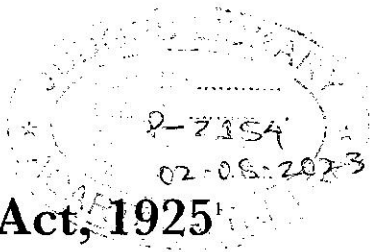


Book No. 11  
Page No. 243



# The Provident Funds Act, 1925<sup>1</sup>

[Act 19 of 1925]

[27th August, 1925]

*An Act to amend and consolidate the law relating to Government and other Provident Funds*

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

It is hereby enacted as follows:—

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

(2) It extends to the whole of India <sup>2</sup>[except the State of Jammu and Kashmir<sup>3</sup>] <sup>4</sup>[\* \* \*].

(3) It shall come into force on such date<sup>5</sup> as the Central Government may, by notification in the Official Gazette, appoint.

**CASE LAW ▶ Nature and scope.**—No repugnancy between Employees Provident Funds and (Miscellaneous Pension) Act, 1952 and Employees' Provident Funds Act of 1925, *Management of T.B. Association of (I) v. Regional Provident Fund Commissioner*, (1981) 43 FLR 179 (Del).

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

(a) “compulsory deposit” means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance, <sup>6</sup>[or the payment of subscriptions or premia in respect of a family pension fund], and includes any contribution <sup>7</sup>[\* \* \*] and any interest or increment which has accrued under the rules of the fund on any such subscription, deposit or contribution, and also any such

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1. For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 122. This Act has been declared to be in force in the district of Khondmals by Regulation 4 of 1936, S. 3 and Sch. and the district of Angul by Regulation 5 of 1936, S. 3 and Sch., also partially extended to Berar by C.P. and Berar Act 4 of 1941 amended partially in U.P. by U.P. Act 19 of 1953.  
The Act has been extended to Goa, Daman and Diu by Regulation 12 of 1962, S. 3 and Sch., and to Pondicherry (w.e.f. 1-10-1963) by Regulation 7 of 1963, S. 3 and Sch. 1.

2. Subs. by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951), for “except Part B States”.

3. Now made applicable to the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh. [Vide S.O. 3912(E), dt. 30-10-2019 (w.e.f. 31-10-2019)].

4. The words “including British Baluchistan” omitted by the A.O. 1948 (w.e.f. 23-3-1948).

5. 1-4-1926 [vide Gazette of India, 1925, Pt. I, p. 1182].

6. Ins. by Act 1 of 1930, S. 2(a)(i) (w.e.f. 15-2-1930).

7. The words “credited in respect of any such subscription or deposit” omitted by Act 1 of 1930, S. 2(a)(ii) (w.e.f. 15-2-1930).

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 <sup>8</sup>[any authority administering the Fund], by way of addition to, <sup>9</sup>[a subscription to, or deposit or balance at the credit of an individual account in,] the Fund: and “Contributory Provident Fund” means a Provident Fund the rules of which provide for the crediting of contributions;
- (c) “dependant” 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 grandparent;
- (d) “Government Provident Fund” means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of <sup>10</sup>[the Secretary of State, the Central Government, the Crown Representative or any State Government] for any class or classes of <sup>11</sup>[persons in the service of the Government] or <sup>12</sup>[of persons employed in educational institutions or employed by bodies existing solely for educational purposes], <sup>13</sup>[and references in this Act to the Government shall be construed accordingly];
- (e) “Provident Fund” means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions <sup>14</sup>[\* \* \*] and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund;
- <sup>15</sup>(f) “Railway administration” means—
- (i) any company administering a railway or tramway in <sup>16</sup>[any part of India] either under a special Act of Parliament <sup>17</sup>[of the United Kingdom] or an Indian law, or under contract with the Government; or
- (ii) the manager of any railway or tramway administered by the <sup>18</sup>[Central Government] or by a State Government,

8. *Subs.* by Act 28 of 1925, S. 2, for “the authority by which the Fund has been constituted”.

9. *Subs.* by Act 1 of 1930, S. 2 (w.e.f. 15-2-1930) for “or otherwise in respect of, a subscription to, or deposits”.

10. *Subs.* by the A.O. 1937 (w.e.f. 1-4-1937) for “the Government”.

11. *Subs.* by Act 25 of 1942, S. 3 and Sch. II (w.e.f. 1-10-1942), for “its employees”.

12. *Subs.* by Act 7 of 1927, S. 2 (w.e.f. 3-4-1927), for “for teachers in educational institutions”.

13. *Ins.* by the A.O. 1937 (w.e.f. 1-4-1937).

14. The words “credited in respect of such subscription or deposits” *omitted* by Act 1 of 1930, S. 2 (w.e.f. 15-2-1930).

15. *Subs.* by the A.O. 1937 (w.e.f. 1-4-1937) for the original cl. (f).

16. *Subs.* by Act 3 of 1951, S. 3 and Sch. (w.e.f. 1-4-1951) for “a Part A State or a Part C State”.

17. *Ins.* by the A.O. 1950 (w.e.f. 26-1-1950).

18. *Subs.* by the A.O. 1948 (w.e.f. 23-3-1948), for “Federal Railway Authority”.

and includes, in any case referred to in sub-clause (ii), the <sup>19</sup>[Central Government] or the State Government, 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.

**CASE LAW ▶ Compulsory deposit funds.**—Compulsory deposit funds cannot be attached and no receiver can be appointed in that regard. Provident fund which has not been paid to the servant after his retirement comes under the head of compulsory deposit and is exempt from attachment and sale under Section 60(k) of Civil Procedure Code, *Union of India v. Hira Devi*, AIR 1952 SC 227.

▶ **Money decree.**—Execution of a money decree cannot be sought against the Provident Fund money by way of appointment of a receiver, *Union of India v. Hira Devi*, AIR 1952 SC 227.

**3. Protection of compulsory deposits.**—(1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to, or have any claim on, any such compulsory deposit.

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund to any dependant 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 dependant is the widow or child of the subscriber or depositor, subject also to the right of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor.

**CASE LAW ▶ Attachment of compulsory deposits.**—A compulsory deposit cannot be assigned or charged and is not liable to any attachment. It is obvious that the prohibition against the assignment or the attachment of such compulsory deposits is based on grounds of public policy. Where the interdiction is absolute, to allow a judgment-creditor to get at the fund indirectly by means of the appointment of a receiver would be to circumvent the statute. Such a frustration of every object of the legislation should not be permitted. Section 51 of the Civil Procedure Code no doubt recognises five modes of execution of a decree and one of them is the appointment of a Receiver. Instead of executing the decree by attachment and sale, the Court may appoint a Receiver but this can only be in a case where a Receiver can be appointed. The Provident Fund money is exempt from attachment and is inalienable. Normally, no execution can lie against such a sum. *Union of India v. Hira Devi*, 1952 SCR 765 : AIR 1952 SC 227, 228, 229 : 1952 SCJ 326.

Section 3(1) of the Provident Funds Act, 1926 provides that the provident fund shall not be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any civil court. When under instructions from the employee the accounts officer sent the amount to the Reserve Bank

19. Subs. by the A.O. 1948 (w.e.f. 23-3-1948), for "Federal Railway Authority".

for conversion of the amount in Sterling then the Reserve Bank was the Agent of the Railway and not the employee and so long as the money remained under the control of the railway administration it was exempt from attachment. By sending the amount to the Reserve Bank, the debt was not discharged. *Union of India v. Radha Kissen Agarwala*, (1969) 1 SCC 225 : (1969) 3 SCR 28 : AIR 1969 SC 762 : (1969) 2 SCJ 86 : 19 FLR 67 : 1969 Lab IC 1146.

Under Section 3 of the Provident Funds Act any amount standing to the credit of an employee 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. The amount does not become the judgment debtor's till it is paid out to him. It may be that after the amount is paid out to him, if the judgment debtor does not pay the decree holder, the decree holder may apply for the arrest of the judgment debtor. But clearly when such an amount is still in the hands of the authorities, that is the Garnishee, who holds the provident fund in this case, any decree holder holding a decree against the judgment debtor, a subscriber, cannot attach that amount, *Syed Abdul Azeez Khan v. W.J. Fowler*, (1967) 80 LW 162 (Mad).

Exemption from the claims of the Official Assignee does not attach to the fund after it is paid to the person entitled, *M. Ranganayaki Ammal v. Official Assignee of Madras*, (1931) 34 LW 117 (Mad).

► **Objection to attachment.**—So long as the amounts are provident fund dues then, till they are actually paid to the government servant who is entitled to it on retirement or otherwise the nature of the dues is not altered. The Government is a trustee for those sums and has an interest in maintaining the objection in court to attachment. A bare reading of Sections 3 and 4 of the Provident Funds Act, 1925, read with Section 2(a) of that Act, will convince anyone that attachment of amounts bearing their description are prohibited. It will be a gross violation of legal mandates involving public interest if, in the teeth of such injunction, an attachment should still be ordered by a court. Moreover Section 60(1), provisos (g) and (k), CPC, leave no doubt on the point of non-attachability. *Union of India v. Jyoti Chit Fund and Finance*, (1976) 3 SCC 607 : (1976) 3 SCR 763 : AIR 1976 SC 1163; AIR 1969 SC 762, followed; See also AIR 1952 SC 227.

It is reasonably clear from Rules 2 to 18 of the P.F. Rules that a subscriber has a present interest in the fund though the moneys may become payable to him, or his nominee or heirs only in the future—Even where there is a declaration about the nominee who is to receive payment after the subscriber's death, the fund would still be the property of the subscriber in the hands of the nominee for the satisfaction of his debts, as there is no present gift to take effect immediately. *Muktial Agarwala v. Trustees of the Provident Fund of the Tin Plate Co. of India Ltd.*, 1956 SCR 100 : AIR 1956 SC 336, 339 : (1956) 2 LLJ 215 : 10 FJR 350.

► **Applicability of laws of succession.**—Nomination only indicates the hand which is to receive benefits but benefits have to be distributed according to law of succession. Nomination does not confer any beneficial interest on nominee, *Shipra Sengupta v. Mridul Sengupta*, (2009) 10 SCC 680.

► **Attachment of compulsory deposits.**—Clause (k) of the proviso to Section 60(1) of the Code states that all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1925 for the time being applies in so far as they are declared by the said Act not to be liable to attachment, are exempted from attachment. As per Clause (ka) of the proviso to Section 60(1) of the Code all deposits and other sums "in or derived from any fund" to which the Public Provident Fund Act, 1968 applies, in so far as they are declared by said Act, are also exempted from attachment. Clause (k) referred to above exempts only compulsory deposits in any fund to which the Provident Funds Act, 1925 or any other corresponding law applies. Clauses (k) and (ka) make it clear that what is exempted from attachment is the compulsory deposits

and other sums "in or derived from the provident fund" referred to therein and not payment towards such fund. What is exempted is deposits and other sums in or derived from the funds referred to therein. Deposits "into" such funds is not exempted from attachment, *Sunilkumar v. Sreejamol*, 2018 SCC OnLine Ker 494.

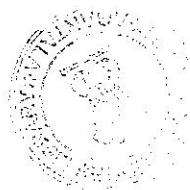
**4. Provisions regarding repayments.**—(1) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is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

- (a) if the sum or balance, or any part thereof, vests in a dependent under the provisions of Section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf; or
- (b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (a), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or
- (c) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same,—
  - (i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1888<sup>20</sup> (7 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 of the assignment has been received by the officer from the assignee the officer shall, after making any deduction authorised by this Act and 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, pay the sum or part or the balance thereof, as the case may be, to the assignee, or

20. See now the Indian Succession Act, 1925 (39 of 1925).



- (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. Rights of nominees.**—<sup>21</sup>[(1) Notwithstanding anything contained in any law for the time being in force or in any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund, purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring before the sum has become payable or before the sum, having become payable, has been paid, the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all other persons, to receive such sum or part thereof, as the case may be, unless—

- (a) such nomination is at any time varied by another nomination made in like manner or expressly cancelled by notice given in the manner and to the authority prescribed by those rules, or
- (b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein,—

and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon 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 in the stead of the person deceased, such right shall, upon the decease as aforesaid of the said person, pass to such other person.]

(2) Notwithstanding anything contained in <sup>22</sup>[the Indian Succession Act, 1925] (39 of 1925) or the Bombay Regulation VIII of 1827, any <sup>23</sup>[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 letters of administration to the estate of the deceased.

21. *Subs.* by Act 11 of 1946, S. 2 (w.e.f. 18-4-1946) for the original sub-section.

22. *Subs.* by Act 35 of 1950, S. 3 and Sch. II, for "the Succession Certificate Act, 1889".

23. *Subs.* by Act 11 of 1946, S. 2 (w.e.f. 18-4-1946) for "such person shall, on the death of the subscriber or depositor, be entitled to the grant of".

<sup>24</sup>[(3) The provisions of this section as amended by sub-section (1) of Section 2 of the Provident Funds (Amendment) Act, 1946 (11 of 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.]

**CASE LAW ▶ Applicability.**—Section 5(1) of the Provident Funds Act applies to nominees who are dependants, as well as to nominees who are not dependants, and hence where an employee nominated his wife as the person entitled to the payment and after surviving her and marrying another wife, died without cancelling or varying that nomination, the son of the first wife was entitled to receive the amount as his mother's heir as against the son of the second wife, *Korlam Sitaramaswamy Patnaik v. Korlam Venkatarama Rao Patnaik*, (1944) 57 LW 147 (Mad) (DB).

▶ **Right of nominee to receive Provident Fund amount.**—The absolute right which a nominee has to receive the money under Rule 23 of the Provident Fund Rules reproducing Section 5 of the Provident Funds Act means a vested right conferred on the nominee in the Provident Fund amount, which passes to the heir of the nominee at his death, and not merely a right conferred on the nominee to receive the amount for the benefit of the dependants or heirs of the subscriber and to give a valid quittance to the company paying the amount to the nominee, *M. Mon Singh v. Mothi Bai*, (1936) 43 LW 604 (Mad).

Nominee who is not a member of family as defined under Rule 2(1)(c) of M.P. General Provident Fund Rules cannot acquire any right in the Provident Fund. Brother of deceased even though nominee not entitled when widow and daughter being Class I heirs entitled to the fund, *Hemant Kulshrestha v. Pushpa Kulshrestha*, (2001) 3 MPLJ 61 : (2001) 2 WN 141.

Where apart for the nomination the nominee is also an heir, the grant of succession certificate to him is not open to challenge. On the death of the subscriber or depositor, the nominee of the deceased subscriber under Rule 8 of the M.P. General Provident Fund Rules becomes entitled to receive the amount payable to the deceased subscriber, *Kheekbai v. Chamru Ram Yadav*, (1997) 2 MPLJ 212.

**6. Power to make deductions.**—When the sum standing to the credit of any subscriber or depositor in any Government or Railway Provident Fund which is a Contributory Provident Fund becomes payable, there may, if the authority <sup>25</sup>[specified in this behalf in the rules of the Fund] so directs, be deducted therefrom and paid to <sup>26</sup>[Government or the Railway administration as the case may be]—

- (a) any amount due under a liability incurred by the subscriber or depositor to <sup>27</sup>[Government or the Railway administration], but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or

24. *Ins.* by Act 11 of 1946, S. 2 (w.e.f. 18-4-1946).

25. *Subs.* by Act 28 of 1925, S. 3, for “by which the Fund has been constituted”.

26. *Subs.* by Act 28 of 1925, S. 3, for “that authority”.

27. *Subs.* by Act 28 of 1925, S. 3, for “that authority”.

- (b) where the subscriber or depositor has been dismissed from <sup>28</sup>[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.

<sup>29</sup>[6-A. **Withholding or recovery of Government contributions in case of Central Government officers taking up, without prior permission, commercial employment within two years of their retirement.**—(1) In this section, unless the context otherwise requires,—

- (a) “Central Government officer” means a subscriber to, or depositor in, a contributory provident fund constituted by the Central Government, who, immediately before his retirement, is a member of a Central Service Class I, but does not include an officer appointed under a contract of service for a specified term;

- (b) “commercial employment means employment in any capacity (including that of an agent) under any company, co-operative society, firm or individual engaged in trading, commercial, industrial, financial or professional business and includes also—

(i) a directorship of a company;

(ii) the holding of any office, whether elective or otherwise, such as that of president, chairman, manager, secretary, treasurer, by whatever name called in a co-operative society; and

(iii) the setting up of practice, either independently or as partner of a firm as adviser or consultant in matters in respect of which the Central Government officer,—

(a) has no professional qualifications and the matters in respect of which the practice is to be set up or is carried on are relatable to his official knowledge or experience, or

(b) has professional qualification, but the matters in respect of which such practice is to be set up are such as are likely to give his clients an unfair advantage by reason of the posts held by him under the Central Government, or

(c) has to undertake work involving liaison or contract with the offices or officers of the Central Government,

but does not include employment in or under a corporation or company wholly or substantially owned or controlled by Government or employment in or under a body controlled or financed wholly or substantially by Government;

- (c) “Government contributions” means contributions made after the commencement of the Provident Funds (Amendment) Act, 1975, in respect of any period after such commencement, by the Central

28. Subs. by Act 28 of 1925, S. 3, for “the employment of that authority”.

29. Ins. by Act 46 of 1975, S. 3 (w.e.f. 7-8-1975).



Government or by a State Government or by a local authority within the meaning of the Local Authorities Loans Act, 1914 (9 of 1914);

- (d) “prescribed” means prescribed by rules made by the Central Government by notification in the Official Gazette.

(2) No Central Government officer shall have any right to the Government contributions made to his credit in a contributory provident fund in any case where he takes up commercial employment at any time before the expiry of two years from the date of his retirement without the prior permission of the Central Government.

*Explanation 1.*—For the purposes of this sub-section and sub-section (7), “date of retirement” in relation to a Central Government officer re-employed after retirement without any break either in the same or any other Class I post under the Central Government or any other equivalent post under a State Government, shall mean the date on which such Central Government officer finally ceases to be re-employed in Government service.

*Explanation 2.*—A Central Government officer permitted by the Central Government to take up a particular commercial employment during his leave preparatory to retirement shall be deemed, for the purposes of this sub-section, to have obtained prior permission of the Central Government for his continuance in such employment after retirement.

(3) Subject to the provisions of sub-section (4), the Central Government may, by order in writing, on an application made in the prescribed form by a Central Government officer, grant, subject to such conditions, if any, as it may deem necessary, permission, or refuse, for reasons to be recorded in the order, permission, to such officer to take up the commercial employment specified in the application.

(4) In granting or refusing permission under this section to a Central Government officer for taking up any commercial employment the Central Government shall have regard to the following factors, namely:—

- (a) the nature of the employment proposed to be taken up and the antecedents of the employer;
- (b) whether his duties in the employment which he proposes to take up might be such as to bring him into conflict with the Government;
- (c) whether the officer while in service had any such dealing with the employer under whom he proposes to seek employment as might afford a reasonable basis for the suspicion that such officer had shown favours to such employer;
- (d) any other relevant factors which may be prescribed.

(5) Where within a period of sixty days of the date of receipt of an application under sub-section (3), the Central Government does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the Central Government shall be deemed to have granted the permission applied for.

(6) Where the Central Government grants the permission applied for subject to any conditions or refuses such permission, the applicant may, within thirty days of the receipt of the order of the Central Government to that effect, make a

representation against any such condition or refusal and the Central Government may make such orders thereon as it deems fit:

Provided that no order other than an order cancelling such condition or granting such permission without any conditions shall be made under this sub-section without giving the person making the representation an opportunity to show cause against the order proposed to be made.

(7) If any Central Government officer takes up any commercial employment at any time before the expiry of two years from the date of his retirement without the prior permission of the Central Government or commits a breach of any condition subject to which permission to take up any commercial employment has been granted to him under this section, it shall be competent for the Central Government to declare by order in writing and for reasons to be recorded therein that he shall not be entitled to such part of the Government contributions made in relation to such officer as may be specified in the order and if he has received payment thereof, to direct that he shall refund to the Central Government an amount equivalent to such part of the Government contributions:

Provided that no such order shall be made without giving the officer concerned an opportunity of showing cause against such declaration or direction:

Provided further that in making any order under this sub-section, the Central Government shall have regard to the following factors, namely,—

- (i) the financial circumstances of the officer concerned;
- (ii) the nature of, and the employments from the commercial employment taken up by the officer concerned;
- (iii) such other relevant factors as may be prescribed.

(8) Any amount required to be refunded by an order under sub-section (7) may, if it is not refunded within the prescribed period, be recovered as arrears of land revenue.

(9) Every order passed by the Central Government under this section shall be communicated to the officer concerned.

(10) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act or the rules applicable to any contributory provident fund.

(11) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

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

**NOTES ▶ Good faith.**—In Section 3(22) of the General Clauses Act, 1897 'good faith' was defined thus: "a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not." In Section 52, IPC, "good faith" is defined thus: "Nothing is said to be done or believed in good faith which is done or believed without due care and attention."

If from the proved facts of a case, it can be inferred that the public official acted honestly, though negligently, it must be held that he acted in good faith, *Babulal v. Province of Orissa*, AIR 1964 Ori 225.

The essence of good faith is honesty of intention, *Arunachala Thewar v. Govindrajan*, (1977) 2 MLJ 431.

▶ **Word 'vest', meaning.**—The word 'vest' has not got a fixed connotation meaning in all cases that the property is owned by the person or the authority in whom it vests. It may vest in title or it may vest in possession or it may vest in a limited sense as indicated in the context in which it may have been used in a particular piece of legislation, *Fruit and Vegetable Merchants' Union v. Delhi Improvement Trust*, AIR 1957 SC 344.

▶ **Duty of authority.**—An authority is not acting honestly where an authority has a suspicion that there is something wrong and does not make further enquiries, *Bhiwandi and Nizampur Municipality v. Kailash Sizing Works*, (1974) 2 SCC 596.

**8. Power to apply the Act to other Provident Funds.**—<sup>30</sup>[(1)] The <sup>31</sup>[appropriate Government] may, by notification in the Official Gazette, direct that the provisions of this Act <sup>32</sup>[(except Section 6-A)] 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 (9 of 1914) and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government.

<sup>33</sup>[(2)] The <sup>34</sup>[appropriate Government] may, by notification in the Official Gazette, direct that the provisions of this Act <sup>35</sup>[(except Section 6-A)] shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule, or of any group of such institutions, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and the authority having custody of the Fund were the Government:

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

30. The original S. 8 renumbered as sub-section (1) of that section by Act 1 of 1930, S. 3 (w.e.f. 15-2-1930).

31. Subs. by the A.O. 1937 (w.e.f. 1-4-1937) for "L.G."

32. Ins. by Act 46 of 1975, S. 3 (w.e.f. 7-8-1975).

33. Ins. by Act 1 of 1930, S. 3 (w.e.f. 15-2-1930).

34. Subs. by the A.O. 1937 (w.e.f. 1-4-1937) for "G.-G. in C."

35. Ins. by Act 46 of 1975, S. 3 (w.e.f. 7-8-1975).

(3) The <sup>36</sup>[appropriate Government] may, by notification in the Official Gazette, add to the Schedule the name of any public institution it may deem fit, and any such addition shall take effect as if it had been made by this Act.]

<sup>37</sup>[(4) In this section “the appropriate Government” means—

- (a) in relation to a cantonment authority, a port authority for a major port, and any institution which, or the objects of which, appear to the Central Government to fall within List I in the Seventh Schedule to <sup>38</sup>[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 (21 of 1860), means the State Government of the State in which the society is registered.]

**9. Savings as to estates of soldiers.**—Nothing in Section 4 or Section 5 shall apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act, 1893 (56 & 57 Vict., c. 5), applies.

**10. Repeals.**—*Rep. by the Repealing Act, 1927 (12 of 1927), Section 2 and Schedule.*

### <sup>39</sup>[THE SCHEDULE

#### *List of Institutions*

[See sub-section (2) of Section 8]

1. The Pasteur Institute of India, Kasauli.
2. The Calcutta Improvement Tribunal.
3. A Court of Wards.
4. The Indian Central Cotton Committee.
5. The Trustees for the European Hospital for mental diseases at Ranchi.
6. The National Association for supplying female medical aid to the women of India.
7. A College affiliated to a University established by Statute.]
- <sup>40</sup>8. The Indian Coal Grading Board.
9. The Lady Minto’s Indian Nursing Association.
10. The Indian Red Cross Society.
11. The Indian Lac Cess Committee.
12. The Madras State Branch of the Indian Red Cross Society.
13. The Imperial Bank of India.

36. *Subs.* by the A.O. 1937 (w.e.f. 1-4-1937) for “G.-G. in C.”.

37. *Ins.* by the A.O. 1937 (w.e.f. 1-4-1937).

38. *Subs.* by the A.O. 1950 (w.e.f. 26-1-1950), for “the Government of India Act, 1935”.

39. The Schedule containing Items 1 to 7 was *ins.* by Act 1 of 1930, S. 4 (w.e.f. 15-2-1930). The original Schedule was *omitted* by Act 12 of 1927, S. 2 and Sch. (w.e.f. 8-9-1927).

40. Items after 7 were *added* from time to time by notifications under S. 8(3) of the Act.

14. The Bihar and Orissa Medical Examination Board.

<sup>41</sup>[\* \* \*]

16. The Institution created for the control of emigrant Labour under the Tea Districts Emigrant Labour Act, 1932.

17. The Bombay Board of Film Censors.

18. The Calcutta University.

19. The Central Board of Irrigation.

20. The Reserve Bank of India.

<sup>42</sup>[\* \* \*]

22. The Banaras Hindu University.

23. The Medical Council of India.

24. The Indian Coffee Cess Committee.

25. The Inter-State Board for Anglo-Indian and European Education.

26. The Indian Research Fund Association.

27. The Delhi Joint Water and Sewage Board.

28. The Tuberculosis Association of India.

29. The Coal Mines Storing Board.

30. A Group Committee of the Sleeper Pool of Indian Railways.

31. The Indian Coffee Market Expansion Board.

32. The Coal Mines Rescue Stations Committee.

33. The Indian Coffee Board.

<sup>43</sup>[\* \* \*]

35. The Indian Rubber Board.

36. The Indian Central Sugarcane Committee.

37. All-India Cattle Show Committee.

38. The Coal Mines Labour Welfare Fund.

39. The Indian Coconut Committee.

40. The Indian Central Tobacco Committee.

41. The Employees' State Insurance Corporation.

42. The Indian Tea Licensing Committee.

43. The Coal Board established under the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952).

44. The Delhi Road Transport Authority, New Delhi.

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41. Entry "15. The Punjab University" *omitted* by the A.O. 1948 (w.e.f. 23-3-1948).

42. Entry "21. The Trustees of the Victoria Memorial Park, Rangoon." *omitted*, A.O. 1948 (w.e.f. 23-3-1948).

43. Entry "34. The N.W.F. Provincial Branch of the Indian Red Cross Society." *omitted*, A.O. 1948 (w.e.f. 23-3-1948).

45. The Central Tea Board.
46. The Indian Central Oilseeds Committee.
47. The Central Institute of Research in Indigenous Systems of Medicine, Jamnagar.
48. The Indian Standards Institution, Delhi.
49. The Textiles Committee.
50. The Deshbandhu College, Kalkaji.
51. The Damodar Valley Corporation.
52. The Central Silk Board.
53. The University Grants Commission, New Delhi.
54. The Khadi and Village Industries Commission.
55. The Lawrence School (Sanawar) Society.
56. The Kalavati Saran Children's Hospital, New Delhi.
57. The Sri Guru Teg Bahadur Khalsa College, Delhi.
58. The Tea Board.
59. Lady Shri Ram College for Women, New Delhi.
60. Indian Institute of Public Administration, New Delhi.
61. The Central Board for Workers Education.
62. The Oil and Natural Gas Commission.
63. The School of Planning and Architecture, New Delhi.
64. The Central Board of Trustees for the administration of the Provident Fund established under the Employees' Provident Funds Scheme, 1952.
65. The Gujarat State Road Transport Corporation.
66. Uttar Pradesh Financial Corporation established (incorporated) under the State Financial Corporations Act, 1951 (63 of 1951).
67. Indian Institute of Technology, Bombay.
68. The Indian Nursing Council.
69. Gujarat State Financial Corporation established (incorporated) under the State Financial Corporations Act, 1951 (63 of 1951).
70. Indian Institute of Technology, Madras.
71. Rajasthan Financial Corporation incorporated under the State Financial Corporations Act, 1951 (63 of 1951).
72. <sup>44</sup>[Deleted]
73. The Sahitya Akademi, New Delhi.
74. The Pannalal Girdharlal D.A.V. College, New Delhi.
75. Delhi School of Social Work, Delhi.
76. The All-India Institute of Medical Sciences.

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44. Deleted by S.O. 5225(E), dt. 15-12-2021 (w.e.f. 1-1-2022).

77. The Board of Trustees for the administration of the Provident Fund established under the Coal Mines Provident Funds Scheme, 1948.
78. Janki Devi Mahavidyalaya, New Delhi.
79. The Indian Council for Cultural Relations, New Delhi.
80. National Productivity Council.
81. The National Industrial Development Corporation Limited.
82. The Postgraduate Training Centre in Ayurveda, Jamnagar.
83. The Indian Investment Centre, New Delhi.
84. <sup>45</sup>[Deleted]
85. The Indian Institute of Technology, Kanpur.
86. The Vizagapatnam Dock Labour Board established under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).
87. The Central Social Welfare Board.
88. Orissa State Financial Corporation incorporated under the State Financial Corporations Act, 1951 (63 of 1951).
89. The Sangeet Natak Akademi, New Delhi.
90. Institute of Economic Growth, Delhi.
91. The Delhi Wakf Board.
92. Institute of Applied Manpower Research, New Delhi.
93. The Indian Law Institute.
94. The Indian Institute of Technology, Delhi.
95. Dyal Singh College, New Delhi.
96. Pramila College, Delhi.
97. Sanatan Dharma College, New Delhi.
98. Pharmacy Council of India.
99. The Sainik Schools Society.
100. The Indian Institute of Management, Calcutta.
101. The Salar Jung Museum Board, Hyderabad.
102. The Lalit Kala Akademi, New Delhi.
103. Madhya Pradesh Financial Corporation incorporated under the State Financial Corporations Act, 1951 (63 of 1951).
104. The Cochin Dock Labour Board established under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).
105. The Central Council of Gosamvardhana.
106. The State Bank of India constituted by the State Bank of India Act, 1955 (23 of 1955).
107. National Institute of Mental Health and Neuro Sciences, Bangalore.

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45. Deleted by S.O. 5225(E), dt. 15-12-2021 (w.e.f. 1-1-2022).

108. The Indian Institute of Foreign Trade, New Delhi.
109. Delhi Library Board, Delhi.
110. The National Institute of Health and Family Welfare, New Delhi.
111. The All-India Institute of Speech and Hearing, Mysore.
112. The Indian Museum, Calcutta.
113. Press Council of India.
114. National Council of Education, Research and Training.
115. Indian Institute of Mass Communication Society.
116. The National Institute for Training in Industrial Engineering, Bombay.
117. Cochin Port Trust.
118. Visakhapatnam Port Trust.
119. Kandla Port Trust.
120. Mormugao Port Trust.
121. Paradip Port Trust.
122. Nehru Memorial Museum and Library, New Delhi.
123. National Book Trust, India, New Delhi.
124. Export Inspection Council of India.
125. Export Inspection Agency, Bombay.
126. Export Inspection Agency, Delhi.
127. Export Inspection Agency, Calcutta.
128. Export Inspection Agency, Madras.
129. Export Inspection Agency, Cochin.
130. The National Institute of Foundry and Forge Technology, Ranchi.
131. The Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).
132. The Indian Council of Social Science Research, New Delhi.
133. The National Institute of Bank Management, Bombay.
134. The Postgraduate Institute of Medical Education and Research, Chandigarh.
135. The Cardamom Board established under the Cardamom Act, 1965 (42 of 1965).
136. The Central Institute of Research and Training in Public Co-operation, New Delhi.
137. Victoria Memorial Hall, Calcutta.
138. The Mormugao Dock Labour Board established under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).
139. The Institute of Constitutional and Parliamentary Studies, New Delhi.
140. The Institute for Defence Studies and Analysis, New Delhi.



141. Centre for Policy Research, New Delhi.
142. Iron Ore Board.
143. Council of Historical Research, New Delhi.
144. Indian School of Mines, Dhanbad.
145. Seamen's Provident Fund Organisation.
146. Rural Electrification Corporation Limited.
147. Indian Institute of Geomagnetism, Bombay.
148. Kendriya Vidyalaya Sangthan.  
[Navodaya Vidyalaya Samiti; and  
Energy Management Centre, Nagpur]<sup>46</sup>  
[Delhi Development Authority]<sup>47</sup>  
[Centre for Materials and Electronics Technology]<sup>48</sup>
149. Bal Bhawan Society (India).
150. Power Engineers Training Society.
151. National Institute of Hydrology..
152. Raman Research Institute, Bangalore.
153. Rashtriya Sanskrit Sansthan, New Delhi.
154. National Labour Institute.
155. National Co-operative Development Corporation, New Delhi.
156. The National Water Development Agency, New Delhi.
157. <sup>49</sup>[Education and Research Network (ERNET)].  
<sup>50</sup>[Bhartiya Nabhikiya Vidyut Nigam Ltd.]  
<sup>51</sup>[National Council Cooperative Training].  
<sup>52</sup>[Indian Institute of Management, Kozhikode].

[The above list is incomplete due to unavailability of necessary information —Publishers].

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46. Added by S.O. 2940, dt. 11-11-1991.  
47. Added by S.O. 2791, dt. 16-10-1992.  
48. Added by S.O. 223, dt. 10-1-1996.  
49. Added by S.O. 2410, dt. 15-7-2002.  
50. Added by S.O. 3610, dt. 29-8-2006.  
51. Added by S.O. 1003(E), dt. 20-6-2007.  
52. Added by S.O. 2059(E), dt. 12-7-2007.

