PROVIDENT FUND ACT, 1925

(Act No. XIX OF 1925)

(The assent of Governor-General was received on the 27th August, 1930.)

An Act to Amend and Consolidate the Law relating to Government and other Provident Funds.

Whereas it is expedient to amend and consolidate the law relating to Government and other Provident Funds :

It is hereby enacted as follows :

1. Short title, extent and commencement—(1) This Act may be called the Provident Fund Act, 1925.

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

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

2. Definitions—In this Act unless there is anything repugnant in the subject or context :

(a) "Compulsory deposit" means a subscription to, or, deposit in a Provident Fund which, under the rules of the Fund is not until the happening of some specified contingency repayable on demand otherwise than for the purpose of the payment of premia in respect of policy of the life insurance, of the payment of subscriptions or premia in respect of a family pension fund and include any contribution and any interest or increment which has accrued under the rules of Fund on any such subscription, deposit or contribution and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;

(b) "Contribution" means any amount credited in a Provident Fund, by any authority administering the Fund, by way of addition to a subscription to, or deposit, or balance at the credit of an individual account in the Fund; and "Contributory Provident Fund" means a Provident Fund, the rules of which provide for the crediting of contribution;

(c) "Dependent" means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son's widow and child, and where no parent of the subscriber or depositor is alive, a paternal grand parent;

(d) "Government Provident Fund" means a Provident Fund other than a Railway Provident Fund, constituted by the authority of the Secretary of State, the Central Government, the Crown Representative or any State Government for any class or classes of persons in the service of the Government or of persons employed in educational institutions or employed by bodies existing solely for educational purposes; and references in this Act to the Govt. shall be construed accordingly

(e) "Provident Fund" means a fund in which subscription or deposits of any class or classes of employees are received and held on their individual accounts and includes any contribution and any interest or increment accruing on such subscription, deposit, or contributions under the rules of the Fund;

(f) "Railway administration" means—

(i) any company administering a railway, or tramway in India, either under a special Act of Parliament, State, the Indian Law or under the contract with the Government; or

(ii) the manager of any railway or tramway, administered by the Central Government or by a State Government; and includes, in any case referred to in sub-clause (ii) the Central Government or the State Governments as the case may be;

(g) "Railway Provident Fund" means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees.

Protection of compulsory deposits.

3. (1) A compulsory deposit in any Government, or Railway Provident Fund, shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order, of any Civil, Revenue or Criminal Court, in respect of any debt or liability incurred by the subscriber or depositor and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to or have any claim on, any such compulsory deposit.

(2) Any sum standing to the credit of any subscriber to, or depositor in any such Fund at the time of his death payable under the rules of the Fund to any dependent of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf shall, subject to any deduction authorised by this Act, and save where the dependent is the widow, or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependent, and shall subject to as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependent before the death of the subscriber or depositor.

Provisions regarding payment

4. (1) When under the rules of any Government, or Railway Provident Fund, the sum standing to the credit of any subscriber or depositor or the balance thereof, after the making of any deduction authorised by this Act has become payable, the officer whose duty is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or, if he is dead shall—

(a) if the sum or balance, or any part thereof, vests in a dependent under the provision of Section 3, pay the same to the dependent, to such persons as may be authorised by law to receive payment on his behalf; or

(b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (a) to any person nominated to receive it under the rules of the Fund, or if no person is so nominated to any person appearing to him to be otherwise entitled to receive it; or

(c) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same–

(i) to any person nominated to receive it under the rules of Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1889 (VII of 1889) or under the Bombay Regulation VIII of 1827 entitling the holder thereof, to receive payment of such sum, balance or part; or

(ii) where no person is so nominated, to any person, who produces such probate, letters or certificate :

Provided that where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing or the assignment has been received by the officer from the assignee; the officer shall, after making any deduction authorised by the Act of any payment due under clause (a) to or on behalf of the widow or children of the subscriber or depositor–

(i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable, under this sub-section gives his consent in writing to pay the sum or part of the balance thereof, as the case may be, to the assignees; or

(ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court, as to the person entitled to receive it.

(2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government or the Railway Administration, as the case may be, from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

5. (1) Notwithstanding anything contained in any law for the time being in force, in any deposition, whether testamentary or otherwise, by a subscriber to or depositor in a Government or Railway Provident Fund of the sum standing to his credit in the fund or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring; before the sum has become payable or

before the sum having payable, has been paid the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all other persons to receive such sum or part thereof, as the case may be, unless–

(a) such nomination is at any time varied by another nomination made in like manner or expressly cancelled by notice given in the manner and to the authority prescribed by those rules; or

(b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon the said person, become void and of no effect :

Provided that where provision has been duly made in the nomination in accordance with the rules of the Fund conferring upon some other person such right instead of the person deceased, such right shall, upon the deceased aforesaid of the said person, pass to such other person.

(2) Notwithstanding anything contained in the Indian Succession Act, 1925 or the Bombay Regulation VIII of 1827, any person, who becomes entitled as aforesaid, may be granted a certificate under that Act, or that Regulation, as the case may be entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letter of administration to the estate to the deceased.

(3) The provisions of this section as amended by sub-section (1) of Section 2 of the Provident Funds (Amendment) Act, 1946 shall apply also to all such nominations made before the date of the commencement of that Act :

Provided that the provisions of this section as so amended shall not operate to affect any case, in which before the said date any sum has been paid or has under the rules of the Fund become payable in pursuance of any nomination duly made in accordance with those rules.

Power to make deduction.

6. When the sum standing to the credit of any subscriber or depositor in any Government, or Railway Provident Fund, which is a Contributory Provident Fund, becomes payable, there may, if the authority specified in this behalf in the rules of the Fund so directs be deducted therefrom and paid to Government or the Railway administration, as the case may be–

(a) any amount due under a liability incurred by the subscriber, or depositor to Government or the Railway administration, but not exceeding in any case the total amount of any contributions credited to the amount of the subscriber, or depositor and of any interest or increment which has accrued on such contributions; or

(b) where the subscriber or depositor has been dismissed from his employment for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the commencement thereof, the whole or any part of the amount of any such contributions, interest and increment.

6A. Not Printed.

Protection for acts done in good faith.

7. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Power to apply the Act, to other Provident Funds.

8. (1) The appropriate Government may, by notification in the *Official Gazette*, direct that the provisions of this Act, shall, apply to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local Authorities Loans Act, 1914 (IX of 1914) and, on making of such declaration, this Act, shall apply accordingly, as if such Provident Fund were a Government Provident fund and such local authority were the Government.

(2) The appropriate Government may, by notification in the *Official Gazette* direct that the provisions of this Act, shall, apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule* or any group of such institutions, and on the making of such declaration, this Act, shall apply accordingly as if such Provident Fund were a Government Provident Fund and the authority having custody to the Fund were the Government :

Provided that section 6 shall apply as if authority making the contributions referred to in the section were the Government.

(3) The appropriate Government may, by notification in the *Official Gazette* add to the Schedule the name of any public institution it may deem fit and such addition shall take effect as if it had been made by this Act.

(4) In this section "the appropriate Government" means –

(a) in relation to a cantonment authority, a port authority for a major port, and any institution or the objects of which appear to the Central Government to fall within List I in the Seventh Schedule of the Constitution, the Central Government, and

(b) in other cases, the State Government.

Explanation.—"The State Government" in relation to an institution registered under the Societies Registration Act, 1860, means the State Government of the State in which the Society is registered.

Saving as to estates of soldiers.

9. Nothing in section 4 or section 5, shall, apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act, 1893, **(56 and 57 Vict., c. 5)** applies.

Executive Instructions.

(See Rule 15)

1. All applications for advance should be submitted in the prescribed

(*Schedule not reproduced here)

form (Form No. 233 of Schedule LIII) and the necessary verification should be made by accountant and the head clerk of the office concerned. The form referred to above indicates the procedure for calculating the amount standing at credit of the application in the Fund. If the officer to whom the application is submitted is the authority competent to sanction the advance he will pass orders on the application itself which will be kept as record in his office. The sanction should be communicated to the Accountant-General in a separate letter. But if the officer to whom the application is submitted is not himself competent to sanction the advance he should recommend the case to the higher authority concerned in a separate letter which should contain all the necessary particulars given in the application.

(Vide G.O.No. 1179-1221 F.R., dated the 2nd August, 1926).

2. An advance to a Gazetted Government Servant should not be sanctioned without a previous report from the Accountant-General as to the amount standing to the credit of the application, the amount of outstanding advance, if any, or the date of complete repayment of the advance if any, previously sanctioned.

If the officer to whom an application is presented is not himself competent to sanction the advance he should forward the same to the higher authority, concerned through the Accountant-General. When so forwarding an application the forwarding officer should record his considered recommendation, after making due enquiries as to the pecuniary circumstances of the subscriber, the necessity of the advance, the object for which the advance is said to be required and the reasonableness of the amount asked for.

(Vide G.O. No. 2710-F., dated the 25th February 1915 and No. 666/709 F. R., dated the 14th June, 1930).