the request of the member is genuine and that the applicant's pecuniary circumstances justify grant of such advance.

(3) An advance shall not exceed six months pay of the member or his contributions with interest thereon whichever is less.

(4) The advance shall be repaid by the member in such number of equal monthly instalments as the Commissioner may direct but such number shall not be less than twelve unless the member so elects, or in any case more than forty.

1. Omitted vide SRO-550 dated 31-8-1976.

2. Added vide SRO-204 dated 2-7-2004.

3. Inserted vide SRO-372 dated 14-7-1980.

(5) The employer shall recover the instalment of advance from the members wages and credit them to the Fund. The recovery of advance shall commence from the month after the advance is made in which the members pay for full month is drawn :

¹[Provided that next advance shall not be granted before the expiry of six months from the date of liquidation of previous advance except in the cases of serious ailments.]

69. *Advance from the Fund for the purchase of a dwelling house or a dwelling site or for construction of a dwelling house.*—(1) The Commissioner may, on an application from a member, sanction the amount standing to the credit of the member in the Fund an advance of an advance not exceeding his twelve month's basic wages or his own total contribution with interest thereon, whichever is less, for purchasing a dwelling house, or a dwelling site or for the construction of a dwelling house :

Provided that where the advance is sanctioned for the purchase of a dwelling site, the amount that shall be initially paid towards such advance shall not exceed six month's basic wages of the member or half of his own total contributions with interest thereon, whichever is less, and the balance which shall not exceed six month's basic wages of the member or his own total contributions with interest thereon then standing to his credit, whichever is less, may be paid to the member at his request at the time of the construction of a dwelling house on such dwelling site :

Provided further that where the advance is in respect of the construction of a dwelling house, it, may be sanctioned in such number of instalments as the Commissioner thinks fit.

(2) No advance under sub-paragraph (1) shall be sanctioned unless a member has completed *seven year's membership of the Fund and unless his own total contributions with interest thereon in the amount standing to his credit in the Fund is one thousand rupees or more.

(3) Where an advance is sanctioned for the construction of a dwelling house, the construction shall commence within six months of the withdrawal of the first instalment and shall be completed within

six months of the withdrawal of the final instalment. In the case of purchase of a dwelling house or a dwelling site, the purchase shall be completed within six months of the withdrawal of the amount.

(4) Except in the cases specified in sub-paragraph (5) no further advance shall be admissible to a member under this paragraph.

(5) The Commissioner may grant a further advance to a member not exceeding his six month's basic wages or his own total contributions with interest thereon standing to his credit in the Fund, whichever is less, if he is satisfied that the member genuinely requires the further advance—

- (a) for the additions necessary to the dwelling house already constructed or purchased, or
- (b) for completing the construction of the dwelling house already commenced.

(6) Where the advance applied for is for purchasing a dwelling site or a dwelling house, the advance shall not be granted unless the dwelling site or the dwelling house, as the case may be, is free from encumbrances. No advance shall be granted for purchasing a share in a joint property or building a house on land owned jointly.

(7) If the advance granted under this paragraph exceeds the amount actually spent for the purpose for which it was sanctioned, the excess amount shall be refunded by the member to the Fund within thirty days of the finalisation of the purchase or as the case may be within thirty days of the completion of the construction of or necessary additions to, a dwelling house.

(8) If the Commissioner is satisfied that the advance granted under this paragraph has been utilised for a purpose other than that for which it was granted, or that the conditions of advance have not been fulfilled, or that there is a reasonable apprehension that they will not be fulfilled wholly or partly, or that the excess amount will not be refunded in terms of sub-paragraph (7), the Commissioner shall forthwith take steps to recover the amount due with interest at the rate not exceeding 6¼ per cent per annum thereon, from the wages of the member in such number of instalments as the Commissioner may determine. For the

purposes of such recovery, the Commissioner may direct the employer to deduct each such instalment from the wages of the member and on the receipt of such direction the employer shall deduct accordingly. The amount so deducted shall be remitted by the employer to the Commissioner within such time and in such manner as may be specified in this behalf by the Commissioner, for being credited to the member's account.

(9) Where any advance granted under this paragraph has been misused, no further advance shall be granted to the member under the said paragraph.

70. *Advance from the fund towards the allotment of a tenement constructed or to be constructed under subsidised Housing Schemes for industrial Workers.*—(1) Where any tenements have been constructed or are to be constructed by the Government or Co-operative Society under the subsidised Housing Scheme for Industrial Workers, a member, who has completed seven year's membership of the Fund and whose own total contributions with interest thereon in the amount standing to his credit in the Fund is not less than seven hundred and fifty rupees, may authorise the Commissioner in such manner, as approved by him, to remit from his account in the Fund to the Government or Co-operative Society of which he is a member, a sum not exceeding his twelve month's basic wages or his own total contributions with interest thereon, or his own share of cost, whichever is less, towards the allotment of such tenement.

(2) The Commissioner, on being satisfied that the authorisation has been made in the manner approved by him shall thereupon remit such sum to the Government or Co-operative society, as the case may be.

(3) In the event of the member not being able to get an allotment under the said scheme or in the event of cancellation of an allotment made to a member under that Scheme, the member concerned shall be liable to refund to the Fund the amount remitted to the Government or the Co-operative society under this paragraph within fifteen days of the receipt thereof, Any sum so refunded shall be credited to the member's account.

(4) No second advance shall be admissible to a member under this paragraph.

(5) In this paragraph the expression “Co-operative Society” means the society registered or deemed to be registered under the Co-operative Society Act, 1960 (XXVIII of 1960).

¹[70-A. *Grant of advance in special cases.*—In case—

- (a) a factory or other establishment has been locked up or closed down for more than thirty days for any reason other than an illegal lockout or strike and its employees are rendered unemployed with compensation less than their basic wages ;
or
- (b) where the employees of a factory or other establishment are dislocated from their places of residence due to reason arising out of any national emergency or in the interest of the security or defence of the State the Commissioner may authorise payment to a member who is employed in such factory or establishment an advance from his provident fund account not exceeding his own total contribution including interest thereon up to the date the payment has been authorised and such advance shall be recoverable in such monthly equated instalments not exceeding twenty-four as the Commissioner may determine.]

²[71. *Advance from the fund to be non-refundable.*—The advance made under paragraphs 69 and 70 are non-refundable, if the member so desires in writing, he may be permitted to refund the advance at the rates and in the manner as prescribed by the Commissioner.

In any case the manner and the rate of refund shall be regulated as per the other provisions relating to the grant of refundable advances. The option once exercised shall be final].

72. *Computation of period of membership.*—In computing the period of membership of the Fund of a member under paragraph 69 or

1. Inserted vide SRO-222 dated 23-6-1965.

2. Amended vide SRO-320 dated 16-06-1979.

paragraph 74, his total service exclusive of periods of breaks under the same employer or factory or other establishment before this Scheme applied to him as well as the period of his membership, whether of the Fund or of private provident funds of exempted factories or other establishments or business or provident funds exempted under paragraph 26, immediately proceeding the current membership of the Fund, shall be included :

Provided that the member has not ceased his membership by withdrawal of his provident fund during such period.

73. *Restriction on grant of advance.*—A member may be granted an advance either under paragraph 69 or under paragraph 70 but not under both.

74. *Circumstances in which accumulations in the Funds are payable to member.*—(1) A member may withdraw the full amount standing to his credit in the Fund—

- (a) on retirement from service after attaining the age of ¹[superannuation] and :

Provided that a member who has attained the age of superannuation at the time of termination of his service, shall also be entitled to withdraw the full amount standing to his credit in the Fund if he attains the age of superannuation before the payment is authorised.

²[(b) on retirement on account of permanent and total incapacity for work due to bodily or mental infirmity duly certified by the Medical Officer of the establishment or where an establishment has no regular Medical Officer, by a registered medical practitioner designated by the establishment. Where an establishment has been closed, the certificate of any registered medical practitioner shall be deemed to be sufficient for the purposes of this paragraph :

Provided that it shall be open to the Commissioner to demand from the member a fresh certificate from a Civil Surgeon where the original certificate produced by him gives rise to suspicion regarding its genuineness:

1. Amended vide SRO-372 dated 14-07-1980.
2. Amended vide SRO-180 dated 27-06-1964.

Provided further that the entire fee of the Civil Surgeon shall be paid from the Fund in case the findings of the Civil Surgeon agree with the original certificate, and that where such findings, do not agree with the original certificate, only half of the fee shall be paid from the Fund and the remaining half shall be debited to the member's account.

Explanation :—A member suffering from Tuberculosis, Leprosy, ¹[Cancer or Paralysis] even if contracted after leaving the service of an establishment on grounds of illness but before payment has been authorised shall be deemed to have been permanently and totally incapacitated for work; or]

(c) immediately before leaving the state for permanent settlement abroad or in any other part of India outside the State.

²[(d) on termination of service in case of mass or individual retrenchment :

Provided that in the case of mass retrenchment the payment shall be made immediately and in the case of individual retrenchment payment shall be made if the member has not been employed in any factory or other establishment to which the Act applies for a continuous period of not less than six months immediately preceding the date on which the member makes the application for withdrawal:

Provided further that in the case of an individual retrenchment pending final withdrawal, the member may, at his option, be paid for the period, during which the member is out of employment monthly withdrawals, not exceeding six of a non-refundable advance from the Fund of an amount equal to—

- (a) the pay (including dearness allowance, cash value of any food concession and retaining allowance) drawn by him in the months immediately preceding the month in which he was retrenched ; or
- (b) one-six of the amount standing to his credit (including interest) in the Fund, whichever is less; and on the expiry of

1. Inserted vide SRO-340 dated 25-6-1969.

2. Inserted vide SRO-308 dated 23-8-1965.

the period of six months referred to in the foregoing proviso the balance amount, if any, shall :—

- (i) in any case where the member secures employment in any establishment to which the Act applies, be transferred to the new provident fund account or the establishment ;
 - (ii) in any case where the member secures employment in an establishment not covered by the Act be paid in cash to him after the expiration of the said period of six months or be transferred under section 17 to the credit of the account of such member in the provident fund of the establishment in which he is re-employed, provided that it shall be so done only if the member so desires and such transfer is permissible under the rules of that provident fund ;
 - (iii) in any case where the member does not secure employment be paid in cash.
- (e) in any of the following contingencies, provided the actual payment shall be made only after completing a continuous period of not less than six months immediately preceding the date on which a member makes the application for withdrawal :—
- (i) where a factory or other establishment is closed but certain employees who are not retrenched are transferred by the employer to the other factory or establishment not covered under the Act ;
 - (ii) where a member is transferred from a covered factory or other establishment to another factory or other establishment not covered under the Act, but is under the same employer ;
 - (iii) where a member is discharged and is given retrenchment compensation under the Industrial Disputes Act, 2006 (XVIII of 2006).

- (f) ¹[x x x x x]
- (g) ²[immediately on retirement from service on voluntary basis].
³[x x x x x]

(2) In cases other than those specified in sub-paragraph (1) the Board or where so authorised by the Board, the Commissioner, or where so authorised by the Commissioner, any Officer subordinate to him, may permit a member to withdraw, subject to the provisions of sub-paragraph (3) the amount standing to his credit in the Fund, if,—

- (a) he being a national of country other than Indian is leaving India at the last for a year ; or
- (b) he has not been employed in any factory or other establishment or business to which the Act applies for a continuous period of not less than six months immediately preceding the date on which he makes the application for withdrawal.

Explanation :—A declaration in writing made by a member affirming the fact of non-employment as aforesaid may be accepted as proof thereof.

- (3) ⁴[x x x x].
- (4) ⁵[x x x x].

(5) Any member who withdraws the amount due to him under sub-paragraph (2) shall, on obtaining re-employment in a factory or other establishment or business to which the Scheme applies, he required to qualify again for the membership of the Fund and on qualifying for membership shall be treated as a fresh member thereof.

(6) Any sum forfeited to the Fund under this paragraph shall not be returned to the employer but shall be credited to the “Forfeiture Accounts” of the Fund.

⁶[(7) In the event of a member becoming entitled to subscribe to the G. P. Fund his accumulations in the C. P. Fund shall be transferred to his G. P. Fund account subject to the provisions contained in sub-paragraph (3)].

1. Omitted vide SRO-581 dated 30-4-1974.
2. Inserted vide SRO-436 dated 7-9-1971.
3. Omitted vide SRO-372 dated 14-7-1980.
4. Deleted vide SRO-375 dated 19-11-1997.
5. Deleted vide SRO-308 dated 23-8-1965.
6. Amended vide SRO-175 dated 25-3-1978.

Explanation :—(a) In computing the period of membership under sub-paragraph (3) for the first withdrawal under sub-paragraph (2) in respect of a member, his total service exclusive of periods of breaks under the same employer or factory or other establishment or business before the Scheme applied to the factory or other establishment or business as well as the periods of his membership, whether of the Fund or of private provident funds of exempted factories or other establishment or business or provident funds exempted under paragraph 26 immediately preceding the current membership of the Fund shall be included provided that the member did not withdraw his provident fund monies during such period.

(b) In computing the period of membership under sub-paragraph (3) for subsequent withdrawals under sub-paragraph (2), periods of membership whether of the Fund or of Private Provident Funds of exempted factories or other establishments or business or provident funds exempted under paragraph 26, immediately preceding the current membership of the Fund shall be included provided that the member did not withdraw his provident fund money during such periods.

75. *Accumulations of a deceased member to whom payable.*—On the death of a member before the amount standing to his credit has become payable or where the amount has become payable before payment has been made—

- (i) if a nomination made by the member in accordance with paragraph 60 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to his nominee or nominees in accordance with such nomination ; or
- (ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate as the case may be, shall become payable to the member of his family in equal shares.

Provided that no share be payable to—

- (a) sons who have attained maturity ;
- (b) son of a deceased son who have attained maturity ;
- (c) married daughters whose husbands are alive ;
- (d) married daughters of a deceased son whose husbands are alive ;

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d) :

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the member and had not attained the age of maturity at the time of the member's death.

- (iii) in any case to which the provisions of clauses (i) and (ii) do not apply the whole amount shall be payable to the person legally entitled to it.

Explanation :—For the purpose of this paragraph a member's post-humous child if born alive, shall be treated in the same way as surviving child born before the member's death.

76. Deductions from the Account of member dismissed for serious and wilful misconduct.—(1) Notwithstanding anything contained in paragraph 74, if a member is dismissed by an employer in a factory or other establishment or business to which this Scheme applies for serious and wilful misconduct, the employer may send intimation thereof to the Board, and the Board or where so authorised by the Board the Commissioner shall have the power to forfeit the employer's contribution up to a maximum of the employer's contribution in the last two complete period of currency of the contribution cards and that of the periods of currency of the current contribution card.

(2) Before exercising the power of forfeiture conferred by sub-paragraph (1) the member concerned shall be called upon by notice in writing to show cause why the forfeiture shall not be made and shall decide the amount of forfeiture after taking into account any representation made by the member.

(3) A forfeiture made under sub-paragraph (1) may be reviewed by the said Board either of its own motion or at the request of the employer or the member.

(4) Any amount forfeited from the individual account of the member under sub-paragraph (1) shall not be returned to the employer but shall be credited to the Reserve Account of the Fund.

77. *Payment of Provident Fund.*—(1) When the amount standing to the credit of a member or the balance thereof after any deductions under paragraphs 74 and 76 become payable, it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme. He shall close the account of the member and give notice in writing to the person to whom the amount is payable specifying the amount and tendering payment thereof. In case there is no nominee in accordance with this Scheme, the Commissioner may, if the amount to the credit of the Fund does not exceed ¹[Rs. one thousand Rs. 1000/-] and if satisfied after enquiry about the title of the claimant pay such amount to the claimant.

(2) If any portion of the amount which has become payable is in dispute or doubt, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt the balance be adjusted as soon as may be possible.

(3) If the person to whom any amount is to be paid under this Scheme is a minor or lunatic for whose estate a guardian under the Guardian and Wards Act, Svt. 1977 (XIX of 1977) or a manager under the Lunacy Act, Svt. 1977 (XXX of 1977) as the case may be, has been appointed, the payment shall be made to such guardian or manager. In case no such guardian or manager has been appointed the payment shall be made to such person by the Commissioner where the amount does not exceed ¹[Rs. 3,000/-] or the Chairman of the Board if the amount exceeds ¹[Rs. 3,000/-] but does not exceed ¹[Rs. 5,000/-] considers to be the proper person representing the minor or lunatic and the receipt of such person for the amount paid shall be a sufficient discharge thereof. In any other case the amount shall be paid to the person authorised by law to receive the payment on behalf of the minor or the lunatic.

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member he shall retain the amount which will be due to the child in the event of its being born

alive and distribute the balance. If subsequently no child is born or the child is still born the amount retained shall be distributed in accordance with the provisions of paragraph 75.

¹[(5) Any person who desires to claim payment under this paragraph shall send a written application for the purpose to the Commissioner through the employer. If such person is unable to send the application through the employer for any reason whatsoever he may submit it to the Commissioner and the Commissioner may forward such application to the employer. The employer shall forward or as the case may return to the Commissioner every application received by him under this paragraph within fifteen days of the receipt of the application by him. The Commissioner may at the option of the person to whom payment is to be made, make the payment :—

- (i) by postal money order at the cost of the payee ; or
- (ii) by a crossed cheque sent through post ; or
- (iii) by deposit in the payee's postal savings bank account, if any.]

78. *Annual statement of member's account.*—(1) As soon as possible after the close of each period of currency of contribution card the Commissioner shall send to each member through the employer of the factory or other establishment or business in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.

(2) Member should, satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

79. *Principal employer to be responsible for complying with the provisions of the Act, and the Scheme in relation to employees employed by or through a contractor.*—Where an employee employed by or through a contractor in, or in connection with the work of an establishment, the principal employer shall be responsible for complying with the provisions of the Act and this Scheme in relation to such employees.

CHAPTER IX

Miscellaneous

¹[80. *Annual Report on the working of the Scheme.*—The Board shall approve before the 15th day of September, each year and submit to the Government by the 30th day of September a report on the working of the Employee's Provident Funds Scheme during the previous financial year].

81. *Issue of copies of Member's Accounts Annual Report, etc.*—The Commissioner shall furnish copies of the member's account and the annual reports of the Fund to any employer or member on written application and on payment of such fees and subject to such conditions as may be specified by the Board in this behalf.

82. *Punishment for failure to pay contributions etc.*—If any person—

- (a) fails to pay any contribution which he is liable to pay this Scheme ; or
- (b) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution ; or
- (c) fails or refuses to submit any return, statement or other document required by the Scheme or submits a false returns, statement, or other documents or makes a false declaration ; or
- (d) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties or fails to produce any record for inspection by such Inspector or other official ; or
- (e) is guilty of contravention or of non-compliance with any other requirement of this Scheme, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or both.

83. *Conduct of business of the Board.*—(1) All orders and other instruments shall be made and executed in the name of the Board and shall be authenticated by such person and in such manner as the Board may specify

(2) All contracts and assurances of property shall be expressed to be made by the Board and shall be executed on behalf of the Board by the Commissioner.

84. *Power to issue directions.*—(1) The Government may, from time to time, issue such directions to the Board or any other authority, under the Act or this Scheme as it may consider necessary for the proper implementation of the Scheme or for the purpose of removing any difficulty which may arise in the administration thereof including difficulties in the matter of payment of accumulations in the Fund to the members after they cease to be such members.

(2) The authority to whom any directions are issued under this paragraph shall comply with such directions.

85. *Special provisions relating to factories or other establishments or business in respect of which applications for exemption are received.*—Notwithstanding anything contained in this Scheme, the Commissioner may, in relation a factory or other establishment or business in respect of which an application for exemption under section 19 of the Act has been received relax pending the disposal of the application the provisions of this Scheme in such manner as he may direct.

* Here give the name and address of the factory or other establishment or business in which employed.

** Score out of the portion not applicable.

**THE EMPLOYEES PROVIDENT FUND SCHEME, 1961
(ELECTION UNDER PARAGRAPH 26 OF SCHEME)**

I hereby elect to continue to be a member of the

Provident Fund of which I am at present a member

- 1. Name (in block letters)
- 2. Occupation.....
- 3. Sex.....4. Religion.....
- 5. Father's name.....
- 6. Husband's name (for married women only).....
- 7. Permanent address
- 8. Name of Provident Fund of which he/she is already a member

I declare that all the particulars stated above are true to the best of my knowledge and belief

Signature or left hand thumb impression of person employed.

Dated.....

The.....20

Certified that the above declaration has been signed by..... employed in*..... before..... me and that he/she is a member of the..... Provident Fund. a Fund **recognised under the Income Tax Act, 1922 which the Provident Fund Act, Svt. 1988 applies.

Dated.....

The20

Signature of the Manager or other authorised officer of the factory or other establishment or business, Registered No. of the factory or other establishment or business.

* Here give the name and address of the factory or other establishment or business in which employed.
** Score out of the portion not applicable.

FORM 2

**THE EMPLOYEES PROVIDENT FUND SCHEME, 1961
DECLARATION AND NOMINATION FORM**

[Paragraphs 33 and 60 (1)]

1. Name (in block Letters).....Surname.....
2. Caste.....
3. Sex.....
4. Religion.....
5. Occupation.....Shop/Establishment/Deptt.....
6. Height.....
7. Father's name.....
8. Husband's name.....
9. Marital status.....
(whether bachelor, spinster, married, widow or widower)
10. Date of birth day.....month.....year.....
11. Mark of identification.....
12. Permanent address.....
13. Village.....Thana.....Sub-Division.....
District.....State.....

I declare that I have not previously been a member of the Employees Provident Fund and I hereby nominate the person's mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names :—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulations the Fund to be paid to each nominee	Contingencies on the happening of which the nominations shall become invalid
1	2	3	4	5

Dated..... Signature or left thumb impression
of the member.

Certified that the above declaration has been signed by.....employed in my factory (or other establishment) before me after he has read the entries/the entries have been read over to him by me.

Signature of the Manager or other authorised officer, with seal.

Regd. No. of factory or other establishment or business.

Dated.....

Designation.....
(Name and address of the factory or other establishment or business).

Where exact particulars are not available, approximate age may be indicated in consultation with the Medical Officer of the factory or other establishments or business.

FORM 3

THE EMPLOYEES PROVIDENT FUNDS SCHEME, 1961

[Paragraphs 35 and 42]

Contribution Card for monthly paid employee's for the period
from.....to.....

1. Account No.....
2. Name (in block letters).....Surname.....
3. Caste
4. Sex.....
5. Date of birth as given in Form-2.....
6. Occupation.....
7. Father's name.....
8. Husband's name.....
9. Marital status
- (whether bachelor, spinster, married, widow or widower)
10. Permanent address.....
- Village.....Thana.....Sub-Division.....
- District.....
- ..
11. Signature or thumb impression of member.....
12. Signature of person preparing the card
13. Signature of the Manager of the factory or other establishment
or business.....
14. Registered number of the factory or the establishment or
business.....
- ..
15. Name and address of the factory or other establishment or
business.....

PARTICULARS OF EMPLOYMENT

Registered No. of factory or other establishment or business	Period of employment		Remarks	Initials of Employer's authorised clerk			
	From	To		Month 1	Month 2	Month 3	Month 4
The employer's and member's contribution should be shown separately for each	Employer's	Month	Month	Month	Month	Month	Month
	member's	1	2	3	4		
	Total						
	month						
Month	Month	Month	Month	Month	Month	Month	Month
5	6	7	8	9	10	11	12
Total contribution by the employer				Signature or the Employer's Head Clerk or any authorised clerk checked and found correct.			
Total contribution by the member							
Grand Total				Authorised official of the office of the Commissioner.			
Amount refunded.							

FORM 4

THE EMPLOYEES PROVIDENT FUNDS SCHEME, 1961

[Paragraphs 35 and 42]

Contribution Card for employees other than monthly paid employee's for the period from.....to.....

1. Account No.....
2. Name (in block letters).....Surname.....
3. Caste
4. Sex.....
5. Date of birth as given in Form-2.....
6. Occupation.....
7. Father's name.....
8. Husband's name.....
(for Married women only)
9. Marital status
- (whether bachelor, spinster, married, widow or widower)
10. Permanent address.....Thana.....Sub-Division.....
Village.....District.....State.....
11. Signature or thumb impression of member.....
12. Signature of person preparing the card
13. Signature of the Manager of the factory or other establishment
or business.....
14. Registered number of the factory or the establishment or
business.....
..
15. Name and address of the factory or other establishment or
business.....

PARTICULARS OF EMPLOYMENT

Registered No. of factory or other establishment or business	Period of employment		Remarks	Initials of Employer's authorised clerk						
	From	To		Week 1	Week 2	Week 3	Week 4	Week 5		
The employer's and member's contribution should be shown separately for each week	Employer's member's Total amount refunded									
Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16
Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24	Week 25	Week 26	Week 27
Week 28	Week 29	Week 30	Week 31	Week 32	Week 33	Week 34	Week 35	Week 36	Week 37	Week 38
Week 39	Week 40	Week 41	Week 42	Week 43	Week 44	Week 45	Week 46	Week 47	Week 48	Week 49
Week 50	Week 51	Week 52								
Total contribution by the employer						Signature of the Employer's Head Clerk or any authorised clerk checked and found correct.				
Total contribution by the member						Authorised official of the office of the Commissioner				
Grand Total										
Amount refunded										

FROM 5

THE EMPLOYEES PROVIDENT FUNDS SCHEME, 1961

[Paragraph 36 (2) (a)]

Return of employees qualifying for membership of the Employees' Provident Fund for the first time during the month.....20*(To be sent to the Commissioner in duplicate with Form-2)*Name and address of the factory (or other establishment).....
.....

S. No.	Name of the employee (in block letters)	Father's name or husband's name (in case of married woman)	Sex	Basic monthly wages	Monthly dearness and other allowance including each value of food concession.
1	2	3	4	5	6

Total wages	Account No.	(To be filled up by the Commissioner vide paragraph)	Remarks
7	8	9	10

Dated.....

Signature of the Manager of factory
or establishment or business.

FROM 5-A

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1961

[See Paragraph 36-A]

Return of Ownership to be sent to the Provident Fund Commissioner.

1. Name of the factory/establishment.....
2. Registered Number of the factory/establishment.....
3. Industry in which engaged.....
4. Postal address.....
5. Date of opening when manufacturing process started
6. Date(s) of closing (if any).....
7. Whether run by the owner or lessee.....
8. Name of owner, postal address of owner.....
9. Name of occupier, postal address of occupier.....
10. Name of Managing Agents (if any) Postal address of Managing Agents.....
11. Name of Directors.....
Postal address of Directors.....
12. Name of Partners, Postal addresses of Partners.....
13. Name of Manager, Postal address of Manager.....

Signature of the employer
or any authorised officer.

Dated.....

Designation/Stamp of the
factory/establishment.

N. B.—(1) Strike out whichever is not applicable.

(2) Any change in the information given above should be intimated in writing to the Provident Fund Commissioner within 15 days of such change by registered post and in the prescribed manner.



FORM 6

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1961*[Paragraph 43]*

**Return of Contribution Cards sent to the Commissioner
on the expiry of the period of currency from.....
19.....to.....19 (To be sent in duplicate)**

Name and address of the factory (or other establishment).....

Registered No. of the factory (or other establishment).....

S. No.	Account No.	Name of the member (in block letters).	Total contribution and amount refunded.	Remarks
--------	-------------	--	---	---------

Space for use in the Commissioner's Office

Total amount of contribution

Total amount refunded.

Total number of cards sent.....

Dated.....

Signature of the Manager of factory
or other establishment or business
with seal.

FORM 7

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1961

[Paragraph 53(3)]

Classified summary of the assets of the Employees' Provident Fund for the year.....

Class of assets.	Book value as per (a) below.	Market value as on 19 as per (b) below	Remarks as per (c) below.
1.			Government securities.
2.			
3.			
4.			
5.			
6.			
7.			Cash on deposit in banks.
8.			Cash in hand and on current. account in banks.
9.			Other assets (to be specified).

The summary shall show :—

(a) the value for which credit is taken in the accounts for each of the above mentioned classes of assets.

(b) the market value of such of the above mentioned classes of assets as has been ascertained from published quotations.

(c) how the value of such of the above mentioned classes of assets as has not been ascertained from published quotations has been arrived at.

Signature of the Commissioner.

FORM 8

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1961

[See Paragraph 60 (5)]

I,.....hereby cancel the nomination made by me on the.....as regards the disposal, in the event of my death, of the amount standing to my credit in the Employee's Provident Fund hereby nominate the person/s mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names.

Name and address of the nominee or nominees.	Nominee's relationship with the member.	Age of nominee.	Amount or share of accumulations the Fund to be paid to each nominee.	Contingencies on the happening of which the nominations shall become invalid.

Signature or left hand thumb
Dated..... impression of member.

Certified that the above declaration has been signed before me by.....in
employed in.....

Signature of the Manager of the factory
or other establishment or business.

SEAL

Registered No. of the factory or
other establishment.

By order of the Government of Jammu and Kashmir.

(Sd.) GHULAM MOHAMMAD,

Secretary to Government,
Health Department (Labour).

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—LAW DEPARTMENT

Jammu, the 24th November, 1999.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 22nd November, 1999 and is hereby published for general information :—

**THE JAMMU AND KASHMIR EMPLOYEES PROVIDENT
FUNDS (AMENDMENT) ACT, 1999**

(Act No. XIV of 1999)

[22nd November, 1999.]

An Act to amend the Jammu and Kashmir Employees Provident Funds Act, 1961.

Be it enacted by the Jammu and Kashmir State Legislature in the Fiftieth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Employees Provident Funds (Amendment) Act, 1999.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. *Amendment of the title of the Act of 1961.*—In the title of the Jammu and Kashmir Employees Provident Funds Act, 1961 (hereinafter referred to as the principal Act), after the words “FUNDS” the words “AND MISCELLANEOUS PROVISIONS” shall be inserted.

3. *Insertion of section 7-A in Act XV of 1961.*—After section 7 of the principal Act, the following section shall be inserted, namely :—

“7-A. Employees Deposit Linked Insurance Scheme.—

(1) The Government may, by notification in the Government Gazette, 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 Act applies.

(2) There shall be established as soon as may be after the framing of the Insurance Scheme, Deposit Linked Insurance Fund into which 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 aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employees' as the Government may by notification in the Government Gazette, specify.”

4. *Amendment of section 18 Act XV of 1961.*—For sectional heading and sub-section (1) of section 18 of the principal Act, the following shall be substituted, namely :—

“18. Act not to apply to establishment registered under Co-operative Society Act.—(1) This Act shall not apply to any establishment registered or deemed to have been registered under the Jammu and Kashmir Co-operative Societies Act, 1960 or under any other law for the time being in force relating to Co-operative Societies, employing less than five persons and working without the aid of power.”

(Sd.)

Deputy Legal Remembrancer,
Law Department.

**THE EMPLOYEES DEPOSIT LINKED
INSURANCE SCHEME, 2000.**

**GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—LABOUR AND EMPLOYMENT
DEPARTMENT**

Notification

Jammu, the 14th December, 2000.

SRO-464.—In exercise of the powers conferred by section 7-A of the Jammu and Kashmir Employees Provident Funds and Miscellaneous Provisions Act, 1961 (XV of 1961) the Government hereby frame the following Scheme, namely :—

CHAPTER-I

PRELIMINARY

1. *Short title, commencement and application.*—(1) The Scheme may be called the Employees Deposit Linked Insurance Scheme, 2000.

(2) The Scheme shall come into force on the 1st day of January, 2001.

(3) Subject to the provisions of sections 18 and 19 of the Jammu and Kashmir Employees Provident Funds and Miscellaneous Provisions Act, 1961, this Scheme shall apply to the employees of all factories and other establishments to which the said Act applies.

2. *Definitions.*—In this Scheme, unless the context otherwise requires

- (a) “Act” means the Jammu and Kashmir Employees Provident Funds and Miscellaneous Provisions Act, 1961.
- (b) “Board of Trustees” means the Board of Trustees constituted under paragraph (3) of the Employees Provident Funds Scheme, 1961.
- (c) “Insurance benefit” means a payment linked to the average balance in the Provident Fund Account of an employee, payable to a person belonging to his family or otherwise entitled to it in the event of death of the employee while being a member of the Fund.
- (d) All other words and expressions used herein but not defined shall have the same meaning as assigned to them in the Act or in the Employees Provident Funds Scheme, 1961.

3. *Administration of the Scheme.*—This Scheme shall be administered by the Board of Trustees.

4. *Contributions.*—The contribution payable by the employer and the Government under sub-section (2) of section 7-A shall be calculated on the basis of basic wages, dearness allowance including the cash value of any food concession and the retaining allowance, if any, actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis.

5. *Mode of payment of contribution.*—(1) The contributions by the employer shall be remitted by him at such rate as the Government may fix from time to time to the Insurance Fund within fifteen days of the close of every month by a separate bank draft or cheque or by remittance in cash in such manner as may be specified in this behalf by the Commissioner. The cost of remittance, if any, shall be borne by the employer.

(2) It shall be the responsibility of the employer to pay the contribution payable by him in respect of the employees directly employed by him and also in respect of the employee employed by or through a contractor.

6. *Employer's contribution not to be deducted from the wages of the employees.*—The employer shall not deduct the contribution payable by him under this Scheme from the wages of the employees or to recover it from them in any other manner than what is provided in the contract.

7. *Duties of employers.*—(1) Every employer shall send to the Commissioner returns in such form as may be specified by the Commissioner for the purposes of this Scheme.

(2) Every employer shall maintain such accounts in relation to the amount contributed to the Insurance Fund by him as the Commissioner may from time to time direct and it shall be the duty of every employer to assist the Commissioner in making payment out of Insurance Fund to the claimants.

8. *Inspection of records and registers by the Commissioner or Inspector.*—Every employer shall whenever the Commissioner or any other officers authorised by him in this behalf or an Inspector so requires, produce before him the records and other registers in his possession for inspection.

9. *Deposit Linked Insurance Fund Account.*—The amount received as the employer's contribution to the Insurance Fund under sub-section (2) of section 7-A shall be credited to the account called the "Deposit Linked Insurance Fund Account" and all expenses towards the cost of any benefit provided by or under the Scheme shall be met out of this account.

10. *Investment of moneys belonging to the Insurance Fund.*—All the moneys belonging to the Fund shall be invested in the same way as is being done in the case of provident fund moneys.

11. *Scales of Insurance benefit payable.*—On the death of an employee who is a member of the Fund, the person entitled to receive the provident fund accumulations be paid an amount equivalent to the average balance to the credit of such a C. P. Fund subscription in provident fund account during the period of 12 months preceding his death provided such average balance does not exceed [Rs. 50,000/- where such balance exceeds Rs. 50,000/- the insurance cover would be equal to Rs. 50,000/- plus 25% of the amount of average provident fund balance in excess of Rs. 50,000/- subject to overall limit of Rs. 75000/-.]

12. *Insurance benefit to whom payable.*—(1) The nomination made by an employee under the Employees Provident Funds Scheme, 1961 shall be treated as nomination under this Scheme and the assurance amount shall become payable to such nominee or nominees.

(2) If no nomination subsists or if the nomination relates only to part of the amount standing to his credit in the Fund the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall become payable to the members of his family in equal share provided that no share shall be payable to—

- (a) sons who have attained maturity ;
- (b) sons of deceased son who have attained maturity ;
- (c) married daughters whose husbands are alive ;
- (d) married daughters of a deceased son whose husbands are alive
:

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them equal parts only the share which that son would have received if he had survived the

employee and had not attained the age of maturity at the time of his death.

(3) In any case to which the provisions of sub-paragraphs (1) and (2) do not apply the whole amount shall be payable to the persons legally entitled to it.

13. *Insurance amount how to be paid.*—The nominee or nominees or other claimants shall send a written application to the Commissioner through the employer in such form as the Commissioner may specify, to claim payment under this scheme.

(2) If the person to whom any amount is to be paid under this Scheme is a minor or lunatic, the payment shall be made in accordance with the provisions of the Employees Provident Fund Scheme, 1961 relating to payment to such persons.

By order of the Government of Jammu and Kashmir.

(Sd.)

Commissioner/Secretary to Government,
Labour and Employment Department.

