

**ASSAM TEA PLANTATIONS PROVIDENT FUND AND PENSION
FUND AND DEPOSIT-LINKED INSURANCE FUND SCHEME
ACT, 1955**

10 of 1955

[15th June, 1955]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Compulsory Provident, Pension and Insurance Fund Scheme
4. Date of operation of the Scheme
5. Modification of the Scheme
6. Protection against attachment
7. Penalties
- 7 A . Enhanced punishment in certain cases after the previous conviction
- 7AA. Certain offences made cognizable
8. Employer not to reduce wages
9. Inspectors
10. Priority of payment of contributions over other debts
11. Responsibility of collection of contribution
- 11A. .
12. Power to make rules
13. Protection for acts done in good faith
14. .
15. Mode of recovery of moneys due from employers
16. Power to recover damages
- 16A. Power of court to make orders
- 16B. Liability in case of transfer of establishment
17. Power to remove difficulties

SCHEDULE 1 :- Matters to be provided for in the Scheme

**ASSAM TEA PLANTATIONS PROVIDENT FUND AND PENSION
FUND AND DEPOSIT-LINKED INSURANCE FUND SCHEME
ACT, 1955**

10 of 1955

[15th June, 1955]

An Act to make provision for the framing of a Compulsory Provident

Fund and Pension Fund Scheme for employees employed in tea plantations in Assam Preamble. Whereas it is expedient to make provision for the framing of a Compulsory Provident Fund and Pension Fund and Deposit-Linked Insurance Fund Scheme for employees employed in tea plantations in Assam ; It is hereby enacted in the Sixth Year of the Republic of India as follows :

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Tea Plantations Provident Fund and Pension Fund and Deposit-Linked Insurance Fund Scheme Act, 1955.

(2) It extends to the whole of Assam.

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context

(a) "Contribution" means the deduction from the wages of an employee for deposit to the Provident Fund or Pension Fund or the Insurance Fund and the amount payable by the employer in respect of each employee to the Provident Fund or Pension Fund or the Insurance Fund under the Scheme ;

(b) "Employer" means any person who is the proprietor of a plantation and includes a Managing Agent, Manager, Superintendent, Managing Director, Director or any other person who is in-charge of any plantation ;

(c) "Fund" means the Provident Fund or Pension Fund or the Insurance Fund, as the case may be ;

(d) "Employee" means any person who is employed (including apprentice) to do any skilled or unskilled, manual or clerical work in or in connection with a plantation including its local head office, office, factory, workshop, school or hospital and who gets his wages directly or indirectly from the employer; but does not include a person whose total wages exceeds Rs. 3,500 (Rupees three thousand five hundred) per mensem inclusive of dearness allowance and value of food concession or a person working under a contractor in work and directly connected with cultivation and manufacture of tea;

(e) "Member" means a member of the Provident Fund or Pension Fund or the Insurance Fund, as the case may be;

(f) "Plantation" means any tea plantation or tea factory

(i) with an area of not less than 10 hectares under tea where twenty or more employees are employed or were employed on any day of the twelve months preceding the enforcement of the scheme and where crop basis under the Tea Act of 1953 (Act XXIX of 1953) is more than 511 kg. per hectare of green leaf of more than 2044 kg. per hectare, as the case may be ; or

(ii) with an area of not less than 20 hectares under tea where twenty or more employees are employed or were employed on any day preceding the twelve months of the enforcement of the scheme ; or

(iii) any tea factory manufacturing tea where ten or more employees are employed;

(iv) notwithstanding anything contained in sub-Cls. (i), (ii) and (iii) of this clause where it appears to the State Government, whether on an application made to it in this behalf or otherwise that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, it may, by notification in the official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or any subsequent date specified in such agreement;

(g) "Scheme" means the Assam Tea Plantations Provident Fund and Pension Fund or the Insurance Fund Scheme framed under S. 3 (1);

(h) "Wages" means any amount capable of being expressed in terms of money for the time being payable to an employee by the employer for works in or in connection with a plantation and includes dearness allowance, value of food concessions, amount payable for plucking whether calculated on time or piece rates or otherwise, and leave with wages and maternity allowance or benefits but does not include

(a) bonus, or

(b) commission.

3. Compulsory Provident, Pension and Insurance Fund Scheme :-

(1) The State Government may, by notification in the official Gazette, frame a Scheme to be called the Assam Tea Plantations Provident Fund and Pension Fund and Insurance Fund Scheme for the establishment of Provident Fund and Pension Fund and Insurance Fund for providing Life Assurance coverage for the employees employed in plantations and specify the plantations to which the same shall apply.

(2) A Scheme framed under the provisions of sub-S. (1) may provide for all or any of the matters specified in the Schedule.

(3) The contribution which shall be paid by the employer to the Provident Fund shall be twelve per cent of the total wages including all such allowances as are included within wages as defined in Cl. (i) of S. 2 for the time being payable to each of the employee and the employee's contribution shall be equal to the contribution payable by the employer in respect of him :

Provided that where there exists any Provident Fund in any plantation at the commencement of this Act and the rate of contribution payable by either the employee or the employer is higher than what has been prescribed above, the employee shall have the option within such period as may be fixed by the Board in its meeting to elect either to continue to subscribe to the existing fund or join the Provident Fund established by this Act, but the election once made shall not be changed except with the permission of the Board;

Provided further that in respect of the employee opting to subscribe to the existing fund as above the obligation of the employer and the employee to contribute to the existing fund shall continue and shall not be affected by the provisions of this Act.

(4)

(a) Every employer shall, from time to time, pay into the Insurance Fund in respect of every employee in relation to whom he is the employer such amount not being more than one per cent of the wages as defined under sub-S. (h) of S. 2 of the Act for the time being payable as the State Government may, by notification in the official Gazette, specify.

(b) The Central Government may contribute to the Insurance Fund, in relation to each employee covered by the Scheme, an amount representing one-half of the contribution which an employer is required by Cl. (a) to make.

(c) The employer shall pay into the Insurance Fund such further sum of money, not exceeding one-fourth of the contribution which he is required to make under Cl. (a) as the Board may, with due approval of the Government from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme.

(d) The Central Government may pay into the Insurance Fund such further sum of money representing one-half of the sum payable by the employer under Cl. (c) to meet all the expenses in connection with the administration of Insurance Scheme.

(e) The Insurance Fund shall vest in the Board of Trustees and shall be administered by it in such manner as may be specified in the Scheme.

(f) The Insurance Scheme may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.

4. Date of operation of the Scheme :-

A scheme framed under this Act may provide that any of its provisions shall come into force with effect from such date as may be specified in this behalf in the scheme.

5. Modification of the Scheme :-

The State Government may, by notification in the official Gazette, add to, amend or vary either prospectively or retrospectively a scheme framed under this Act.

6. Protection against attachment :-

(1) The amount standing to the credit of any member in the Provident Fund or Pension Fund or Insurance 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 Court in respect of any debt or liability incurred by the member and neither the official assignee nor any Receiver appointed under the Provincial Insolvency Act, 1920 (Act V of 1920), shall be entitled to, or have any claim on any such amount.

(2) Any amount standing to the credit of any member in the Provident Fund or Pension Fund or Insurance Fund at the time of his death and payable under the scheme to his nominee, if any, shall be subject to any addition or deduction authorised by the said scheme, vest in the nominee, and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member :

Provided that where a member dies without appointing any nominee, the amount standing to his credit in the Provident Fund or Pension Fund or Insurance Fund at the time of his death shall be disbursed in accordance with the provisions made in the scheme.

7. Penalties :-

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

(1 -A) An employer who contravenes, or makes default in complying with the provisions of S. 3 of the Act in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to six months ; but

(a) which shall not be less than three months in case of default in payment of the employee's contribution which has been deducted by the employer from the employee's wages;

(b) which shall not be less than one month, in any other case ; and shall also be liable to fine which may extend to two thousand rupees :

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

(3) No court shall take cognizance of any offence punishable under any such scheme except on a report in writing of the facts

constituting the offence made by an Inspector with the previous sanction of such authority as may be specified in this behalf by the State Government.

7A. Enhanced punishment in certain cases after the previous conviction :-

Whoever, having been convicted by a Court of an offence punishable under this Act, or the Scheme or the Pension Scheme, commits the same offence shall be subject, for every such subsequent offence, to imprisonment for a term which may extend to one year but which shall not be less than three months and shall also be liable to fine which may extend to four thousand rupees.

7AA. Certain offences made cognizable :-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence relating to default in payment of contribution by the employer punishable under this Act, shall be cognizable.

(2) Mb Court inferior to that of a Magistrate of the First Class shall try any offence under this Act or the Scheme or the Pension Scheme.

8. Employer not to reduce wages :-

No employer shall, by reason only of his liability for any contribution payable under this Act, reduce, whether directly or indirectly, the wages of any employee or, except as provided by any scheme, discontinue or reduce any benefit (similar to any benefit conferred by this Act or by any scheme) to which the employee is entitled under the terms of his employment.

9. Inspectors :-

(1) The State Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for purposes of the Scheme and may define their jurisdiction.

(2) An Inspector may, in respect of any plantation within his jurisdiction

(a) require an employer or member to furnish such information as he may consider necessary for the purpose of the Scheme ;

(b) at any reasonable time, after sunrise and before sunset enter any plantation or its office and require any one in charge thereof to

produce before him such accounts, books, registers and other documents relating to the scheme and employment of persons in the plantation as he may consider necessary;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the plantation or its office or whom the Inspector has reasonable ground to believe to be or to have been an employee in the plantation;

(d) exercise such other powers as may be assigned by the Government or the Board constituted in accordance with the provisions of the scheme, with previous approval of the Government.

(3) Every Inspector shall be deemed, to be a public servant within the meaning of S. 21 of the Indian Penal Code, 1860 (Act XLV of 1860).

10. Priority of payment of contributions over other debts :-

(1) The amount due in respect of any contribution under a scheme or any charges incurred in respect of the administration of any such scheme shall, where the liability there for has accrued before the person has been adjudicated an insolvent or in the case of a company ordered to be wound up before the date of such order, be deemed to be included among the debt which, under S. 61 of the Provincial Insolvency Act, 1920 (Act V of 1920) or S. 530 of the Companies Act, 1956 are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

(2) Without prejudice to the provisions of sub-S. (1) if any amount is due from any employer whether in respect of the employees contributions (deducted from the wages of the employees) or the employer's contributions for a period of more than one month, the amount so due shall be deemed to be the first charge on the assets of the establishment and shall, notwithstanding anything contained in any other law for the time being in force, be paid in priority to all other debts.

11. Responsibility of collection of contribution :-

Every employer shall be responsible for collection of his contributions, their remittance in accordance with the provisions of the scheme and maintenance of necessary records in respect of the

members of his tea plantation or tea factory and shall bear the cost thereof.

11A. . :-

If the employer fails to deposit the employer's contribution together with the-employee's share of contribution within 30 (thirty) days of its' collection, the employer shall be liable to pay interest at the rate of 15 per cent per annum on the arrear till it is deposited

12. Power to make rules :-

The State Government may, for the purpose of carrying out the provisions of this Act, make rules subject to previous publication, in the official Gazette.

13. Protection for acts done in good faith :-

No suit or other legal proceeding shall lie against an Inspector in respect of anything which is in good faith done or intended to be done under this Act or under the Scheme.

14. . :-

Accumulation in the Provident Fund to be transferred to the Fund established under the Scheme. On the application of the Scheme to a plantation, the accumulation in any existing Provident Fund standing to the credit of such employees as become members of the Provident Fund established under the Scheme shall, notwithstanding anything contained in any law for the time being in force or any deed or instrument establishing the Provident Fund, be transferred to the fund established under the Scheme.

15. Mode of recovery of moneys due from employers :-

Any amount due from the employer in relation to a plantation to which the Act or any Scheme framed thereunder applies in respect of any contribution payable to the Provident Fund or Pension Fund, as the case may be, damages recoverable under S. 16 of the Act, accumulations required to be transferred by him under S. 14 or in the payment of any charges payable under any provisions of this Act or of any provisions of the Scheme framed thereunder may, if the amount is in arrears, be recovered by the Government or a person authorised by it, in the same manner as an arrear of land revenue.

16. Power to recover damages :-

Where an employer makes a default in the payment of any contribution to the Provident Fund or in the transfer of accumulations required to be transferred by him under S. 14 or in

the payment Of any charges payable under any other provisions of this Act or the Scheme framed thereunder, the Government or any other person authorised by it, may recover from the employer such damages not exceeding 25 per cent of the amount of arrears, as it may think fit to impose.

16A. Power of court to make orders :-

(1) Where an employer is convicted of an Offence of making default in the payment of any contribution to the Provident Fund, Pension Fund or Insurance Fund or in the transfer of accumulation required to be transferred by him under S. 14, the court may, in addition to awarding any punishment, by order in writing, require him within a period specified in the 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-S. (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 employee shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof under S.7, and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which order has not been complied with.

16B. Liability in case of transfer of establishment :-

Where an employer, in relation to an establishment, transfers that establishment in whole or in part by sale, gift, lease or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Act or the Scheme or the Pension Scheme, as the case may be, in respect of the period up to the date of such transfer.

17. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the Government may by order make such other provisions or give such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the

difficulty. Any provisions put in as amendment, addition or explanation of the provisions of the Act will have to be ratified by the State Assembly in the next meeting following the making of such provision by the Government.

SCHEDULE 1

Matters to be provided for in the Scheme

THE SCHEDULE

[See Section 3]

Matters to be provided for in the Scheme

1. (a) The constitution of a Board; of Trustee with nominees of State Government of whom one shall be the Chairman and one shall be the Vice-Chairman and one shall be the Member-Secretary, four representatives of the employers and four representatives of the employees. .

(b) The constitution of Primary Committee in each tea estate with two representatives of the employer including the Manager or Superintendent of the tea plantation or tea factory concerned to be nominated by the employer of whom either the Superintendent or the Manager shall be the Chairman, and two representatives of the workers to be nominated by workers concerned.

2. The appointment of officers and other staff of

the Board and the opening of its offices.

3. The manner in which account shall be kept, the preparation of a budget, the audit of accounts and the submission of report to the State Government.

4. The conditions under which withdrawals from the Provident Fund or the Pension Fund, as

the case may be, may be permitted or any deduction may be made.

5. (a) (i) The manner of investment of the whole or any portion of the Provident Fund in Government Securities by the Board of Trustees.

(ij) The fixation of the rate of interest payable to members.

(iii) The payment of

the employer of such sums of money as may be considered necessary by the Board of Trustees to meet the cost of administration of the Provident Fund and the rate at which and the manner in which such payment shall be made.

(b) The manner in which a Primary Committee may retain a portion of the Provident Fund in accordance with the directions of the Board or relevant provisions in the Scheme.

6. The form in which an employee shall furnish particulars about

himself and his family when required.

7. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination. The disposal of the amount lying to the credit of a member at the time of his death in the absence of any nomination.

8. The registers and records relating to the Scheme and employment of workers to , be maintained by the employer and the returns to be furnished by him.

9. The form or design of an identity card or badge or disc for purposes of identifying the employee and for the

issue, custody and the replacement thereof.

9-A. (a) The amount that shall be set apart for payment of pensionary, retirement or gratuity benefits.

(b) The manner of investment of the whole or any portion of the amount set apart for pensionary, retirement or gratuity benefits in Government securities

by the Board of Trustees.

9-B. (i) The employees or class of employees who shall be covered by the Insurance Scheme.

(ii) The manner of investment of money belonging to the Insurance Fund.

(iii) The scales of assurance amount which shall not be less than the balance in the account of

the employees conemed
in the Provident Fund of
more than rupees ten
thousand:

(iv) The rninimum
balance to be maintained
by an employee in the
Provident Fund to make,
h i n i eligible for the
benefits under the
Insurance Scheme.

(v) ;The manoeri in
which the amount due to
the nominee or the
member.of the family of

the employee under the;
Insurance Scheme is to
be paid.

10. Any other matter
which may be necessary
or proper for the purpose
of implementation of the
Scheme.