W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

4TH FINANCE COMMITTEE MEETING ON 29 JUNE, 2001

AGENDA NOTES

Item No. 1. Confirmation of the third Meeting of the Finance Committee held on 3 April,2001. (Minutes enclosed)

Item No. 2. Introduction of Provident Fund Scheme to NUJS

The Finance Committee in its meeting dated 8th June 2000 vide item No: 7 decided as follows:
"The Committee recommended the amended financial rules for adoption. However, regarding Provident Fund, the Committee felt that if the university were to manage the fund, the University may have to make good the difference in the interest rates. The Committee recommended that the matter be placed in the next meeting of the Finance Committee and the Executive Council. Meanwhile the status and the advantages of the scheme, if to be placed with the Provident Fund Committee may be ascertained. A Board of Trustees may also be identified for administration of the scheme, if required". **(Appendix – 6)**

A copy of the Financial Regulations of NUJS relating to Provident Fund is enclosed herewith for ready reference and is marked **Appendix 1**.

In the meeting of the Executive Council dated 15th July 2000, vide agenda No: 2, the following were resolved:

i) Resolved to constitute independent Provident Fund for regular employees of the University to be administered by the Board of Trustees constituted by the Executive Council.

ii) Vice-Chancellor, Registrar, Treasurer, Accounts Officer, and a teacher nominated by the Vice-Chancellor to constitute the Board of Trustees.

iii) Resolved to deposit the sum in Government securities and other recognised financial institutions to earn the maximum interest. The difference in interest payable between what is fixed by Provident Fund Commission and what is earned by the deposit shall be made good by the University.

The following actions were taken by the University in compliance with the above resolution of the Executive Council.

i) The University wrote to the Provident Fund Commissioner seeking permission to institute the scheme to be administered by the Trustees of WB NUJS.

ii) Board of Trustees was accordingly constituted.

iii) The direction of the Executive Council was noted and the scheme was being developed which would be administered accordingly. **(Appendix 6)**

In the Finance Committee meeting dated 3rd April 2001, under item 7, the matter of management of Contributory Provident Fund of employees was taken up and it was resolved

that the Trustees should act according to the Contributory Provident Fund rules. The Accounts Officer on 08.12.2000 put up a note before the Registrar stating that "instead of keeping the Contributory Provident Fund contributions of the employees in a bank account earning simple interest, which is far below the desired level for meeting statutory liabilities, and would therefore, need substantial budgetary support, attempts may be made to link the deposits to some Government recognised funds established under Provident Fund Act 1925, which will undertake the statutory interest liability along with maintenance and upkeep of the account.

The proposal as stated above was agreed to by the Registrar in view of the foregoing resolutions of the Finance Committee and the Executive Council. It was also agreed to by the Vice-Chancellor. Accordingly the Accounts Officer wrote a letter to the Regional Provident Fund Commissioner on 2nd February 2001.

A copy of the letter and the proforma(sent in response) are enclosed and marked **Appendix 2**.

In response to the said letter, the University was directed by the Commissioner to fill up the proforma for coverage. In that coverage it was not mentioned that the proforma was meant for the 1952 Act. However after fulfilling the proforma requirements the Provident Fund Organisation Regional Office vide its letter No: R NE/WB/CA/34894/CC3/432 dated 31.05.2001 allotted a code No. to the University under the Employees Provident Funds and Miscellaneous Provisions Act, 1952. it is observed that under Section 1(3) the Act applies to every establishment engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed, and to any other establishment employing 20 or more persons or class of establishments which the Central Government may by notification in the Official Gazette specify in this behalf, and under Section 1(4) to those establishments where a special application is made t the Commissioner for coverage of the Act.

A copy of the relevant Section is enclosed marked **Appendix 3**.

It may however be mentioned that by Government Notification No.: 2432 dated 26th August 1987, Notification No.: SO 1957 and Notification No.: SO 35015 (13)/90-SS II, dated 19.03.1993 passed under Section 16 of the Act, the WB NUJS is exempted from the purview of the 1952 Act. Further more NUJS may also seek to be exempted from the Act under Section 16A/17 of the Act.

A copy of the Section along with the relevant notification is enclosed herewith and marked **Appendix 4**.

It may further be noted that under the Provident Fund Act, 1925, Educational Institutions like Calcutta University, IIT, and several colleges are covered.

A copy of the Act along with the schedule marked suitably is attached as **Appendix 5**.

Mention may also be made that in Vishwa Bharati vs. Regional Provident Fund Commissioner, 1983 Lab IC 38 (Cal H.C) : (1983) 1 LLJ 332 the Calcutta High Court has ruled that the Act does not apply to Vishwa Bharati University.

If the University is bought under the purview if the 1952 Act, the rate of subscription by the employees will be12% of the basic wage of the employee equally matched by 12% contribution by the employer (Section 6 of the 1952 Act) and not 10% as required under Regulation 22 of the NUJS Provident Fund rules and the 1925 Act. Moreover, even if the 1952 Act may be more beneficial to the employees in the long run, the immediate effect will be significant reduction of take home salary of the contractual and daily wage employees. Under the Regulation 22 of the NUJS rules, every whole time employee on confirmation only is required to subscribe to the Provident Fund. Under Regulation 23 of the said rules employees appointed on a consolidated salary or on part time or daily wage basis are not

entitled to benefits of Provident Fund. The 1952 Act as mentioned earlier, covers all categories of employees including those mentioned above. **(Appendix – I)**

In view of the above it appears that the 1952 Act is a major deviation from the Regulations of the University and resolutions of the Executive Council and the Finance Committee. The matter is being placed before the Finance Committee for discussion and direction.

Item No. 3 Any other matter.

CHAPTER - IV

CONTRIBUTORY PROVIDENT FUND-CUM-GRATUITY SCHEME

22. **Provident Fund :**

Every wholetime employee, on confirmation, shall subscribe monthly to the University Provident Fund. The rate of subscription may not be less than 10% of his emoluments and not more than his total emoluments, the amount so calculated being rounded off to the nearest rupee, provided that in the case of subscription at the minimum or maximum rates, the rounding off will be to the next higher or the next lower rupee respectively. The Provident Fund deductions will be made after confirmation with effect from the date of appointment.

The University shall contribute to this fund 10% of pay from the date of subscription. No subscription or contribution shall be made in the Provident Fund by an employee who is on leave without pay.

Subject to the condition that no deduction be made which reduces the credit by more than the amount of any contribution by University with interest thereon credited under Clause 28 (ii) before the amount standing to the credit of the subscriber in the fund is paid out of the Fund.

The Vice-Chancellor may direct the deduction therefrom and payment to University of—

(i) All amounts representing such contribution and interest, if the subscriber within five years of commencement of his service as such, resigns from the service or ceases to be an employee of the University otherwise than by reason of death, superannuation, or a declaration by a competent medical authority that he is unfit for further service, or the abolition of the post or the reduction of establishment or under a contract.

(ii) Any amount due under a liability incurred by a subscriber to University.

(iii) All amounts representing such contribution and interest, if the subscriber is dismissed from service due to misconduct, insolvency or inefficiency;

Provided that where the Vice-Chancellor is satisfied that such deduction would cause exceptional hardship to the subscriber, he may, by order, exempt from such deduction an amount not exceeding two-third of the amount of such contribution and interest which would have been payable to the subscriber, if he had retired on medical grounds.

Provided further that if any such order of dismissal is subsequently cancelled, the amount so deducted shall on his reinstatement in the service be replaced to his credit in the Fund.

Note : For the purpose of Sub-Clause (i) of this regulation the period of five years shall be reckoned from the commencement of the subscriber's continuous service under University.

Notwithstanding the foregoing provisions and the provisions of Clause (3) persons who have retired from State/Central Government, Universities or National Institutes, if re-employed in the University may be permitted to subscribe to the Provident Fund, provided that where the term of re-employment is initially for a year or less but is later extended so as to exceed one year the contribution with interest will be credited only after the completion of one year's re-employed service. The contribution with interest shall be

payable for the entire period for which the re-employed person is allowed to contribute to the Provident Fund if such period exceeds one year.

23. **Entitlement :**

(i) No employee of the University shall be entitled to the benefits of Provident Fund whose services in the University entitle him to a pension or on whose account the University contributes towards his pension or who has been appointed by the University on a consolidated salary on special terms or on a part-time or daily wage basis.

(ii) If an employee admitted to the benefit of the Fund was previously a subscriber to any contributory/non-contributory Provident Fund of the Central/State Government, or of a body corporate, owned or controlled by Government or Universities/Colleges or Institutions of University status or an autonomous organisation registered under the Societies Registration Act of 1860 immediately before his appointment in the University, the amount of his accumulations in such contributory or non-contributory Provident Fund shall be transferred to his credit in the Fund.

24. **Payment :**

When the amount of Provident Fund becomes payable to a subscriber, the Accounts Officer of the University will be entitled to deduct therefrom any amount due under any liability incurred by the subscriber to the University but not exceeding in any case the total amount of the contributions credited to the account of the subscriber by the University and of any interest which as accrued on such contributions.

Notwithstanding anything contained in the preceding clauses of these Regulations, a subscriber who ceases to be in service of the University by reason of his taking upon appointment with another University or College or a national institute without any break and with prior permission, may be declared to be entitled to the contribution of the University in accordance with the rules framed by the Executive Council.

25. **Management :**

The management of the Provident Fund shall vest in the Executive Council which may, from time to time make regulations or issue such general or special directions as may be consistent with the Regulations as to the conduct of the business of the Fund, or its management or the privileges of the depositors, not herein expressly provided for, or vary, or cancel any regulations made or directions given.

Provided that there shall be a Provident Fund Committee, consisting of the Vice-Chancellor, the Treasurer, the Registrar and one member nominated by the Executive Council from amongst its own members for purpose of advising the Executive Council in the matters relating to investments, payments and other matters in respect of the Provident Fund.

All members of the Provident Fund Committee, other than ex-officio members, shall hold office for a term of three years.

26. **Nominee :**

Every employee of the University entitled to the benefits of the Provident Fund shall be required to sign a written declaration in the prescribed form that he has read the regulations and agrees to abide by it, and shall hand in for registration in the University Office the names of the person or persons to whom he wishes the balance at his credit to be paid in the even of his death.

Provided that if at the time of making the nomination the subscriber has a family, the nomination shall not be in favour of any person or persons other than a member of his family.

Provided further that the nomination made by the subscriber in respect of any other Provident Fund to which he was subscribing before joining the Fund shall, if the amount to his credit in such other fund has been transferred to his credit in the Fund, be deemed to be a nomination under this Regulation until he makes a nomination in accordance with these Regulations.

The subscriber may, from time to time, add or change his nominee by written application to the Vice-Chancellor.

A register of such nominees shall be kept in the University office.

27. **Provident Fund Account :**

(i) The amounts accruing to the Fund shall be placed in such bank or banks as may be approved, from time to time, by the Executive Council, or invested in securities authorised by the Indian Trust Act, 1882 (II of 1882) at the discretion of the Executive Council.

Interest at the rate fixed for the purpose by the Executive Council, from time to time, shall be credited to each subscriber's account.

(ii) The subscription paid by the subscriber and the contribution by the University shall be entered monthly in a separate account for each subscriber.

(iii) The accounts of the Fund shall be audited once a year and a statement of the total amount to the credit of each subscriber shall be furnished to him.

28. **Interest :**

Subject to the provisions of Clause (3), a subscriber, at the termination of his service, shall be entitled to receive the amount which accumulates to his credit, viz. his subscription with interest and contribution by the University with interest thereon.

29. **Payment on death :**

On the subscriber's death, the amount at the credit of the subscriber shall be paid to the person or persons duly nominated by him or when no such nomination is made, to his legal heir or heirs.

30. **Advance from Provident Fund :**

(i) No final withdrawal shall be allowed until the termination of the subscriber's service or his death. But in case of necessity, of which the Vice-Chancellor shall be sole judge, the Vice-Chancellor may allow a subscriber an advance of sum not exceeding the total amount subscribed by him.

(ii) Recoveries towards the amount shall be made in equal monthly instalments not exceeding twenty as may be decided by the Vice-Chancellor commencing from the first payment of a full month salary after the advance is granted, but no recovery shall be made from a subscriber when he is on leave otherwise than on full pay.

(iii) When an advance is sanctioned under clause (2) before repayment of last instalment of any previous advance not recovered shall be added to the advance so sanctioned and the instalents for recovery shall be fixed with reference to the consolidated amount.

(iv) Withdrawal from the fund:

Subject to the conditions specified hereunder, the withdrawals from the Fund may be sanctioned by the Vice-Chancellor at any time:

1. After completion of twenty years of service (including broken periods of service, if any) of a subscriber or within ten years before the date of his retirement on superannuation, whichever is earlier for one or more of the following purposes:
   (a) meeting the cost of higher education, including where necessary the travelling expenses of any child of the subscriber actually dependent on him in the following cases:
      (i) for education outside India for academic, technical, professional or vocational course beyond the High School state; and
      (ii) for any medical, engineering or other technical or specialised course in India beyond the High School stage provided that the course of study is for not less than three years.
   (b) meeting the expenditure in connection with the marriage of subscriber's son or daughter and of any other female relation dependent on him;
   (c) meeting the expenditure in connection with the illness, including where necessary, the travelling expenses of the subscriber or any person actually dependent on him;
   (d) building or acquiring a suitable house for his residence including the cost of site or reconstructing or for making additions and alternations to a house already owned or acquired by a subscriber;
   (e) Purchasing a house site;
   (f) for constructing a house on a site purchased, utilising the sum withdrawn under sub-clasue(s).
2. Any sum withdrawn by a subscriber at any one time for one or more of the purposes specified in clause 31(iv) (1), from the amount standing to his credit in the Fund shall not ordinarily exceed one-half of such amount or six months' pay of the subscriber whichever is less. The Vice-Chancellor, however, sanction the withdrawal of an amount in excess of these limits upto three-fourths of the balance at his credit in the Fund, having due regard to (i) the object for which the withdrawal is being made, (ii) the status of the subscriber, and (iii) the amount to his credit in the fund.
3. A subscriber who has been permitted to withdraw money from the Fund under clause 31 (iv) (i) shall satisfy the Vice-Chancellor within a reasonable period as may be specified by him that the money has been utilised for the purpose for which it was withdrawn and if he fails to do so, the whole of the sum so withdrawn or so much thereof as has not been applied for the purpose for which it withdrawn shall forthwith be repaid in one lump sum and in default of such payment it shall be ordered by the Vice-Chancellor recovered from his emoluments either in a lump sum or in such number of monthly instalments as may be determined by the Executive Council.
4. A subscriber who has already drawn or may draw in future an advance under clause 31 (ii) for any of the purposes specified in Clause 31 (v) (1) (a), (b), (c), (d), (e) and (f) may convert at his discretion by written request to the sanctioning authority, the balance outstanding into a final withdrawal on his satisfying the conditions laid down in Clause 31 (iv).

31. **Life Insurance Premia :**

On a written application from a subscriber to the Provident Fund and with the approval of the Vice-Chancellor, the University may allow premia on the Life Insurance Policy of the

subscriber to be paid out of the subscriber's share in his Provident Fund. In all such cases the Life Insurance Policy for which the premia are so paid shall be assigned in favour of the University. On the retirement of the subscriber from the service of the University, the Policy shall be reassigned to him by the University.

In case of the maturity of the Policy during the service of the subscriber in the University, the full amount of the Policy shall be credited to the Provident Fund of the subscriber. In case of the death of the subscriber, during the service of the University, the full amount of the Policy shall be paid to the nominee or, in the absence of nomination, to the legal representative of the deceased entitled to the Provident Fund.

32. **Subscription :**

The word "subscription", wherever it occurs in these Regulations means the amount paid by the subscriber and similarly the word "contribution" means the amount contributed by the University.

33. **Gratuity :**

(i) An employee who has completed five years of qualifying service at the University shall be granted Death-cum-Retirement Gratuity in accordance with the scale indicated in Regulation 35. This gratuity shall be payable on his retirement from the service of the University. In the event of his demise this gratuity shall be payable to the nominee or nominees of the deceased in the manner prescribed in this regard.

(ii) If there is no such nomination or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below.

(a) If there are one or more surviving members of the family as in the following sub-clauses (aa), (bb), (cc) and (dd) to all such members in equal shares:

(aa) Wife or wives, in case of male employee;

(bb) husband, in the case of a female employee

(cc) sons including step-sons and adopted sons;

(dd) unmarried daughters including step-daughters and adopted daughters.

(b) If there are no such surviving members of the family as in Clause (a) above, but there are one or more members as in the following sub-clauses (aa), (bb), (cc), (dd), (ee), (ff) and (gg) to all such members in equal shares :

(aa) widowed daughters including step-daughters and adopted daughters;

(bb) father-including adoptive parents in the case of individuals whose personal

(cc) mother—law permits a adoption;

(dd) brothers below the age of eighteen years including step-brothers;

(ee) unmarried sisters and a widowed sisters including step-sisters

(ff) married daughters, and

(gg) children of pre-deceased son

Note 1 : The right of a female member of a family, or that of a brother of an employee who dies while in service or after retirement, to receive the share of gratuity shall not be affected if the female member marries or remarries, or the brother attains the age of eighteen years after the death of the employee and before receiving her or his share of the gratuity.

Note 2 : Where gratuity is granted under this rule to a minor member of the family of the deceased employee, it shall be payable to the guardian on behalf of the minor.

Note 3 : Where an employee dies while in service, or after retirement without receiving the amount of gratuity and—

(a) leaves behind no family; or

(b) has made no nomination; or

(c) the nomination made by him does not subsist

The amount of death-cum-retirement gratuity payable to him under this rule shall lapse to the University.

(iii) No gratuity shall be payable on resignation from service of the University or dismissal or removal from it for misconduct, insolvency, inefficiency not due to age.

34. **Eligibility :**

If a person who has become eligible for payment of University's share of contribution to the Contributory Provident Fund under the rules of the University dies within a period of 5 years after he retires from the service of the University, and the sums actually received by him at the time of death on account of University's share of contribution to the Contributory Provident Fund, together with a gratuity under the above clause is less than the amount equal to 12 times the emoluments, a gratuity equal to the deficiency shall be granted to the person or persons nominated by him.

35. **Death of Permanent employee :**

If a person in permanent employment dies before becoming eligible for the University's share of the contribution to the Contributory Provident Fund of the Universities, his family will be eligible for a gratuity equal to six times his emoluments at the time of his death, except in cases in which death occurs in the first year of service, when the gratuity admissible shall be equal to two months' emoluments.

36. **Persons in Temporary Employment :**

(i) TERMINAL GRATUITY

A person in temporary employment who retires on superannuation or is discharged on account of retrenchment or is declared invalid for further service will be eligible for a gratuity at the rate of one-third of a month's pay for each completed year of service, provided that he has completed not less than five years of continuous service at the time of retirement, discharge or invalidment.

Note : As decided by the executive Council in its meeting held on .....

These benefits are extended to the Administrative Staff appointed on consolidated salary.

(ii) DEATH GRATUITY

The family of a person in temporary employment who dies while in service will be eligible for a death gratuity on the scale and subject to the conditions specified below :

(a) On death after completion of less than one year	A gratuity equal to two month's pay

(b)	On death after completion of one year of service but before completion of three years of service	A gratuity equal to six month's pay
(c)	On death after completion of one year of service but before completion of five years of service	
(d)	On death after completion of five years service but less than 20 years	A gratuity equal to 12 (twelve) month's pay
(e)	On death after completion of 20 years service or more	A gratuity equal to 1/2 of emoluments for every six months

37. **Amount of Gratuity :**

For the purpose of determining the amount of terminal or death gratuity under Clause 38(i) will mean only basic pay at the time of relinquishing service or of death, as the case may be. It will not include special pay, personal pay and other emoluments as pay. In case the person concerned was on leave with or without allowance immediately before retirement, discharge, invalidment or death, pay for this purpose will be pay which he would have drawn had he not proceeded on such leave.

APPENDIX-2

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

ARANYA BHAVAN
(1st & 2nd Floors)
10A, LA Block, Salt Lake City, Calcutta - 700 091

Phone : 335-0534
335-7379
335-7422

No. NUJS/PF/2001

February 2, 2001

The Regional Provident Fund Commissioner
Office of the Regional Provident Fund
Commission
Salt Lake

Kind Attention : Mr. R. K. Singh
Astt. Commissioner

Sub: Issue of Code Number for depositing P.F Subscription deducted from salary of the Employees.

Sir,

Enclosed please find our application in your prescribed form along with relevant documents for issue of Code Number so that we may deposit P.F. Subscription being recovered from salary of the staff.

This may kindly be treated as most urgent.

Yours faithfully,

2/2/2001

(D. Kanungo)
Accounts Officer

Enclo: As stated.

RECEIVED

Proforma for coverage

(to be submitted by an employer along with one or more of the documents mentioned below for obtaining code Numbers)

1	Name of the establishment / factory and address.	THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES, 10A, LA BLOCK, ARANYA BHAVAN, SECTOR - III SALT LAKE CITY, CALCUTTA - 700098
2.	Details of Head Office and branches with address.	No Branch
3	Details of Code No. if any allotted to the Head Office.	NIL
4	Date of Incorporation / set up (Please furnish any one of the documents mentioned overleaf in support of the proof of date of set up of the est./factory)	August 16, 1999 (Copy of Gazette Notification by Govt of West Bengal enclosed - Annexure
5.	Employment Strength (i) At present: (ii) Month wise employment strength From the date of set up may be Furnished in separate statement:	35 employees Month wise employment statement enclosed (Annexure - II)
6.	Nature of business activity/ manufacturing activity:	To impart advanced & specialised education in Law and related Subjects
7.	Details of legal set up of the establishment (Please mention whether it is an incorporated private or Public Limited Company, Society, Partnership or Proprietary concern):	A statutory University Set up by the Govt. of West Bengal under the W.B. National University of Juridical Sciences Act, 1999 (Act. IX of 1999)
8	Details of the employers / ownership particulars etc. (Names, Designation and Addresses of Managing Director, Directors, Partners, Secretary etc. to be furnished)	Governing bodies of the University (Details at Annexure - III)
9	Wages disbursed for the month:	Rs 2,48,952/-
10	Details of Bank(s) (Including Bank Branch i.e. Account Numbers)	1. Uco Bank, Bidhannagar Br - a) SB A/c No. [illegible] b) [illegible]
		2. [illegible] Bank, Salt Lake Br a) [illegible] b) [illegible]
2.		3. State Bank of India Personal Banking Br Salt Lake - [illegible]
		4. State Bank of Travancore Salt Lake Branch - [illegible]

11 Income Tax Permanent A/c No Income of the University is exempt from Tax u/s 10(22) of the I.T Act, 1961 T.-2311-B(5). CAL

12. Details of employees are furnished below:-

S. No.	Name of the employee	Father's Name	Date of Joining	Wages (Basic + D.A. & Cash Value of food concession)
1	Dr. Gangotri Chakraborty	Shri S.C. Chakraborty	14.2.2000	Pay - 12,450/- + DA 4607.00
2	Dr. Bhabani Pd. Panda	Late B. Panda	14.2.2000	Pay - 12000/- + DA 4607.00
3	Shri K. R. Joga Rao		14.2.2000	Pay - 8000/- + DA 2960.00
4	Dr. Damayanti Datta	Shri H.C. Datta	14.2.2000	Pay - 8000/- + DA 2960.00
5	Shri D. Kanonjna	Late B.B. Kanonjna	9.11.2000	Pay 11,575/- + DA 4746.00
6	Ms Ruchira Goswami	Shri J. Goswami	14.2.2000	Rs 7000/- (Consolidated)
7	Ms. Shreya Motilal		3.1.2000	Rs 7000/- (Consolidated)
8	Shri Rituparna Das	Shri S. Das	14.2.2000	Rs 7000/- (Consolidated)
9	Ms Kumkum Singha	Shri B. P. Singha	14.2.2000	Rs 7000/- (Consolidated)
10	Shri Arindam Mazumder	Shri P. K. Mazumder	3.1.2000	Rs 7000/- (Consolidated)
11	Shri Prem Kr. Agarwal		10.8.2000	Rs 6000/- (Consolidated)
12	Dr. Sriparna Basu	Shri A.K. Basu	18.9.2000	Rs 7000/- (Consolidated)
13	Shri Manabendra Sengupta	Late B.C. Sengupta	15.4.2000	Rs 8000/- (Consolidated)
14	Shri Badal K. Sengupta	Late N.C. Sengupta	23.12.1999	Rs 6500/- (Consolidated)
15	Smt. Manjuri Chatterjee	Late S.N. Mukherjee	1.4.2000	Rs 6500/- (Consolidated)
16	Shri Abhijit Nandi	Shri A.K. Nandi	31.2000	Rs 4500/- (Consolidated)
17	Ms Girija Nandagopal	Late P.S. Ranganathan	1.2.2000	Rs 5000/- (Consolidated)
18	Ms Soma Datta	Shri B.C. Das	2.5.2000	Rs 4000/- (Consolidated)
19	Shri Nabendu Dam	Shri S.P. Dam	1.6.2000	Rs 4500/- (Consolidated)
20	Shri Dwaipayan Basu	Shri S.K. Basu	1.7.2000	Rs 4500/- (Consolidated)
21	Shri Rajesh Kr. Singh	Shri K. Singh	3.6.2000	Rs 3500/- (Consolidated)

(In case you have more than 21 employees the above information in respect of the other employees may be added in a separate sheet of paper in the same format continuing the serial number.)

13 Details of bank draft amounting to the contribution and administrative charges paid in respect of the above employees. (Rate of Contribution at present is 12% by employer and employees + 0.5% towards EDLI contribution and 1.11% towards administrative charges)

Name of the Bank & Branch.

Draft No. & Date

Amount

No. 12 - Details of employees (Continuation)

Sl No.	Name of the Employee	Fathers' Name	Date of Joining	Wages (Basic + DA + Cash Value of food Concession)
22	Shri Sambhu Nath Das	Late Satish ch. Das	1.7.2000	Rs 3500/- (Consolidated)
23	Shri Ali Imam Siddiqui	Md. yaqub Siddiqui	23.12.1999	Rs 3000/- (Consolidated)
24	Shri P. G. Kutty		23.12.1999	Rs 3000/- (Consolidated)
25	Shri Sanjil kr. Lodh	Late Biswesswar Lodh	17.4.2000	Rs 10000/- (Consolidated)
26	Ms. Angana Gupta	Shri A. Gupta	27.4.2000	Rs 6000/- (Consolidated)
27	Ms. Moonmoon Banerjee	Shri D. Banerjee	1.8.2000	Rs 6000/- (Consolidated)
28	Shri Premanonda Mukherjee	Shri D. Mukherjee	2.7.2000	Rs 3000/- (Consolidated)
29	Shri Santanu Dey	Shri P. C. Dey	10.11.2000	Rs 2500/- (Consolidated)
30	Shri Vikramjeet Banerjee		27.11.2000	Rs 6000/- (Consolidated)
31	Shri A. K. Majumdar		14.12.2000	Rs 7500/- (Consolidated)
32	Shri Pradipta Saha	Shri A. K. Saha	4.12.2000	Rs 2500/- (Consolidated)
33	Prof. D. Banerjee	Late J. Banerjee	3.11.2000	Rs 20,000/- (Consolidated)
34	Shri V. A. Kutty	Late K. K. Nair	1.12.2000	Rs 6500/- (Consolidated)
35	Ms. Meena S. Panickar	Shri K. Sankunny	16.1.2001	Rs 7000/- (Consolidated)

3

VERIFICATION

It is verified that the details furnished above are correct to the best of our knowledge and belief. It is clearly understood that we are liable for coverage from a date antecedent to the date of set up furnished above and other legal consequences in the event of furnishing of false information.

Iyangothi Chakraborty
(Signature)
Registrar
W.B. National University
of Juridical Sciences
Employer

Essential Document (S) to be submitted (For other than proprietory concern)

1. A copy of Memorandum & Articles of Association and the certificate of incorporation issued by the Registrar of Companies. in the case of Public. and Private Ltd. Companies.
2. A copy of partnership deed in the case of partnerships.
3. A copy of Registration certificate issued by the Registrar of Co-operative societies.
4. A copy of Registration certificate issued by Registrar in the case of societies registered under Societies Registration Act along with a copy of the objects and Rules of the Society.
5. Partition deeds creating HUF.
6. Any agreement or other legal documents in the case of Association of persons as defined in Income Tax Act.

A list of documents which can be submitted as a proof of date of set up:-
(Any one of these documents has to be submitted)

1. First Sales invoice.
2. Any proof regarding date of trial production.
3. Incorporation Certificate issued by the Registrar of Companies together with the report of the Managing Director to the Shareholders in the Annual Report.
4. Commencement of Business Certificate issued by the Registrar of Companies.
5. Certificate of Registration issued by the Registrar of Co-operative Societies.
6. Certificate of Registration issued under Societies Registration Act.
7. Certificate issued by Reserve Bank of India registering newly set up and non-banking financial companies.
8. License issued by the health Authorities
9. License / permission issued by the Municipal / Corporation Authorities.

10. Permission / approval granted by the appropriate State Govt. Authorities in the case of Educational Institutions.
11. Certificate issued by the Fire Authorities in the case of establishments coming under Explosives Act.
12. First assessment order issued by the Sales Tax Authorities.
13. First assessment order issued by the Income Tax Authorities.
14. Certificate issued by the Small Scale Industries authorities registering the establishment.
15. Reports / returns to Central Excise authorities.
16. Sanction / connection of power like H.T. Connection, L.T. Connection etc.
17. Any other Certificate issued by any authority under any law for the time being in force prior to the commencement of business activity / manufacturing activity.

The above list is not exhaustive and is only illustrative. Any one or more of the above documents may be submitted along with your application for allotment of a Code Number.

APPENDIX — 3

THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952[1]

(19 of 1952)

[4th March, 1952]

An Act to provide for the institution of provident funds [2][3][pension fund] and deposit-linked insurance fund] for employees in factories and other establishments.

BE it enacted by Parliament as follows :—

1. Short title, extent and application.—[4][(1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.]

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

[5][(3) Subject to the provisions contained in section 16, it applies—

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which [6][twenty] or more persons are employed, and

(b) to any other establishment employing [6][twenty] or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than [6][twenty] as may be specified in the notification.]

[7][(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him 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, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.]

[8][(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 twenty:

[9][***]]

15

1. This act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, sec. 2 and Sch. I; Pondicherry by Reg. 7 of 1963, sec. 3 and Sch. I and Goa, Daman and Diu by Reg. 11 of 1963, sec. 3 and Sch.
2. Subs. by Act 99 of 1976, sec. 16, for "and family pension fund" (w.e.f. 1-8-1976)
3. Subs. by Act 25 of 1996, sec. 2, for "family pension fund" (w.r.e.f. 16-11-1995).
4. Subs. by Act 99 of 1976 sec. 17, for sub-section (1) (w.e.f. 1-8-1976).
5. Subs. by Act 94 of 1956, sec. 2, for sub-section (3).
6. Subs. by Act 46 of 1960, sec. 2, for "fifty" (w.e.f. 31-12-1960).
7. Subs. by Act 33 of 1988, sec. 2, for sub-section (4) (w.e.f. 1-8-1988).
8. Ins. by Act 46 of 1960, sec. 2 (w.e.f. 31-12-1960).
9. Proviso omitted by Act 16 of 1971, sec. 15 (w.e.f. 23-4-1971).

Appendix 3

COMMENTS

(i) It is the employment in the regular course of business of the establishment alone which attracts the provisions of the Act. The duration is not material, but it is the nature of employment which is material in order to attract the provisions of the Act: *Jyothi Home Industries* v. *Regional Provident Fund Commissioner*, 1993 LLR 713.

(ii) Wherein an establishment the strength of the employees at a particular time is below twenty, it cannot be contended by the employer that the establishment is no longer within the purview of the Act: *Annamma Iype* v. *Regional Provident Fund Commissioner*, 1993 LLR 287.

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

[1][(a) "appropriate Government" means—

(i) in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry, [2][or in relation to an establishment having departments or branches in more than one State,] the Central Government; and

(ii) in relation to any other establishment, the State Government;]

[3][(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;]

(b) "basic wages" means all emoluments which are earned by an employee while on duty or [4][on leave or on holidays with wages in either case] in accordance with the terms of the contract of 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;

(iii) any presents made by the employer;

(c) "contribution" means a contribution payable in respect of a member under a Scheme [5][or the contribution payable in respect of an employee to whom the Insurance Scheme applies];

(d) "controlled industry" means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

[6][(e) "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

1. Subs. by Act 22 of 1958, sec. 2, for the former clause.
2. Ins. by Act 22 of 1965, sec. 2 (w.e.f. 24-11-1964).
3. Ins. by Act 33 of 1988, sec. 3 (w.e.f. 1-8-1988).
4. Subs. by Act 33 of 1988, sec. 3, for "on leave with wages" (w.e.f. 1-8-1988).
5. Ins. by Act 99 of 1976, sec. 18 (w.e.f. 1-8-1976).
6. Subs. by Act 94 of 1956, sec. 4, for clause (e).

order (which the Court may, if it thinks fit and on application in that behalf, from time to time, extend), to pay the amount of contribution or transfer the accumulations, as the case may be, in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof under Section 14 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with.]

15. Special provisions relating to existing provident funds.—(1) [39][Subject to the provisions of Section 17, every employee who is a subscriber to any provident fund of [40][an establishment] to which this Act applies shall, pending the application of a scheme to] the [41][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) [42][On the application of any Scheme to [43][an establishment], the accumulations in any provident fund of the [44][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.

NOTES

An amount deducted from salaries during the period of infancy protection for crediting to a provident fund, must be transferred to the Employees' Provident Fund. *North Malabar Gramin Bank* v. *R.P.F. Commr.*, (1984) 1 LLN 739 (Ker). Such an amount cannot be refunded to the employees. *Ibid.* In such a case the employer is not liable to transfer to the Fund an amount representing his own contribution if no such contribution had been made. *Ibid.*

16. Act not to apply to certain establishments.—[45][(1) This Act shall not apply—

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

[46][(*b*) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are

39. *Subs.* by Act 37 of 1953, S. 14 for certain words.
40. *Subs.* by Act 94 of 1956, S. 3, for "a factory".
41. *Subs.* by S. 3, *ibid.*, for "factory".
42. *Subs.* by Act 37 of 1953, S. 14 for certain words.
43. *Subs.* by Act 94 of 1956, S. 3, for "a factory".
44. *Subs.* by Act 94 of 1956, S. 3, for "factory".
45. *Subs.* by Act 46 of 1960, S. 5, for the former sub-section (1) (w.e.f. 31-12-1960).
46. [illegible] for cl. (*b*) by Act 33 of 1988, S. 21 (w.e.f. 1-8-1988).

APPENDIX – 4

entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(*c*) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits; [* * *][47]

(*d*) [* * *][48]

Explanation.—[* * *][49]

[50][(2) If the Central Government is of opinion that having regard to the financial position of any class of [51][establishments] or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt [52][whether prospectively or retrospectively] that class of [51][establishments] from the operation of this Act for such period as may be specified in the notification.]

NOTIFICATIONS

(1)

S.O. 753, dated February 12, 1986.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby exempts all departmental undertakings under the State Governments of Himachal Pradesh and Punjab whose employees are in receipt of provident fund and pension benefits as admissible under the Government rules, as a class, from the operation of the provisions of the said Act for a period of three years with effect from the 1st March, 1986.

(2)

S.O. 868, dated February 17, 1986.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), and in continuation of the notification of the late Ministry of Labour and Rehabilitation (Department of Labour) No. S.O. 34(E), dated the 20th January, 1983 published in 1983 CCL-III-121 §[79], the Central Government hereby exempts all departmental undertakings under the Central Government whose employees are in receipt of provident fund and pension benefits as admissible under the Government rules as a class, from the operation of the provisions of the said Act for a further period of three years with effect from the 20th January, 1986.

(3)

S.O. 2432, dated 26th August, 1987.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), and in continuation of the notification of the Government of India in the late Ministry of Labour and Rehabilitation (Department of Labour) S.O. No. 2911 dated the 21st August, 1984, the Central Government after having regard to the circumstances of the case, is of the opinion that it is expedient so to do, hereby exempts the following classes of establishments from the operation of the Act for a further period of three years with effect from 1st November, 1987, subject to the conditions specified therein, namely:—

THE SCHEDULE

PARTICULARS OF ESTABLISHMENTS

1. All establishments (including universities) which have been set up under either an Act of Parliament or of State Legislature and whose employees are in receipt of contributory provident fund,

47. The word "or" *omitted* by Act 10 of 1998, S. 5 (w.e.f. 22-9-1997).
48. *Omitted* by Act 10 of 1998, S. 5 (w.e.f. 22-9-1997). Prior to omission cl. (*d*) read:
"(*d*) to any other establishment newly set up, until the expiry of a period of three years from the date on which such establishment is, or has been, set up."
49. *Omitted* by Act 10 of 1998, S. 5 (w.e.f. 22-9-1997). Prior to omission the Explanation read:
"*Explanation.*—For the removal of doubts, it is hereby declared that an establishment shall not be deemed to be newly set up merely by reason of a change in its location."
50. *Ins.* by Act 37 of 1953, S. 15.
51. *Subs.* by Act 94 of 1956, S. 3, for "factories".
52. *Ins.* by Act 33 of 1988, S. 21 (w.e.f. 1-8-1988).

Family Pension and deposit-linked insurance or non-contributory provident fund, pension and deposit-linked insurance in accordance with the rules or regulations framed under the respective Acts.

2. All educational institutions, whose employees are in receipt of contributory provident fund, Family Pension and deposit linked insurance or non-contributory provident fund pension and deposit linked insurance at par with the State/Central Government employees.

3. All establishments, which are registered as 'Society' under the Societies Registration Act, 1960 and whose employees are in receipt of contributory provident fund, Family Pension and deposit linked insurance or non-contributory provident fund, pension and deposit linked insurance at par with State/Central Government employees.

(4)

S.O. 1957, dated 24th June, 1991.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), and continuation of the notification of the Government of India in the Ministry of Labour S.O. No. 2432, dated 26th August, 1987, the Central Government after having regard to the circumstances of the case, is of the opinion that it is expedient so to do, hereby exempts the following classes of establishments from the operation of the Act for a further period of three years with effect from 1st September, 1990, subject to the conditions specified therein, namely:—

SCHEDULE

Sl. No.	Particulars of establishments
1.	All educational institutions, whose employees are in receipt of contributory provident fund, [Pension][53] and deposit linked insurance or non-contributory provident fund, pension and deposit linked insurance at par with the State/Central Government employees.
2.	All establishments which are registered as 'society' under the Societies Registration Act, 1860, and whose employees are in receipt of contributory provident fund [Pension][54] and deposit linked insurance or non-contributory provident fund, pension and deposit linked insurance at par with State/Central Government employees.

(5)

S.O. dated 19-3-1993 [No. S.35015(13)/90-SSII].—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), and in partial modification of the Ministry of Labour S.O. No. 1957, dated the 24th June, 1991, the Central Government, after having regard to the circumstances of the case, is of the opinion that it is expedient so to do, hereby exempt the classes of establishments specified in the Schedule annexed hereto from the operation of the Act for a period of three years with effect from the date of publication of this notification, subject to the following conditions, namely:—

(i) The employer shall constitute a Trust and establish a Board of Trustees for the management of provident fund. The provident fund shall vest in the Board of Trustees who will be responsible for proper accounts of the receipts into and payments from the provident fund and the balance in their custody:

(ii) the accounts of the provident fund maintained by the Board shall be subject to audit by a qualified independent Chartered Accountant annually:

(iii) a copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the concerned Regional Provident Fund Commissioner within six months after the close of the financial year:

(iv) the investment of the provident fund contribution shall be made as per the pattern prescribed by the Central Government from time to time; and

(v) the exemption is liable to be cancelled for violation of any of the conditions specified in this Notification.

THE SCHEDULE

(i) All educational institutions, which are registered as 'Society' under the Societies Registration Act, 1860 or as "Trust" under Indian Trusts Act, 1882 and whose employees are in receipt of non-contributory provident fund pension at par with the employees of Central Government or with the employees of State Government in such State where the educational institution is located.

(ii) All educational institutions which are registered as 'Society' under the Societies Registration Act, 1860, or as "Trust" under Indian Trusts Act, 1882 and whose employees are in receipt of contributory

53. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).

54. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).

provident fund, Family Pension and deposit-linked insurance at par with benefits available under the Schemes framed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 as amended from time to time.

(6)

S.O. 664, dated 23-2-1989 (as extended by S.O. 189 dated 5-1-1993).—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after having regard to the circumstances of the case, is of the opinion that it is expedient to do, hereby exempts "voluntary organisations registered under the Societies Registration Act, 1860, or any other law for the time being in force in any State and engaged in leprosy eradication programme" as a class, from the operation of the said Act, for a period three years with effect from the date of publication of this notification in the Official Gazette. [Extended for another three years w.e.f. 8-4-1992 by S.O. 189 dt. 5-1-1993]

(7)

S.O. 2381, dated 8th September, 1989.—In exercise of the powers conf[illegible] by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) the Central Government being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any State relating to registration of societies which are being run mainly on grants-in-aid received from the Central Government or the State Governments, it is necessary and expedient so to do, hereby exempts the said class of establishments from the operation of the first mentioned Act for a period of five years with effect from the date of publication of this notification in the Official Gazette subject to the condition that such grants-in-aid do not include any amount for the purpose of meeting the liability of the employer towards the employer's contribution to the Provident Fund.

(8)

S.O. 3536, dated December 6, 1994.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) and in continuation of the Notification of the Government of India in the Ministry of Labour S.O. No. 2381 dated 8-9-1989, the Central Government being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any State relating to registration of societies which are being run mainly on grants-in-aid received from the Central Government or the State Governments, it is necessary and expedient so to do, hereby exempts the said class of establishments from the operation of the first mentioned Act for a further period of one year with effect from the 22nd September, 1994 subject to the condition that such grants-in-aid do not include any amount for the purpose of meeting the liability of the employer towards the employer's contribution to the Provident Fund.

(9)

S.O. 3231, dated 21st Nov, 1995.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952) and in continuation of the Notification of the Government of India in the Ministry of Labour S.O. No. 3536 dated the Sixth December, 1994, the Central Government being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any State relating to registration of societies which are being run mainly on grants-in-aid received from the Central Government or the State Governments, it is necessary and expedient so to do, hereby exempts the said class of establishments from the operation of the first mentioned Act for a further period of two years with effect from the 22nd September, 1995 subject to the condition that such grants-in-aid do not include any amount for the purpose of meeting the liability of the employer towards the employer's contribution to the Provident Fund.

(10)

S.O. 2070, dated September 30, 1998.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952) and in continuation of the notification of the Government of India in the Ministry of Labour S.O. No. 3231 dated the 21st November, 1995, the Central Government being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any State relating to registration of societies which are being run mainly on grants-in-aid received from the Central Government or the State Governments, it is necessary and expedient so to do, hereby exempts the said class of establishments from the operation of the first mentioned Act for a further period up to the 31st March, 1999 with effect from the 22nd September, 1997 subject to the condition that such grants-in-aid do not include any amount for the purpose of meeting the liability of the employer towards the employer's contribution to the provident fund.

(11)

S.O. 498, dated February 8, 1995.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, being of opinion that, having regard to the circumstances of certain establishments which are employing only ex-servicemen who are in receipt of pension benefits as admissible under the Government rules, it is necessary and expedient so to do, hereby exempts the said class of establishments from the operation of the said Act for a period of five years with effect from the date of publication of this notification in the Official Gazette of India.

NOTES

Section 16(1)(*b*)—What is essential for holding that one business is a continuation of the other is the existence of the old business immediately before the commencement of the new business. If the old business has been really wound up and it ceased to exist before the commencement of the new one, there is no question of any continuity. *United Hoteliers* v. *Govt. of India*, (1972) 2 LLJ 596 (Ker).

A new establishment, established after the closure of another to run the same industry or business, is entitled to the benefit of S. 16(1)(*b*). *Provident Fund Inspector* v. *Secretary, N.S.S. Cooperative Society*, (1970) 1 SCC 50, followed in *Conveyor Equipment Co.* v. *Union of India*, (1985) 2 LLN 1029 (Mad) (DB): 1986 Lab IC 630: (1986) 68 FJR 341.

A change in the ownership and any subsequent interruption in the running of a factory does not amount to establishment of a new factory. Hence, an exemption for a period of three years under old S. 16(1)(*b*) is not available to such a factory. *Sayaji Mills Ltd.* v. *R.P.F. Commr.*, 1984 Supp SCC 610: 1985 SCC (L&S) 310.

Partition of business.—Partition of an existing business does not result in starting of a new business. Hence, it does not entitle a sharer to claim infancy exemption u/s 16(1)(*b*). *Chandra Bus Service* v. *Regional Commr., P.F.*, (1986) 2 LLN 269 (Mad) (DB), also given as *D. Appavoo* v. *Regional Commr., P.F.* in 1986 Lab IC 1533.

Where a consulting clinic was changed to a hospital, the period of infancy exemption u/s 16(1)(*b*) would run from the date of such change. *K.B. Jacob* v. *R.P.F. Commr.*, (1986) 2 LLN 543 (Ker): 1987 Lab IC 1139: (1986) 69 FJR 137.

Change of ownership—Effect—Section 2(*g*).—Having regard to the definition of a factory in Section 2(*g*) of the Act, it is clear that the continuence of a factory is unaffected even by a change of ownership, and it matters little by what means the change is effected, whether by a transfer, or by the death of the previous owner, or by some other transaction. Much less can it be affected by a mere change in the name of the owner. Surely no one can be allowed to evade the law by purporting to deal with only the buildings and equipment of a factory when in fact what is dealt with is the factory as a running concern. *Kunnath Textiles* v. *R.P.F. Commr.*, 1958 Ker LJ 631: 1958 Ker LT 376: (1959) 15 FJR 63: (1959) 2 Lab LJ 510: AIR 1959 Ker 3. *See* also *Nazeena Traders (P) Ltd.* v. *R.P.F. Commr.*, (1966) 1 LLJ 334.

Change of partnership.—Merely because the partnership has changed, it can never be said that a new business has come into existence, *P.G. Textile Mills* v. *Union of India*, (1976) 1 LLJ 312 (Guj).

Infant Factory—Calculation of period.—Where a factory starts its work, on a trial basis of electroplating articles brought to it for that purpose, and real production starts on a later date then the work of electroplating articles for this subsequent use or disposal is a manufacturing process. And in the absence of any particulars, the trial period should not be excluded in determining the date upon which the factory was established. *R.P.F. Commr.* v. *M/s Great Eastern Electroplator Ltd.*, 1958 All WR (HC) 746: 1958 AW 685: (1958) 2 LJ 676: AIR 1959 All 133.

Infancy period of 5 years to be calculated when.—The word 'is' in the sub-section clearly indicates a newly started business, and the words 'has been', a business which has been in existence before. The period of infancy must be calculated from the first establishment of the factory and not from the moment of time when the figure of 20 or more is first reached. *State of Punjab* v. *Satpal*, (1969) 3 SCC 910.

Whether a new establishment.—The test is to find out whether on the entire complex of facts of a case, it can be concluded that the original legal entity, the establishment, has come to an end and has been succeeded by a fresh legal entity. *Sri Balaji Enterprise* v. *Dy. R.P.F. Commr.*, (1980) 56 FJR 26 (Mad HC): (1980) 2 LLJ 380: 1980 Lab IC 571.

Section 16(1)(*b*)—Printing press covered by the Act purchased by a person when that was under liquidation—Petitioner purchasing machineries etc. of the press from that person and starting his new press with new workers, held, entitled to infancy protection. *Kubera Press* v. *R.P.F. Commr.*, (1968) 2 LLJ 799 (Mad): 1968 Lab IC 1570: 34 FJR 160.

Section 16(1)(*b*)—After genuine and bona fide dissolution of firm, new firm coming into existence—Held, the new firm entitled to infancy protection. *S. V. Palanimalai* v. *R.P.F. Commr.*, (1971) 1 LLJ 44 (Mys).

See also *P. Nayarayanan Nair* v. *R.P.F. Commr.*, (1973) 1 LLJ 236 (Ker): 1973 Lab IC 1474.

Section 16(1)(*b*)—If a going concern was taken over or purchased by another person, it could not be treated as a new establishment. The Provident Fund Act being a beneficent statute and Section 16 of the Act granting exemption to the employer from the liability to make contributions should be strictly construed. *Fibrefab Consultants and Engineers Ltd.* v. *R.P.F. Commr.*, (1997) Lab IC 2786: (1998) 1 LLJ 1077: (1998) 79 FLR (Sum) 30.

Section 16(1)(*b*)—It cannot be said that merely because the petitioner had purchased old machinery or is using the same premises it is not a new establishment. The test to be applied is whether with a view to evade its liability under the Act, the claim for infancy protection is made. *Rubka Fruit Products* v. *Regional Commr., E.P.F. & F.P.F.*, 1978 Lab IC 1517 (Mad).

Sections 16(1)(*b*) and 1(3)—Section 16(1)(*b*) applies only to a newly set up establishment, i.e. one which has all the ingredients of having been started from scratch. The period of infancy has to be calculated from the date of the setting up of the business initially. It will not relate back to the date when the establishment had twenty or more persons on its rolls or from the date of the change of management and ownership of the establishment or its incorporation under the provisions of the Companies Act. *Sanjay Automobiles* v. *R.P.F. Commr.*, 1982 Lab IC 536 (All HC).

Section 16(1)(*b*) and 2-A—Where the owners of a factory which was established in the year 1921 at a place A and was manufacturing inorganic chemicals, mainly fertilizers, started a new factory at another place R in the year 1977 with separate registration number under the Factories Act to manufacture organic chemicals with a separate set of workers for either concern and separate profit and loss account, separate works managers and plant superintendents and without any supervisory control by either of the factories on the other, the factory established in 1977, held, could not be, merely on the ground of being owned by the same company, said to be a branch or department of the older factory or not to be a new establishment for the purpose of entitlement to infancy benefit under S. 16(1)(*b*) of the Act. Further, held, on the said facts the new factory did not attract Section 2-A. *R.P.F. Commr.* v. *Dharamsi Morarji Chemical Co. Ltd.*, (1998) 2 SCC 446: 1998 SCC (L&S) 584.

Sections 16(1)(*b*) and 7-A—Both requirements set out in sub-clauses (*b*) & (*c*) of Section 16(1) have to be fulfilled before Central or State Government department can claim benefit of said sub-clauses. *H.P. Nagar Vikas Pradhikaran* v. *R.P.F. Commr.*, (1998) 2 LLJ 267 (HP)(DB).

Date of establishment of factory—What is?—Section 16(1)(*b*)—On purchase of a factory, the date of reckoning the period of 3 years under Section 16 would be the date of establishment of the factory and not the date of its purchase. *R.P.F. Commr.* v. *Lakshmi Ratan Engg. Works*, AIR 1962 Punj 507: (1962) 2 LLJ 604: 22 FJR 278.

Existence of factory discovered—Whether demand can be made with retrospective effect.—The provisions of the Act make them operative only on and from the point of time when the authorities under the Act hold that a particular unit is within the ambit of the Act and make a consequential demand in terms of the Act and the Scheme. Any demand for a back period would be not merely illogical and oppressive but also plainly inconsistent, with the terms of the Act which are manifestly prospective in their operation. *K. R. Subbaier* v. *R.P.F. Commr., Madras*, (1962-63) 23 FJR 20 (Mad).

Section 16(1)(*b*) covers such establishments also the existence of which is interrupted by closure etc. The fact as to whether a new establishment within the meaning of Section 16(1)(*b*) has been set up or not has to be decided on the facts of each case. *Speederafts (P) Ltd.* v. *R.P.F. Commr.*, 1978 Lab IC 1480.

The financial position of an establishment is not the only criterion which will entitle an establishment to exemption under Section 16(2); other circumstances may also be considered. *Vishwa Bharati* v. *R.P.F. Commr.*, 1983 Lab IC 38 (Cal HC): (1983) 1 LLJ 332.

[55][*16-A. Authorising certain employers to maintain provident fund accounts.*—(1) *The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer, by an order in writing, to maintain a provident fund account in relation to the establishment, subject to such terms and conditions as may be specified in the Scheme:*

Provided that no authorisation shall be made under this sub-section if the employer of such establishment had committed any default in the payment of

55. *Ins.* by Act 33 of 1988, S. 22 (w.e.f. a date to be notified).

provident fund contribution or had committed any other offence under this Act during the three years immediately preceding the date of such authorisation.

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

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

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

[56][17. Power to exempt.—(1) The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, [57][exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme—

(*a*) any [58][establishment] to which this Act applies if, in the opinion of the appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in Section 6 and the employees 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 [58][establishment] of a similar character; or

(*b*) any [58][establishment] if the employees of such [58][establishment] are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other [58][establishment] of a similar character.

[59][* * *]

[60][Provided that no such exemption shall be made except after consultation with the Central Board which on such consultation shall forward its views on exemption to the appropriate Government within such time limit as may be specified in the Scheme.]

[61][(1-A) Where an exemption has been granted to an establishment under clause (*a*) of sub-section (1),—

(*a*) the provisions of Sections 6, 7-A, 8 and 14-B shall, so far as may be, apply to the employer of the exempted establishment in addition to such

56. *Subs.* by Act 37 of 1953, S. 16, for the original section.
57. *Subs.* for the words "exempt from the operation" by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
58. *Subs.* by Act 94 of 1956, S. 3, for "factory".
59. *Explanation omitted* by Act 28 of 1963, S. 11 (w.e.f. 30-11-1963).
60. *Ins.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
61. Sub-sections (1-A), (1-B) and (1-C) *subs.* for sub-section (1-A) by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).

other conditions as may be specified in the notification granting such exemption, and where such employer contravenes, or makes default in complying with any of the said provisions or conditions or any other provision of this Act, he shall be punishable under Section 14 as if the said establishment had not been exempted under the said clause (*a*);

(*b*) the employer shall establish a Board of Trustees for the administration of the provident fund consisting of such number of members as may be specified in the Scheme;

(*c*) the terms and conditions of service of members of the Board of Trustees shall be such as may be specified in the Scheme;

(*d*) the Board of Trustees constituted under clause (*b*) shall—

(*i*) maintain detailed accounts to show the contributions credited, withdrawals made and interest accrued in respect of each employee;

(*ii*) submit such returns to the Regional Provident Fund Commissioner or any other officer as the Central Government may direct from time to time;

(*iii*) invest the provident fund moneys in accordance with the directions issued by the Central Government from time to time;

(*iv*) transfer, where necessary, the provident fund account of any employee; and

(*v*) perform such other duties as may be specified in the Scheme.

(1-B) Where the Board of Trustees established under clause (*b*) of sub-section (1-A) contravenes, or makes default in complying with, any provisions of clause (*d*) of that sub-section, the Trustees of the said Board shall be deemed to have committed an offence under sub-section (2-A) of Section 14 and shall be punishable with the penalties provided in that sub-section.

[62][(1-C) The appropriate Government may, by notification in the Official Gazette, and subject to the condition on the pattern of investment of pension fund and such other conditions as may be specified therein, exempt any establishment or class of establishments from the operation of the Pension Scheme if the employees of such establishment or class of establishments are either members of any other pension scheme or propose to be members of such pension scheme, where the pensionary benefits are at par or more favourable than the Pension Scheme under this Act.]

(2) Any Scheme may make provision for exemption of any person or class of persons employed in any [63][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 appropriate Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

62. *Subs.* by Act 25 of 1996, S. 7 (w.e.f. 16-11-1995).
63. *Subs.* by Act 94 of 1956, S. 3, for "factory".

[64][(2-A) [65][The Central Provident Fund Commissioner may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt, whether prospectively or retrospectively, any establishment from the operation of all or any of the provisions of the Insurance Scheme, if he is satisfied] that the employees of such establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2-B) Without prejudice to the provisions of sub-section (2-A), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any establishment and covered by that scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life insurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme.]

[66][(3) Where in respect of any person or class of persons employed in an establishment an exemption is granted under this section from the operation of all or any of the provisions of any scheme (whether such exemption has been granted to the establishment wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such establishment—

(*a*) shall, in relation to the provident fund, pension and gratuity to which any 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 Central Government may direct;

(*b*) shall not at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of pension, gratuity or provident fund to which any such person or class of persons was entitled at the time of the exemption; and

(*c*) shall, where any such person leaves his employment and obtains re-employment in another establishment to which this Act applies, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations, to the credit of that person in the provident fund of the establishment left by him to the credit of that person's account in the provident fund of the establishment in which he is re-employed or, as the case may be, in the fund established under the Scheme applicable to the establishment.]

[67][(3-A) Where, in respect of any person or class of persons employed in any establishment, an exemption is granted under sub-section (2-A) or sub-section (2-B) from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the establishment wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such establishment—

64. *Ins.* by Act 99 of 1976 (w.e.f. 1-8-1976).
65. *Subs.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
66. *Subs.* by Act 28 of 1963, S. 11 (w.e.f. 30-11-1963).
67. *Ins.* by Act 99 of 1976, S. 34 (w.e.f. 1-8-1976).

(*a*) shall, in relation to the benefits in the nature of life insurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investments, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(*b*) shall not, at any time after the exemption without the leave of the Central Government, reduce the total quantum of benefits in the nature of life insurance to which any such person or class of persons was entitled immediately before the date of the exemption; [68][* * *]

(*c*) [69][* * *].]

(4) Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply,—

(*a*) in the case of an exemption granted under sub-section (1), with any of the conditions imposed under that sub-section [70][or sub-section (1-A)] or with any of the provisions of sub-section (3); [* * *][71]

[72][(*aa*) in the case of an exemption granted under sub-section [73][(1-C)], with any of the conditions imposed under that sub-section; and]

(*b*) in the case of an exemption granted under sub-section (2), with any of the provisions of sub-section (3);

[74][(*c*) in the case of an exemption granted under sub-section (2-A), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (3-A);

(*d*) in the case of an exemption granted under sub-section (2-B), with any of the provisions of sub-section (3-A).]

[75][(5) Where any exemption granted under sub-section (1), sub-section [76][(1-C)], [77][sub-section (2), sub-section (2-A) or sub-section (2-B)] is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund, [78][the [Pension][79] fund or the insurance fund] of the establishment in which he is employed [80][together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service] shall be transferred within such time and in such manner as may be specified in the Scheme or the [Pension][81] Scheme [82][or the Insurance Scheme] to the credit

68. *Omitted* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
69. *Omitted* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
70. *Ins.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
71. *Omitted* by Act 16 of 1971.
72. *Ins.* by Act 16 of 1971.
73. *Subs.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
74. *Ins.* by Act 99 of 1976 (w.e.f. 1-8-1976).
75. *Subs.* by Act 16 of 1971.
76. *Subs.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
77. *Subs.* by Act 99 of 1976 (w.e.f. 1-8-1976).
78. *Subs.* by Act 99 of 1976 (w.e.f. 1-8-1976).
79. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).
80. *Ins.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
81. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).
82. *Ins.* by Act 99 of 1976 (w.e.f. 1-8-1976).

of his account in the Fund or the [Pension][83] Fund [84][or the Insurance Fund], as the case may be.]

[85][(6) Subject to the provisions of sub-section [86][(1-C)], the employer of an exempted establishment or of an exempted employee of an establishment to which the provisions of the [Pension][87] Scheme apply, shall, notwithstanding any exemption granted under sub-section (1) or sub-section (2), pay to the [Pension][88] Fund such portion of the employer's contribution [* * *][89] to its provident fund within such time and in such manner as may be specified in the [Pension][90] Scheme.]

NOTIFICATIONS

(1)

[91]S.O. 3256, dated 23rd Nov. 1963.—In pursuance of sub-section (3) of Section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), read with Paragraph 27 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby directs that the employers in relation to establishments, whose employees have been exempted under the said paragraph, shall invest every month 90 per cent of the provident fund accumulations in respect of such employees in Central Government securities within fifteen days of the date of collections. The balance of 10 per cent of provident fund accumulations shall be kept as fluid cash for making refunds to the outgoing members or their nominees/heirs.

(2)

[92]S.O. 3368, dated 15th September, 1967.—In exercise of the powers conferred by clause (*a*) of sub-section (3) of Section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby directs that every employer in relation to an establishment exempted under clause (*a*) or clause (*b*) of sub-section (1) of Section 17 of the said Act, or in relation to an employee or a class of employees exempted under Paragraph 27, or as the case may be, Paragraph 27-A of the Employees' Provident Funds Scheme, 1952,—

(1) shall invest every month within a period of fifteen days of the date of collections not less than 80 per cent (eighty per cent) of the provident fund accumulations in respect of the employees in such establishment, or such employee or, as the case may be, such class of employees, which are available after making provision for refunds to outgoing members or their nominees or heirs, in Government securities (hereinafter referred to as 'Central Government securities') as defined in sub-clause (*i*) or sub-clause (*ii*) of clause (*a*) of sub-section (2) of Section 2 of the Public Debt Act, 1944 (18 of 1944), being securities created and issued by the Central Government;

(2) shall invest within the period specified in direction (1) above the balance of the said accumulations which are so available in any Government security (whether created and issued by the Central Government or by any State Government) referred to in clause (*a*) of the said sub-section (2) of Section 2 of the Public Debt Act, 1944 (18 of 1944), or in any Savings or other Certificates issued by the Central Government;

(3) shall not re-invest such accumulations (whether invested in securities created and issued by the Central Government or in certificates issued by the Central Government or in securities created and issued by a State Government) in any securities other than 'Central Government securities';

(4) shall not convert any securities or certificates referred to in direction (3) in which such accumulations have been invested into any securities other than 'Central Government securities'; and

83. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).
84. *Ins.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
85. *Subs.* by Act 16 of 1971.
86. *Subs.* by Act 33 of 1988, S. 23 (w.e.f. 1-10-1988).
87. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).
88. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).
89. The words, "as well as the employees' contribution", *omitted* by Act 25 of 1996, S. 7 (w.e.f. 16-11-1995).
90. *Subs.* for "Family Pension" by Act 25 of 1996, S. 4 (w.e.f. 16-11-1995).
91. *Vide* Gaz. of India, Pt II, S. 3(*ii*), dt. 23-11-1963, p. 4077.
92. *Vide* Gaz. of India, Pt II, S. 3(*ii*), dt. 23-9-1967, p. 3456.

(5) shall formulate proper procedure for prompt investment of such accumulations in accordance with the aforesaid directions and shall have it approved by the Regional Provident Fund Commissioner concerned.

(3)

Submission of monthly return by exempted establishments

S.O. 936, dated 18th March, 1991.—In pursuance of clause (*a*) of sub-section (3) of Section 17 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), read with sub-paragraph (2) of paragraph 27 of the Employees' Provident Funds Scheme, 1952, and in supersession of the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 3255, dated the 12th November, 1963, the Central Government hereby directs that the employers in relation to the establishments whose employees have been granted exemption under Paragraph 27 of the Employees' Provident Funds Scheme, 1952, shall submit a monthly return to the Regional Provident Fund Commissioner by the twenty-fifth of the month following that to which it relates, in the pro forma set out in the Schedule annexed hereto.

THE SCHEDULE

Monthly return to be submitted by the establishments whose employees have been granted exemption under paragraph 27 of the Employees' Provident Funds Scheme.

1. *Introductory :*
   - (*a*) Code No. and Name of the factory/establishment :
   - (*b*) Authority which granted the exemption :
   - (*c*) Accounting year for the provident fund :

2. *Employees :*
   - (*a*) Total No. of employees as at the end of the previous month :
   - (*b*) No. of employees who joined service during the month :
   - (*c*) No. of employees who left service during the month :
   - (*d*) Total No. of employees as at the end of month :
     - Permanent :
     - Temporary :
     - Casual :
     - Badli :
     - Contract :
     - Contractors :
     - Workers :
   - (*e*) Whether declaration relating to previous provident fund membership, if any, obtained from all new entrants to service :

3. *Subscribers to the private fund:*
   - (*a*) No. of subscribers as at the end of previous month :
   - (*b*) No. of employees granted exemption during the month and enrolled as new subscribers :
   - (*c*) No. enrolled in view of their subsisting provident fund membership in other establishments :

   (Please also indicate whether provident fund of these employees has been received from other establishments).
   - (*d*) No. of subscribers who have ceased to be members during the month :
   - (*e*) No. of subscribers as at the end of the month :

4. *Wages, current contributions, i.e., contribution during the month, refunds, etc.*
   - (*a*) Total amount of gross wages liable to provident fund contributions :
   - (*b*) Rate of contributions :
   - (*c*) Previous arrears of provident fund dues :
   - (*d*) Current provident fund contributions :
     - (*i*) Employees' share deducted from their wages : Rs

(ii) Employer's share : Rs

(iii) Repayment of loans/advances by the members :

(e) Total of (c) and (d) :

(f) Whether the penal interest due, if any, has been paid :

5. *Other income during the month :*

(a) Interest on investments : Rs

(b) Maturity proceeds

(i) State/Central Government securities : Rs

(ii) State/Central Government guaranteed securities : Rs

(iii) Special Deposit Scheme : Rs

(iv) Other receipts : Rs

(c) Total : Rs

6. *Total receipts* (4 + 5)

7. *Payments:*

(a) Claims : Rs

(b) Loans/advances : Rs

(c) Transfer to other provident funds : Rs

(d) Other payments (nature of payments to be specified) : Rs

(e) Total (a) + (b) + (c) + (d) : Rs

8. *Net amount available for investment (total item 6 minus item 7):*

9. *Details of Investments*

Balance lying uninvested at the end of the previous month	Amount allocated during the month	Total	Amount invested	Balance amount lying uninvested	Date of investment, i.e. actual date of purchase of securities
(a)	(b)	(c)	(d)	(e)	(f)
(i) State/Central Government securities					
(ii) State/Central Government guaranteed securities					
(iii) Special deposits					
(iv) Other					

10. *Inspection charges:*

(a) Past dues, if any :

(b) Amount due for the month :

(c) Amount remitted during the month :

(d) Date of payment :

(e) Amount of damages for belated remittance levied, but not paid :

11. *Total Investments as on 31st March (to be furnished in the return for March of each year)(i.e., investment less redemption proceeds from the beginning)*

(A) (i) State/Central Government securities :

(ii) State/Central Government guaranteed securities :

(iii) Post Office Time Deposits :

(iv) National Small Savings Certificates :

(v) Special Deposits Schemes :

(vi) Others (nature of securities/deposits to be specified) :

(B) Face value of Government promissory Notes yet to be converted as stock certificates:

12. (a) In whose names the securities have been purchased. If, the same are in the name of anyone other than holder of the provident fund trust, amount thereof and the reasons thereunder.

Note : Securities are required to be purchased only in the names of the trust/holders of provident fund according to rules.

(b) In whose custody the securities are kept? If with the bankers, whether safe custody receipts, etc. have been obtained from them.

13. *Audit of provident fund accounts:*

(a) Have the accounts been audited? If so, up to what period? If not, brief reasons therefor :

(b) Have the audited balance-sheets been submitted to the Regional Provident Fund Commissioner? If so, up to what period? If not, brief reasons therefor :

14. *Annual Statements of Accounts to subscribers*

(a) Have the subscribers been issued the annual statements of accounts upto date? :

(b) If not, period up to which issued and brief reasons for non-issue :

(c) No. of accounts not yet issued (year-wise) :

(d) Rate of interest credited to the subscribers' account, year, interest rate and how the rate was arrived at :

(e) Method of crediting interest, i.e., whether it is on opening balance, monthly balance or closing balance :

15. *Rules of the Provident Fund:*

(a) Details of amendment, if any, carried out during the month with the approval of the Regional Provident Fund Commissioner :

(b) Are the provident fund rules up to date? :

(c) If not, what are the amendments yet to be carried out? :

(d) Whether the provident fund rules are printed in English as well as in regional language :

(e) Whether a copy of the provident fund rules has been supplied to the subscribers :

16. *Inspection of the establishment:*

Date of the last inspection by the Provident Fund Inspector

Date :

Signature with Official Seal of employer or his authorised Official.

[No. S-35012/14/87-SS.II]

(4)

S.O. 1436, dated July 9, 1998.—In pursuance of clause (a) of sub-section (3) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India in the Ministry of Labour No. S.O. 3450 dated the 17th September, 1964 the Central Government hereby directs that the employers in relation to an establishment or any person or class of persons exempted under Section 17 of the said Act, shall be required to pay to the Employees' Provident Funds with effect from the 1st August, 1998, inspection charges of the rate of zero point one eight per cent (0.18 per cent) of the pay (basic wages, dearness allowance, if any, and each value of food concession admissible thereon) for the time being payable to the employees of the establishment or receivable by the person or class of persons, as the case may be, in respect of which contributions would have been payable but for such exemption, within fifteen days of the close of every month.

2. For the removal of doubts, it is hereby notified that nothing contained in this notification shall affect the inspection charges already accrued in accordance with Notification No. S.O. 3450 (*See* at p. 472 of 17th Edn.) referred to in Paragraph 1 and for the said purpose Notification No. S.O. 3450 shall continue to apply as if the same had not been superseded.

(5)

S.O. 2763, dated 3rd July 1969.—In pursuance of the provisions of clause (c) of sub-section (3) of Section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the late Ministry of Labour No. S.R.O. 1642, dated the 25th

August, 1953, the Central Government hereby specifies the period of three months from the date on which the information of the re-employment of an employee in another establishment to which the said Act applies is received, as the time within which the amount of accumulations to the credit of the employee in the provident fund of the establishment left by him, shall be transferred to the credit of his account in the provident fund of the establishment in which he is re-employed or, as the case may be, in the fund established under the Scheme applicable to the establishment.

(6)

S.O. 486, dated January 24, 1975.—In pursuance of clause (*a*) of sub-section (3) of Section 17 of the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952) the Central Government hereby directs that the employer in relation to any establishment which has been exempted under sub-section(1) of Section 17 thereof, or whose employee or class of employees have been exempted, as the case may be, under Paragraph 27 or Paragraph 27-A of the Employees' Provident Funds Scheme, 1952 read with sub-section (2) of Section 17 of the said Act, shall maintain an Inspection Note Book in the pro forma set out in the Schedule hereto annexed for an Inspector appointed under Section 13 of the said Act to record his observations on his visit to such establishment.

SCHEDULE

INSPECTION NOTE BOOK

Name of the Inspector . . . . . .

Date of visit. . . . . .

Period for which accounts are checked . . . . . .

Compliance . . . . . .

Observations. . . . . .

Signature of the visiting

Provident Fund Inspector . . . . . .

(7)

G.S.R. 702, dated 8-7-1981.—In pursuance of clause (*a*) of Section 17(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 the Central Government hereby directs that the employers in relation to establishments that have been granted exemption under sub-section (2-A) of Section 17 thereof, shall submit a monthly return to the Regional Provident Fund Commissioner by the 25th of the month following that to which it relates in the pro forma set out in Schedule hereto annexed.

SCHEDULE

Monthly return to be made by establishments exempted under Section 17(2-A) *of the Employees' Provident Funds and Miscellaneous Provisions Act,* 1952 *for the month of* .....

Name of the establishment . . . . . .

Code No. . . . . .

Name of the private scheme

Section under which exemption granted. . . . . 17(2-A)

1. *Subscribers*
   - (*i*) No. of employees covered under the scheme on the last date of the previous month.
   - (*ii*) No. of employees covered during the month.
   - (*iii*) No. of employees left service during the month on account of cessation of employment.
   - (*iv*) No. of covered employees on the last day of the month.
   - (*v*) Total No. of employees in the establishment on the last date of the month.

2. *Initial accumulations :*
   - (*i*) Accumulations prior to the commencement of the Act:
     - (*a*) Total amount of accumulations prior to the commencement of the Employees' Deposit-linked Insurance Scheme, 1976.
     - (*b*) Amount invested out of (*a*).
     - (*c*) Balance remaining unin[illegible] the date of applicability.

     - (*d*) Amount transferred in securities and cash to the Board of Trustees and date of transfer.
     - (*e*) Balance (*a* - *d*)Rs . . . dt . . . . .
   - (*ii*) (*a*) Employer's contributions from the date of application of the Employees' Deposit-linked Insurance Scheme, 1976 to the preceding month.
     - (*b*) Amount transferred to the Board of Trustees and the date of transfer.
     - (*c*) Balance (*ii* - *c*)Rs . . . dt . . . . .

Note.—Item 2 is required to be filled in when the return is made for the first time.

3. *Wages and current contributions :*
   - (*i*) Total amount of gross wages liable to Employees' Deposit-linked Insurance Scheme contributions (basic wages, dearness allowance if any, and cash value of food concessions admissible thereon).
   - (*ii*) (*a*) Current employer's contribution during the month of Rs . . . . . .
     - (*b*) Amount of contributions transferred to the Board of Trustees and the date of transfer Rs . . . dt . . . . .
     - (*c*) Balance
     - (*d*) Total balance indicating total arrears of Deposit-linked Insurance dues transferable to the BoardRs . . . . . .

       [2(*i*)(*c*) plus 2(*ii*)(*c*) plus 3(*ii*)(*c*)]. Rs . . . . . .

4. *Other income during month (Interest on investments)* . . . Total Rs . . . . .

5. *Payments*—
   - (*a*) Total amount of premium payable for the month by the establishment in respect of employees covered under the scheme.
   - (*b*) Total amount paid as premium for the month with dates of payments.
   - (*c*) Total number of cases of deaths of members occurred in the month and the amounts payable as assurance benefits.
   - (*d*) Total amount paid as assurance benefits during the month—
     - (*i*) Number of cases involved.
     - (*ii*) Dates of payments.
   - (*e*) Date of expiry of insurance policies, if any, with details.

6. *Amount available for investment*—
   - (*i*) Uninvested amount brought forward from the preceding month.
   - (*ii*) Amount specified against Item 3(*ii*)(*a*).
   - (*iii*) Amount specified against Item 4.
   - (*iv*) Total of (*i*), (*ii*) and (*iii*).
   - (*v*) Less amount specified against Item 5.
   - (*vi*) Less amount available for investment (*iv* - *v*).
   - (*vii*) Amount invested during the month and date of investment.
   - (*viii*) Amount lying uninvested at the end of month (*vi* - *vii*).

7. *Investment during the month*—
   - (*a*) Central Government securities. Rs . . . . .
   - (*b*) State Government securities. Rs . . . . .
   - (*c*) Other securities guaranteed by the Central or the State Government. Rs . . . . .
   - (*d*) Post Office Time Deposit. Rs . . . . .
   - (*e*) Special deposit. Rs . . . . .

   Total (*a* + *b* + *c* + *d* + *e*) Rs . . . . .

Note.—The aggregate of (*a*), (*b*), (*c*), (*d*) & (*e*) should tally with the amount specified against Item 6(*vii*).

8. *Inspection charges*—

(*i*) Past dues, if any. Rs . . . . .

(*ii*) Dues for the month. Rs . . . . .

(*iii*) Amount paid and the date of payment. Rs . . . . .

(*iv*) Balance to be paid. Rs . . . . .

Date . . . . . .

Note.—Details in Item Nos. 2, 3, 4, 6 and 7 are not required to be filled in by Establishments having G.I.S. of the L.I.C. of India.

(8)

[93]S.O. 3469, dt. 22nd August, 1983.—In pursuance of clause (*a*) of sub-section (3) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour & Employment) No. S.O. 4192, dated the 23rd November, 1968, the Central Government hereby directs that the employers in relation to the establishments that have been granted exemption under sub-section (1) of Section 17 thereof, shall submit a monthly return to the Regional Provident Fund Commissioner by the twenty-fifth of the month following that to which it relates in the pro forma set out in the Schedule hereto annexed.

SCHEDULE

Monthly return to be made by the establishments exempted under Section 17(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for the month of . . . . .

1. *Introductory* :

(*a*) Code No. and name of establishment :

(*b*) Whether in the public/private/joint sector

(*c*) Section under which exemption was granted — Section 17(1)(*a*) / Section 17(1)(*b*)

(*d*) Effective date of exemption

(*e*) Authority which granted the exemption — Central Government / State Government

(*f*) Accounting year for the Provident Fund

2. *Employees* :

(*a*) Total number of employees as at the end of the previous month

(*b*) Number of employees who joined service during the month

(*c*) Number of employees who left service during the month

(*d*) Total number of employees as at the end of the month :

permanent

temporary

casual

badli

contract

(*e*) Whether declaration relating to previous provident fund membership, if any, obtained from all new entrants to service

3. *Subscribers to the provident fund* :

(*a*) Number of subscribers as at the end of the previous month

(*b*) Number of subscribers enrolled during the month

(*c*) (*i*) N[illegible] enrolled for the first time on completion of the qualifying period of service, if any;

(*ii*) [illegible]ber enrolled in view of their subsisting provident fund membership in other establi[illegible]ments

(Please also indicate whether the Provident Fund of these employees have been received from other establishments.)

(*d*) Number of subscribers who have ceased to be members during the month

(*e*) Number of subscribers as at the end of the month

4. *Initial accumulations* :

(*a*) Accumulations prior to the commencement of the Act

(*i*) Total net accumulations prior to the commencement of the Act

93. Ins[illegible] by S.O. 1051, dt. 2-4-1987.

(*ii*) Amount invested out of (*i*)

(*iii*) Balance remaining uninvested as on the date of applicability of the Act

(*iv*) Amount transferred to the Board of Trustees and date of transfer

In securities . . . . . Rs

In cash . . . . . Date

(*v*) Balance : (*i*)—(*iv*)

(*b*) Contributions from the date of applicability of the Act up to the preceding month:

(*i*) Employees' contributions

(*ii*) Employers' contributions

(*iii*) Refund of advance/loan, if any

(*iv*) Other receipts, if any

(*v*) Total

(*vi*) Payment towards claims/loans etc.

(*vii*) Amount transferred to the Board of Trustees

(*viii*) Date of such transfer

(**) Rs . . . . . Date

(*ix*) Balance : (*v*) - (*vi*) - (*vii*)

If by cheque, date of issue of cheque and date of realisation of the cheque . . . . . .

Note.—Item 4 is required to be filled in when the return is made for the first time.

5. *Constitution of Board of Trustees*

(*a*) Date on which the present Board was constituted/whether the election of labour trustees took place according to the procedure prescribed

(*b*) Its term

(*c*) Whether the Board met during the month, if so, on what date

(Please enclose an attested copy of the minutes of the meeting).

6. *Wages, current contributions, etc., i.e., contributions during the month, refunds, etc.*,

(*a*) Wages:

Total amount of gross wages liable to provident fund contributions:

(*b*) Rate of contributions:

(*c*) Amount of arrears due for transfer to the Board of Trustees at the end of previous month;

(*d*) Current provident fund contributions (i.e., after segregation of 1-1/6% wages towards Family Pension Fund contributions):

(*i*) Employees' share deducted from their wages . . . . . Rs

(*ii*) Employers' share . . . . . Rs

(*iii*) Repayment of loans/advances by the members . . . . . Rs

(*e*) Total of (*c*) and (*d*): . . . . . Rs

(**) If by cash, the date of payment

(*f*) Amount transferred to the Board of Trustees:

(*i*) by cash. . . . . Rs

Date of payment:

(*ii*) by cheque. . . . . Rs

(*iii*) Date of issue of cheque by the employer:

(*iv*) Date of realisation of the cheque by the Board of Trustees;

(*g*) Balance due for transfer to the Board of Trustees (*e*) - (*f*)(*i*) + (*ii*). . . . . Rs

(*h*) Whether the penal interest due, if any, has been paid?

7. *Other income during the month:*

(*a*) Interest on investments Rs

(*b*) Maturity proceeds

(*i*) State/Central Government securities. . . . . Rs

(*ii*) State Government/Central Government guaranteed securities. . . . . Rs

(*iii*) Post Office Time Deposits. . . . . Rs

(*iv*) National Small Savings/National Defence Certificates . . . . . Rs

(*v*) Special Deposit Scheme. . . . . Rs

(Nature of Securities and deposits to be specified)

(*vi*) Others

Total: Rs

(*c*) Other receipts (details to be furnished)

(*d*) Total: (*a*) + (*b*) + (*c*):

8. *Total receipts:* 6(*f*) + 7(*d*)

9. *Payments:*

(*a*) Claims. . . . . Rs

(*b*) Loans/advances. . . . . Rs

(*c*) Transfer to other provident funds. . . . . Rs

(*d*) Other payments. . . . . Rs

(Nature of payments to be specified)

(*e*) Total: (*a*) + (*b*) + (*c*) + (*d*)

10. *Investments* :

(*a*) Net amount available for investment 8 - 9(*c*)

(*b*) Amount shown against (*a*) allocated for investment according to the prescribed pattern of investment

(*i*) State Government securities

(*ii*) State Government/Central Government guaranted securities

(*iii*) Special Deposit Scheme

(*vi*) Others

11. *Details of investments:*

	Balance lying uninvested at the end of the previous month	Amount allocated during the month	Total	Amount invested	Balance amount lying uninvested	Date of investment i.e. actual date of purchase of securities/date of deposit
	(*a*)	(*b*)	(*c*)	(*d*)	(*e*)	(*f*)
(*i*) State Government/Central Government securities						
(*ii*) State Government/Central Government guaranted securities						
(*iii*) Special Deposit Scheme						

Reasons for non-investment of the amount shown under column (*e*) of Item 11 above

12. *Inspection charges:*

(*a*) Past dues, if any

(*b*) Amount due for the month

(*c*) Amount remitted during the month

(*d*) Date of payment

(*e*) Amount of damages for belated remittance levied, but not paid

13. *Total investments as on 31st March* (to be furnished in the return for March of each year) (i.e., investment less redemption proceeds from the beginning) :

(A) (*i*) Central Government securities

(*ii*) State Government securities/securities guaranteed by Central/State Government

(*iii*) Post Office Time Deposits

(*iv*) National Small Savings Certificates

(*v*) Special Deposits/Schemes

(*vi*) Others (nature of securities/deposits to be specified)

(B) Face value of Government promissory notes yet to be converted/stock certificates

14. (*a*) In whose names the securities have been purchased. If some are in names other than the Trust/holder of the Provident Fund, amount thereof and the reasons therefor.

(*Note:* Securities are required to be purchased only in the names of the Trust/holders of Provident Fund according to rules.)

(*b*) In whose custody the securities are kept? If with the Bankers, whether safe custody receipts etc., have been obtained from them :

15. *Audit of Provident Fund Accounts:*

(*a*) Have the accounts been audited?

If so, up to what period?

If not, brief reasons therefor.

(*b*) Have the audited balance-sheets been submitted to the Regional Provident Fund Commissioner?

If so, up to what period?

If not, brief reasons thereof.

16. *Annual Statements of Accounts to subscribers:*

(*a*) Have the subscribers been issued the annual statements of accounts up to date?

(*b*) If not, period up to which issued and brief reasons for non-issue.

(*c*) Number of accounts not yet issued (yearwise).

(*d*) Rate of interest credited to the subscribers' account, year-interest rate and how the rate was arrived at.

(*e*) Method of crediting interest, i.e., whether it is on opening balance, monthly balance or closing balance.

17. *Rules of the Provident Fund:*

(*a*) Details of amendment, if any, carried out during the month with the approval of the Regional Provident Fund Commissioner.

(*b*) Are the Provident Fund Rules up to date?

(*c*) If not, what are the amendments yet to be carried out?

(*d*) Whether the provident fund rules are printed in English as well as in regional language.

(*e*) Whether a copy of the provident fund rules has been supplied to the subscribers.

18. *Participation in Common Provident Fund* :

(*a*) Is the establishment participating in a Common Provident Fund along with other establishments?

(*b*) If so, the names of the said Common Provident Fund

and

whether your employees are represented on the Board of Trustees of the said Common Provident Fund.

19. *Inspection of the Establishment:*

Date of last inspection by the Provident Fund Inspector.

Date:

Signature with Official Seal of the Employer or his Authorised Official

(9)

S.O. 937, dt. 18th March, 1991.—In pursuance of clause (*a*) of sub-section (3) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), read with sub-paragraph (2) of Paragraph 27-A of the Employees' Provident Funds Scheme, 1952, the Central Government hereby directs that the employers in relation to the establishments whose employees have been granted exemption as a class under Paragraph 27-A of the Employees' Provident Funds Scheme, 1952, shall submit a monthly return to the Regional Provident Fund Commissioner by the twenty-fifth of the month following that to which it relates, in the proforma prescribed in the notification of the Government of India in the late Ministry of Labour and Rehabilitation (Department of Labour) S.O. No. 3469, dated 22nd August, 1983, as amended from time to time.

(10)

S.O. 1400, dated June 30, 1998.—In exercise of the powers conferred by clause (*a*) of sub-section (3) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) and in supersession of the Notification of the Government of India, Ministry of Labour No. S.O. 937 dated 27th March, 1997 the Central Government hereby directs that every employer in relation to an establishment exempted under clause (*a*) or clause (*b*) of sub-section (*1*) of Section 17 of the said Act or in relation to any employee or class of employees exempted under Paragraph 27, or as the case may be, Paragraph 27-A of the Employees' Provident Funds Scheme, 1952, shall transfer the monthly provident fund contributions in respect of the establishment or, as the case may be of the employee or class of employees within fifteen days of the close of the month to the Board of Trustees duly constituted in respect of that establishment, and that the said Board of Trustees shall invest every month within a period of two weeks from the date of receipt of the said contributions from the employee, the provident fund accumulations in respect of the establishment or as the case may be, of the employee, or class of employees that is to say, the contributions, interest and other receipts as reduced by any obligatory outgoings, in accordance with the following pattern, namely :—

INVESTMENT PATTERN

1	2
(*i*) Central Government Securities as defined in Section 2 of the Public Debt Act, 1994;	Twenty-five per cent
(*ii*) (*a*) Government Securities as defined in Section 2 of the Public Debt Act, 1944 (18 of 1944) created and issued by any State Government; and/or (*b*) Any other negotiable securities the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government except those covered under (*iii*)(*a*) below.	Fifteen per cent
(*iii*) (*a*) Bonds/Securities of 'Public Financial Institutions' as specified under Section 4(*a*) of the Companies Act; "Public Sector Companies" as defined in Section 2(36-A) of the Income Tax Act, 1961, including public sector banks, and the Infrastructure Development Finance Company Limited (IDFC); and/or (*b*) Certificate of deposits issued by public sector banks.	Forty per cent
(*iv*) To be invested in any of the above three categories as decided by the Trustees.	Twenty per cent
(*v*) The Board of Trustees, subject to their assessment of the debentures prospects, may invest up to 10% out of (iv) above, in private sector bonds/securities which have an investment grade rating from at least two credit rating agencies.	

2. Any moneys received on the maturity of earlier investments reduced by obligatory outgoings, shall be invested in accordance with the investment pattern prescribed in this Notification.

3. Interest received on the Special Deposit Scheme shall be invested in the Special Deposit Scheme itself. Similarly, interest received under other categories shall be re-invested in the same category.

4. The investment pattern as envisaged in the preceding paragraphs may be achieved by the end of a financial year and is effective from the 1st April, 1998.

(11)

S.O. 2625, dt. 22nd August, 1978.—In pursuance of clause (*a*) of sub-section (3-A) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby directs that the employers in relation to an establishment or any person or class of persons exempted under sub-section (2-A) or sub-section (3-A) of Section 17 of the said Act, shall pay to the Insurance Fund, inspection charges at the rate of zero point zero two per cent (0.02 per cent) of the aggregate of the basic wages, dearness allowance (including the cash value of any food concession) and retaining allowance, if any, for the time being payable to the employees of the establishment or receivable by the persons or class of persons, as the case may be, in respect of which contributions would have been payable but for such exemption, within fifteen days of the close of every month.

NOTES

Mere pendency of an application for exemption does not relieve of the liability to comply with the provisions of the Act. *H.P. Agro Industries Corpn. Ltd.* v. *R.P.F. Commr.*, 1994 Lab IC 1286: (1993) 2 Cur LR 505: (1994) 2 LLN 715 (HP) (DB).

The expression 'whoever' in S. 14(2-A) in relation to non-compliance with S. 17(3)(*a*) refers to the employer as defined in S. 2(*e*) and not to directors not covered by that section. *K.L. Jalan* v. *State of W.B.*, (1993) 67 FLR 195: (1993) 2 LLN 100: (1994) 1 LLJ 224 (Cal).

Where during the pendency of application for exemption made to the appropriate Govt. under S. 17 of the Act, the Commissioner granted temporary exemption with retrospective effect from the date of commencement of the Employees' Deposit-Linked Insurance Scheme, 1976 under para 28(7) thereof and subsequently the Government also issued the final order of exemption and the employer had even before the passing of the Commissioner's order paid all the inspection charges, held, there was no delay in payment of inspection charges. Hence, no damages could be levied. *Bharat Heavy Electrical Ltd.* v. *R.P.F. Commr.*, 1994 Supp (2) SCC 723: 1994 SCC (L&S) 1165.

If appellant has provided separate provident fund scheme which is more beneficial than what was provided under the Act, then appropriate course for appellant is to seek exemption from operation of the Act under Section 17 of the Act. *Canbank Financial Services Ltd., Bangalore* v. *R.P.F. Commr.*, (1997) 3 LLN 575: (1997) 2 Cur LR 734.

Where Central Government, being the then appropriate Government, granted exemption to the respondent-establishment under Section 17(1)(*a*), subsequently, revised conditions for the grant of exemption forwarded by the Central Government to the appropriate Governments, one of the revised conditions was that any amendment to the Employees' Provident Funds Scheme, which was more beneficial to the Employees than the rules of the establishment for the time being in force, would be applicable to them automatically, such conditions, held, could not become applicable automatically to the already exempted establishments, which could be subjected to such conditions only by a notification of the appropriate Government amending the exempted scheme and published in the Official Gazette. Hence High Court erred in holding that the respondent-establishment was bound to pay interest at higher rates merely because the rate of interest under the statutory scheme was enhanced by the Central Government. *Hyderabad Cotton Mills Employees' Provident Fund Institution* v. *Dev Kumar Holani*, (1998) 6 SCC 35: 1998 SCC (L&S) 1444.

[17-A. Transfer of accounts.—(1) Where an employee employed in an establishment to which this Act applies leaves his employment and obtains re-employment in another establishment to which this Act does not apply the amount of accumulations to the credit of such employee in the Fund or, as the case may be, in the provident fund of the establishment left by him shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is

[1] Ins. by Act 28 of 1988, S. 12 (w.e.f. 25-11-1988).

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APPENDIX – 5

The Provident Funds Act, 1925

together with

SHORT NOTES

EASTERN BOOK COMPANY
LUCKNOW

The Provident Funds Act, 1925

[Act No. 19 of 1925][1]

[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 [2][except the State of Jammu and Kashmir] [3]* * *

(3) It shall come into force on such date[4] as the Central Government may, by notification in the Official Gazette, appoint.

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

(*a*) "compulsory deposit" means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance, [5][or the payment of subscriptions or premia in respect of a family pension fund], and includes any contribution [6]* * * and any interest or increment which has accrued under the rules of the fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;

(*b*) "contribution" means any amount credited in a Provident Fund,

---

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., for "except Part B States".
3. The words "including British Baluchistan" *omitted* by the A.O. 1948.
4. 1st April, 1926, *see* Gazette of India, 1925, Pt. I, p. 1182.
5. *Ins.* by Act 1 of 1930, S. 2.
6. The words "credited in respect of any such subscription or deposit" *omitted* by S. 2, *ibid.*

by [7][any authority administering the Fund], by way of addition to, [8][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 grand-parent;

(d) "Government Provident Fund" means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of [9][the Secretary of State, the Central Government, the Crown Representative or any State Government] for any class or classes of [10][persons in the service of the Government] or [11][of persons employed in educational institutions or employed by bodies existing solely for educational purposes], [12][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[13] * * * and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund;

[14](f) "Railway administration" means—

(i) any company administering a railway or tramway in [15][any part of India] either under a special Act of Parliament [16][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 [17][Central Government] or by a State Government,

and includes, in any case referred to in sub-clause (ii), the [17][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.

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7. *Subs.* by Act 28 of 1925, S. 2, for "the authority by which the Fund has been constituted".
8. *Subs.* by Act 1 of 1930, S. 2, for "or otherwise in respect of, a subscription to, or deposits.
9. *Subs.* by the A.O. 1937, for "the Government".
10. *Subs.* by Act 25 of 1942, S. 3 and Sch. II, for "its employees".
11. *Subs.* by Act 7 of 1927, S. 2, for "for teachers in educational institutions".
12. *Ins.* by the A.O. 1937.
13. The words "credited in respect of such subscription or deposits" *omitted* by Act 1 of 1930, S. 2.
14. *Subs.* by the A.O. 1937, for the original cl. (*f*).
15. *Subs.* by Act 3 of 1951, S. 3 and Sch., for "a Part A State or a Part C State".
16. *Ins.* by the A.O. 1950.
17. *Subs.* by the A.O. 1948, for "Federal Railway Authority".

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.

NOTES

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 the 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.

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(*e*) 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*), C.P.C., leave no doubt on the point of non-attachability. The matter is so plain that discussion is uncalled for. *Union of India* v. *Jyoti Chit Fund and Finance*, (1976) 3 SCC 607: (1976) 3 SCR 763: AIR 1976 SC 1165.

AIR 1969 SC 762, *followed*.

See also AIR 1952 SC 227

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 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.

In *Union of India* v. *Jyoti Chit Fund & Finance*, (1976) 3 SCC 607, it has been observed that the *Radha Kissen's* case is authority for the benignant view that the Government is a trustee for those sums and has an interest in maintaining the objection in court to attachment.

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. *Muktilal 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.

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 dependant 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[18] (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

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

be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or

(*ii*) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil 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.—[19][(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 [20][the Indian Succession Act, 1925] (39 of 1925) or the Bombay Regulation VIII of 1827, any [21][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.

[22][(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

19. *Subs.* by Act 11 of 1946, S. 2, for the original sub-section.
20. *Subs.* by Act 35 of 1950, S. 3 and Sch. II, for "the Succession Certificate Act, 1889".
21. *Subs.* by Act 11 of 1946, S. 2, for "such person shall, on the death of the subscriber or depositor, be entitled to the grant of".
22. *Added* by S. 2, *ibid.*

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.]

6.[22] **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 [23][specified in this behalf in the rules of the Fund] so directs, be deducted therefrom and paid to [24][Government or the Railway administration as the case may be]—

(*a*) any amount due under a liability incurred by the subscriber or depositor to [24][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

(*b*) where the subscriber or depositor has been dismissed from [25][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.

[26][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

23. *Subs.* by Act 28 of 1925, S. 3, for "by which the Fund has been constituted".
24. *Subs.* by S. 3, *ibid.*, for "that authority".
25. *Subs.* by Act 28 of 1925, S. 3, for "the employment of that authority".
26. *Ins.* by Act 46 of 1975, S. 2, (w.e.f. 7-8-1975).

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 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 on 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 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 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, I.P.C., "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.

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.

The essence of good faith is honestly of intention—*Arunachala Thevar* v. *Govindrajan*, (1977) 2 MLJ 431.

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.

8. Power to apply the Act to other Provident Funds.—[27][(1)] The [28][appropriate Government] may, by notification in the Official Gazette, direct that the provisions of this Act [29][(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.

27. The original S. 8 renumbered as sub-section (1) of that section by Act 1 of 1930, S. 3.
28. *Subs.* by the A.O. 1937, for "L.G.".
29. *Ins.* by Act 45 of 1975, S. 3 (w.e.f. 7-8-1975).

[30][(2) The [31][appropriate Government] may, by notification in the Official Gazette, direct that the provisions of this Act [32][(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.

(3) The [31][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.]

[33][(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 [34][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.*

[35][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.

30. *Added* by Act 1 of 1930, S. 3.
31. *Subs.* by the A.O. 1937, for "G.-G. in C.".
32. *Ins.* by Act 46 of 1975, S. 3 (w.e.f. 7-8-1975).
33. *Ins.* by the A.O. 1937.
34. Subs. by the A.O. 1950, for "the Government of India Act, 1935".
35. The Schedule containing items 1 to 7 was *added* by Act 1 of 1930, S. 4. The original Schedule was *omitted* by Act 12 of 1927, S. 2 and Sch.

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.]
[36]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.
14. The Bihar and Orissa Medical Examination Board.

[37]* * * * * *

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.

[38]* * * * * *

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.

[39]* * * * * *

35. The Indian Rubber Board.

36. Items after 7 were *added* from time to time by notification under S. 8(3) of the Act.
37. Entry "15. The Punjab University" *omitted* by the A.O. 1948.
38. Entry "21. The Trustees of the Victoria Memorial Park, Rangoon." omitted, *ibid.*
39. Entry "34. The N.W.F. Provincial Branch of the Indian Red Cross Society." omitted, *ibid.*

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.
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 & 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. Air India International Corporation.
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.
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 Post-graduate Training Centre in Ayurveda, Jamnagar.
83. The Indian Investment Centre, New Delhi.
84. The Indian Airlines Corporation.
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.
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.
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 Post Graduate 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 Analyses, 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][1]
[Delhi Development Authority][2]
[Centre for Materials and Electronics Technology][3]

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

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1. *Added* by S.O. 2940, dt. 11-11-1991.
2. *Added* by S.O. 2791, dt. 16-10-1992.
3. *Added* by S.O. 223, dt. 10-1-1996.

IMPORTANT POINTS TO BE NOTED
THE MEETINGS OF
E. C & F.C. - Appendix

THE W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

Minutes of the First Meeting of the
Finance Committee of the NUJS
held on 8th June, 2000

The First Meeting of the Finance Committee, NUJS, was held on 20 June, 2000 at the Conference Hall of the University at 3.00 p.m.

The following members were present :-

1. Hon'ble Mr. Justice Chittatosh Mukherjee, in the Chair
2. Prof. N. R. Madhava Menon, Vice-Chancellor, NUJS
3. Mr. Ashok Gupta, Principal Finance Secretary, Govt. of West Bengal
4. Prof. Gangotri Chakraborty, NUJS.

The following person was present as permanent invitee :

1. Mr. P. K. Biswas
   Judicial Secretary
   Government of West Bengal.

Leave of absence was granted to Mr. K. K. Venugopal, President, Supreme Court Bar Association

Item No. 1. **Constitution of the Committee and the review of function of the Committee under the Act.**

The Committee noted that the General Council in its meeting dated 21.4.2000 nominated Hon'ble Mr. Justice Chittatosh Mukherjee as the Treasurer of the University. The Executive Council nominated the Principal Finance Secretary, Govt. of West Bengal, the Law Secretary, Govt. of West Bengal and Professor Gangotri Chakraborty as members. All are members of Executive Council as well. Mr. K. K. Venugopal, member of the Executive Council and Judicial Secretary, Government of West Bengal, are permanent invitees to the Committee.

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Item No. 4. **Budget demands on construction and its sequencing for Government approval.**

The Committee resolved that once the appointment of Architect was finalised and the contractor selected, the Government could be approached with a proposal of resource management. In December 2000 the Government may be approached for 20% mobilisation advance if required and adequate funding for payment of Running Bills. As far as possible, construction of the hostel block should be completed in 12 to 18 months so that it may be ready for occupation during academic year 2001-02.

Item No. 5. **Procedure for awarding construction contract.**

For award of contract for construction several options were discussed. It was pointed out that as calling tenders may take a long time to finalise the award of contract Government owned construction agencies like Mackintosh Burn may be considered as per norms for such Government construction. The Committee requested the Vice-Chancellor to negotiate with such eminent firms and give his recommendation to the next meeting of the Committee.

The Finance Secretary promised to talk to the Managing Director of Mackintosh Burn to find out their availability for the work within the time frame.

Item No. 6. **Procedure for supervision and control of construction work.**

The Committee recommended that a person qualified for top level technical supervision of the work may be appointed as Consultant Engineer on a consolidated fee with a contract for a period of two years.

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Item No. 7. **Amendments to Financial Regulations.**

The Committee recommended the amended Financial Regulations for adoption. However, regarding Provident Fund, the Committee felt that if the University were to manage the fund, the University may have to make good the difference in the

interest rates. The Committee recommended that the matter be placed in the next meeting of the Finance Committee and of the Executive Council. Meanwhile the status and advantages of the scheme if to be placed with PFC may be ascertained. A Board of Trustees may also be identified for administration of the scheme if required.

Item No. 8. **Reporting on residential complex lease.**

The Vice-Chancellor reported to the Committee that the University had taken 25 flats on lease from the Technical Teachers' Training Institute (TTTI) and the students and some teachers were housed there.

The Committee noted the action and recommended that the Vice-Chancellor may like to negotiate with the TTTI for maintenance of the said residential campus as part of the lease arrangement.

The meeting ended with a vote of thanks to the Chair. The next meeting of the Finance Committee will be in July preferably before the date of the Executive Council.

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Minutes of the Third Meeting of the Executive Council held on 15th July, 2000 and Notes on Actions Taken

Item No.	Item Description	Decision/Resolution	Actions taken	Remarks
1.	Confirmation of Minutes.	Minutes of the Second Meeting confirmed. Resolved to have "Action Taken" report also Prepared and circulated along with minutes and Agenda Papers for the subsequent meeting.	Decision noted and Would be acted upon Accordingly.	
2.	Matters Arising out of Minutes (a) Contributory Provident Fund	(i) Resolved to constitute independent Provident Fund for regular employees of the University to be administered by a Board of Trustees constituted by the Executive Council.	The University has written to the Regional Provident Fund Commissioner seeking permission to institute the scheme to be administered by Trustees of NUJS.	
		(ii) Vice-Chancellor, Registrar, Treasurer, Accounts Officer and a teacher nominated by the Vice-Chancellor to constitute the Board of Trustees.	Board of Trustees accordingly constituted.	
		(iii) Resolved to deposit the sum in Government Securities or other recognized financial institutions to earn the maximum interest. The difference in interest payable between what is fixed by Provident Fund Commission and what is earned by deposits shall be made good by the University.	Noted and the scheme will be developed and administered accordingly.	
3.	Minutes of the First Meeting of the Finance Committee and Amended Financial Regulations.	The minutes circulated are noted.	No actions required	The Financial Regulations as amended by the Finance Committee is adopted.

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W.B. NATIONAL UNIVERSITY OF JURIDICAL SCIENCES

'ARANYA BHAVAN'

SALT LAKE, KOLKATA

Minutes of the Third Meeting of the Finance Committee held on 3 April, 2001

The minutes of the Third Meeting of the Finance Committee held on 3rd April, 2001 are noted below.

The following members were present :-

1. Hon'le Mr. Justice Chittatosh Mookerjee (Rtd.)

2. Prof. N. R. Madhava Menon
   Vice-Chancellor, NUJS

3. Mr. Ashok Gupta
   Principal Finance Secretary
   Government of West Bengal

4. Mr. P.K. Biswas
   Principal Secretary
   Judicial Department
   Government of West Bengal

5. Dr. Gangotri Chakraborty
   Associate Professor & Registrar
   NUJS.

Mr. K. K. Venugopal requested leave of absence.

5.	Rise in the cost of piling work in the campus construction	The Committee deliberated over the matter and recommended that the matter be placed before the Executive Council as that is the appropriate body to decide on the matter.	Resolution has been sent to seek Executive Council's approval through circulation.	Approval has since been received from all but three members.
6.	Registrar and Accounts Officer may jointly issue cheques upto Rs. 5000/-.	The matter was noted by the Committee		
7.	Management of Contributory Provident Fund of Employees.	The matter was noted. Trustees should act according to the Contributory Provident Fund Rules.		
8.	Discontinuation of UCO Bank account	The matter was noted.		
9.	Recommendation for Examiners of LL. M. Examination papers	The rate of payment proposed in agenda notes was approved.		
10.	Creation of Staff Welfare Fund	The Committee approved the scheme and recommended the following : • Only interest free loans at easy instalments may be given. • Ex-gratia payment/grant should not be allowed at present. • Size of the loan may be determined in consultation with the staff in the context of viability of the scheme. • Recovery process may be drawn up in detail .		

The WB National University of Juridical Sciences
'Aranya Bhavan' 10A LA Block Salt Lake City Calcutta 700098
Phones 3350534/3357379 Fax 3357422
E-mail nujs@cal3.vsnl.net.in Gram JURVARSITY

22 June 2001

The Regional Provident Fund Commissioner,
West Bengal. Sikkim and Andaman & Nicobar Islands,
DK-Block, Sector,- II, Salt Lake City
Calcutta 700 091

Subject : Applicability of the Employees Provident Funds & Miscellaneous Provisions Act, 1952 and the Schemes made thereunder to the West Bengal National University of Juridical Sciences, Kolkata.

Reference: Code no. 34894

Sir,

I invite a reference to your office letter No. R NE/WB/CA/34894/CC III/432 dated 31.5.01 on the above-mentioned subject, whereby code No. 34894 was allotted to this University on the basis of our application dated 02.02.2001.

The WB NUJS was set up under a State Act, namely WB National University of Juridical Sciences Act, 1999 (Act IX of 1999). **Section 22** of the said Act provides that all permanent employees of the University shall be entitled to the benefit of the provident fund and gratuity in accordance with such regulations as may be made in this behalf by its Executive Council, which is the Chief Executive Body of the University. Pursuant to that , **the Contributory Provident Fund and Gratuity Scheme** to regulate the creation of the Fund and its maintenance by the Provident Fund Committee of the University has been prescribed. The employees of the university are thus entitled to the benefits of Contributory Provident Fund in accordance with the Scheme framed under the Act governing such benefits. A copy of the Act and Regulations of the University is forwarded herewith for your ready reference.

In this connection, you may kindly recall the discussion your goodself had with Dr. N. R. Madhava Menon, Vice-Chancellor earlier today in which the Registrar and the Accounts Officer of the University were also present. It was explained in the meeting that provisions of the E P F &M P Act, 1952 would not

apply to the WB NUJS in terms of the explicit provision under clause © of subsection (1) of Section 16 of the Act. On the basis of your advice following the aforementioned discussion, I hereby request you to cancel the code Number allotted to the NUJS and exclude it from the purview of the EPF & MP Act, 1952.

I take this opportunity to place on record our deep appreciation of your kind and considered opinion in the matter and your valuable suggestions regarding extending the provisions of the Scheme, which we intend to follow through necessary amendments of the Scheme separately.

Thanking you,

Yours faithfully,

Gangotri Chakraborty

(Dr. Gangotri Chakraborty)
Registrar

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The WB National University of Juridical Sciences
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21 DEC 2000

December15, 2000

To
The Regional Provident Fund Commissioner, (I)
West Bengal, Andaman & Nicobar Islands and Sikkim
D. K. Block, Sector - II
Salt Lake City, Calcutta-700091.

Sir,

The West Bengal National University of Juridical Sciences was set up under an Act of Legislature (Act IX of 1999). It imparts graduate and post graduate education in the fields of Law and Law-related subjects. Its affairs are managed mainly by the funding received from State Govt. through budgetary support, supplemented by fees etc. collected from the students. The procedural regulations of the University provide that its teachers and employees will subscribe to the Contributory Provident Fund and will also be eligible for payment of terminal gratuity.

I shall be grateful if you could kindly advise us on the procedure to be followed in this behalf so as to become an eligible office within your P.F. management control.

A very early action is requested.

Yours Faithfully,

Accounts Officer.

21.XII.2000

Regd.

दूरभाष/Phone : 358 1897 358 2358
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358 2404 359 3688
359 3685 359 3682
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कर्मचारी भविष्य निधि संगठन

(श्रम मंत्रालय, भारत सरकार)

Employees' Provident Fund Organisation

(Ministry of Labour, Govt. of India)

क्षेत्रीय कार्यालय/Regional Office

पश्चिम बंगाल, सिक्किम, अन्दमान एवं नीकोबार द्वीपसमूह

West Bengal, Sikkim, The Andaman & Nicobar Islands

डी. के. ब्लाक, सेक्टर-II, साल्ट लेक सिटी, कलकत्ता 700 091

DK BLOCK, SECTOR-II, SALT LAKE CITY, CALCUTTA 700 091

सं/No. R-NE/WB/34894/C.C -III/495(1) दिनांक/Dated 26.06.01

To

Dr. Gangotri Chakraborty - Registrar
M/S The WB National University of Juridical Sciences
Aranya Bhawan
10A LA Block Salt Lake City
Kolkata - 700098

Sub: Applicability of the Employees' Provident Funds and Miscellaneous Provisions Act'1952 and the Schemes made thereunder to the West Bengal National University of Juridical Sciences,Kolkata.

Sir,

Please refer to your letter dated 22.6.2001 on the above subject.

The Regional Provident Fund Commissioner has been pleased to cancel the Code No. WB/34894 alloted to you.

Please acknowledge the receipt.

Yours faithfully,

(N.C. CHATTERJEE)
ASSISTANT PROVIDENT FUND COMMISSIONER(CIRCLE-III)
WEST BENGAL

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