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## **ASSAM TEA PLANTATIONS PROVIDENT FUND SCHEME, 1959**

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## **ASSAM TEA PLANTATIONS PROVIDENT FUND SCHEME, 1959**

### ASSAM TEA PLANTATIONS PROVIDENT FUND SCHEME, 1959

#### **1. Short title and application :-**

(i) The Scheme may be called the Assam Tea Plantations Provident Fund Scheme, 1959.

(ii) It shall apply to all tea plantations in Assam as defined in the Act.

(iii) The provisions of the scheme shall be deemed to have come into force, with effect from such date as the State Government may notify in this behalf.

#### **2. Definitions :-**

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

(a) "Act" means the Assam Tea Plantations Provident Fund Scheme Act, 1955, as amended by the Assam Tea Plantations Provident Fund Scheme Act, 1958 ;

(b) "Board" means the Board of Trustees constituted under para 3 of the Scheme;

(c) "Family" means

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

Provided that if a member proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouse belongs to be entitled to maintenance she shall no longer be deemed to be a part of the member's family in matter to which this scheme relates, unless the member subsequently intimates by express notice in writing to the Committee that she shall continue to be so regarded ; and

(ii) in the case of a female member, the husband and children of

the member, the dependent parents of the husband and the widow and children of the deceased son of the member and in the case of unmarried female member, her dependent parents:

Provided that if a member by notice in writing to the Committee expresses her desire to exclude her husband from the family, the husband shall no longer be deemed to be a part of the member's family in matters to which this Scheme relates, unless the member subsequently cancels in writing any such notice.

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

(d) "Inspector" means a person appointed as such under S. 9 of the Act;

(e) "Government, means the Government of Assam ;

(f) "Period of membership" means, in respect of a member, the period beginning with the date from which the first contribution is paid in respect of such member and ending with the date on which such member ceases to be employed in a Plantation ;

(g) "Government Security" shall have the same meaning as assigned to it in the Trust Act, 1882 (II of 1882);

(h) "Trustee" means a member of the Board of Trustees;

(i) "Accounting year" means the period from first of October to 30th of September;

(j) "Existing Fund" means a fund accumulated by a regular deduction at a certain rate from the wages of an employee ;

(k) All other words and expressions shall have the same meanings respectively assigned to them in the Act.

### **3. Composition of the Board of Trustees and Executive Committee :-**

(a) The Fund shall be administered by a Board of Trustees to be constituted by the Government consisting of the following persons :

(i) A Chairman to be nominated by the Government;

(ii) Three persons who will be officials of Government to be nominated by the Government;

(iii) Three persons representing labour to be nominated by Government on the recommendations of the Labour Unions concerned ;

(iv) Three persons representing the employers to be nominated by the Government on the recommendations of the Employers' Associations.

(b) An Executive Committee of the Board shall be constituted from among the Trustees consisting of

(i) The Chairman of the Board;

(ii) A person being an official nominated by the Government as a Trustee ;

(iii) A person from among the Trustees representing labourers elected at the annual meeting of the Board;

(iv) A person from among the Trustees representing the employers elected at the annual meeting of the Board.

(c) An Investment Committee of the Board shall be constituted from among the Trustees consisting of

(i) The Chairman of the Board;

(ii) A person being an official nominated by the Government as a Trustee;

(iii) A person from among the Trustees representing labourers at the annual meeting of the Board;

(iv) A person from among the Trustees representing the employers elected at the annual meeting of the Board.

#### **4. Terms of office :-**

Excepting the Trustees under S. 3 (a) (i) and (ii), who will hold office during the pleasure of the Government of Assam, the term of office of the Trustees shall be three years :

Provided that an outgoing trustee shall be eligible for renomination.

#### **5. Resignation :-**

A Trustee may resign his office by notice in writing to the Government.

**6. Cessation of trustee :-**

A Trustee shall cease to hold office if he fails to attend three consecutive meetings of the Board without obtaining leave of absence from the Chairman of the Board.

**7. Removal of trusteeship :-**

The Government may remove from office any trustee, if it is satisfied that this is necessary in the interests of the Fund.

**8. Filling of vacancies :-**

The Government may fill by nomination any vacancy in the Board, and for such period as may be necessary.

**9. Authentication of orders, decision, etc. :-**

All orders and decisions of the Board shall be authenticated by the signature of its Chairman or by some officer or member of the Board, as the case may be, authorised by it in this behalf.

**10. Powers of the Executive Committee and Investment Committee :-**

Subject to the general superintendence and control of the Board :

(a) the Executive Committee shall administer the affairs of the Fund and shall take such steps and incur such expenditure as may be necessary for efficient administration of the Fund ;

(aa) the Investment Committee shall, unless otherwise directed by Government, decide the manner of investment and the particular Government Securities mentioned in the Trusts Act, 1882, in which all moneys of the fund shall be invested.

**11. Disposal of business :-**

(a) Every question which is to be considered by the Board shall be considered either at a meeting of the Board, or if the Chairman so directs, by sending the necessary papers to all the Trustees for their opinion.

(b) When a question is referred under sub-paragraph (a) for opinion, any Trustee may request that the question be considered at a meeting of the Board and thereupon the Chairman shall direct that it be so considered.

**12. Meeting of Board of Trustees and Executive Committee :-**

The Board and the Executive Committee shall meet at such place

and time as may be appointed by the Chairman.

**13. Notice of meeting and list of business :-**

(a) Notice of not less than fifteen days from the date of posting shall be given of the time and place fixed for each meeting of the Board or of the Executive Committee to every Trustee or, as the case may be, to every member of Executive Committee, and to such notice shall be attached a list of business to be discussed at the meeting :

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

(b) No business, which is not on the list, shall be considered at the meeting, except with the permission of the Chairman.

**14. Presiding at meeting :-**

The Chairman of the Board shall preside at every meeting of the Board or Executive Committee at which he is present. If the Chairman is absent the Trustees or members of the Executive Committee present shall elect one of their members to preside over the meeting of the Board or the Executive Committee, and the person so elected shall at that meeting exercise all the powers of the Chairman. The Chairman of the Board shall invariably preside over a meeting of the Investment Committee.

**15. Quorum :-**

(a) No business shall be transacted at a meeting of the Board whether ordinary or emergent, unless at least five Trustees are present of whom at least one shall be a Trustee on behalf of labour, and at least one shall be a Trustee on behalf of the owners of the Tea Estates.

(b) No business shall be transacted at a meeting of the Executive Committee unless three members are present of whom one shall be a Trustee on behalf of labour, and one shall be a Trustee on behalf of the owners of Tea Estates.

(c) If at any meeting the number of Trustees or number of members in the Executive Committee, as the case may be, is less than the required quorum, the Chairman shall adjourn the meeting to a date not less than seven days after informing the Trustees or

members present of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting, whether the quorum is secure or not.

**16. Recommendation by majority :-**

(a) Every question at a meeting of the Board, or the Executive Committee shall be decided by a majority of votes of the Trustees or members of the Executive Committee present and voting but the majority may require their dissent to be noted.

(b) Every question referred to the Trustees for opinion shall, unless reserved for consideration at a meeting, be decided in accordance with the opinions received within the time limit allowed.

(c) In the case of equality of votes or opinions, the Chairman shall exercise an additional vote or opinion.

(d) All decisions of the Investment Committee must be supported by the Chairman and majority of the members of the Investment Committee.

**17. Minutes of meeting :-**

(a) The proceedings of a meeting of the Board of the Executive or Investment Committee shall be circulated to all Trustees or members, as the case may be, and thereafter shall be recorded in a minute book to be kept as a permanent record.

(b) The record of the proceedings of each meeting shall be signed by Chairman after confirmation at the next meeting.

**18. Acts of the Board, etc., not invalid by reason of defect in constitution etc. :-**

No act of the Board, the Executive or the Investment Committee shall be deemed to be invalid by reason of any defect in the constitution of the Board, the Executive or the Investment Committee, or on the ground that any Trustee, or member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or by reason of such act having been done during any period of any vacancy in the Board, Executive or the Investment Committee.

**19. Allowance :-**

The Board may decide, subject to the approval of Government, the rate of travelling and daily allowances to be paid from the Fund to

the Trustees or members of the Executive or Investment Committee.

**20. Staff :-**

(a) The Board may employ a Secretary and such staff as may be necessary for the efficient administration of the Scheme :

Provided that the sanction of Government shall be obtained for the creation of any post with a maximum salary of Rs. 500 and above, the duration of which is likely to be more than six months.

(b) The Board shall, with the approval of Government, make regulations regarding recruitment, pay and allowances, discipline, superannuation benefits, and other conditions of service of the members of the staff.

**21. Primary Committee :-**

(a) A Primary Committee shall be constituted by the Board of Trustees on each Tea Plantation, and it shall consist of the following persons:

(i) Two representatives nominated by the employer, of whom one shall be either the Manager or Superintendent of the Plantation and either the Superintendent or the Manager shall be the Chairman of the Committee;

(ii) Two nominees of the members concerned to be appointed by the Board of Trustees.

(b)

(i) The Board of Trustees may, for the purpose of carrying out provisions of the Scheme, make regulations for the guidance of Primary Committees.

(ii) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely :

(a) the time, place of sitting, procedure and quorum for meetings ;

(b) resignation of members and the filling of vacancies ;

(c) the functions and duties of Primary Committees ;

(d) maintenance of records ;



(e) form of accounts and submission of returns and reports ;

(c) the term of the members of the Primary Committee shall be three years :

Provided that an outgoing member will be eligible for re-nomination ;

(d) the Government may remove from office any member of a Primary Committee if it is satisfied that his continuance in such office will not be in the interests of the Fund.

## **22. Employees required to join the Fund :-**

(a) Every employee as defined in the Assam Tea Plantations Provident Fund Scheme (Amendment) Act, 1958, other than those who opted out for any existing Fund Scheme as laid down in S. 3 of the said Act, shall be required to join the Fund and become a member thereof immediately after enforcement of the Act.

(b) The Board may allow withdrawal of membership in respect of those members whose total wages exceed Rs. 500 per mensem and of those members who are promoted to executive posts such as Managers and Assistant Managers.

(c) Employees who will be employed in a plantation after commencement of the Act, shall be compulsorily required to join the Scheme. The employees who are due to retire shortly may be permitted not to join the Scheme. Such permission should not be allowed after 31st December, 1958.

## **23. Rate of contribution :-**

(a) The contribution which shall be paid by the employer to the Fund shall be six and a quarter per cent of the total wages payable to each member of the Fund and such member shall contribute an amount equal to the employer's contribution in respect of him.

(b) For the purpose of calculation of contributions, any sum payable as T. A. shall not be taken to constitute wages.

(c) An employee may contribute voluntarily to the Fund any amount beyond the rate prescribed above, for which there shall be no contribution from the employer.

## **24. Procedure of collection :-**

(a) The employer shall in the first instance pay in respect of the

wage period both the contribution payable by himself, and also on behalf of the member employed by him, the contribution payable by such member.

(b) The amount of member's contribution paid by the employer shall, notwithstanding any law for the time being in force or any contract to the contrary, be recoverable by means of deduction from the wages of the member and not otherwise.

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

(d) The employer shall deposit in a Branch of the State Bank of India or the Reserve Bank of India the total contributions from himself and from members employed by him, less such amounts as may under rules framed by the Board of Trustees be payable on closure of a member's account in the Fund or be payable as an advance to a member.

(e) A statement in Form No. 1 shall be submitted by the employer to the Board with a receipt for the deposit made in accordance with (d) above within 7 days of collection of the contributions.

(f) The accumulations with interest standing at the credit of a member whose Provident Fund account has been transferred from any existing fund shall be transferred to the Fund in such manner and within such time as the Board may direct.

## **25. Members account :-**

(a) An account shall be maintained by the employer in the name of each member showing

(i) his contribution;

(ii) the employer's contribution;

(iii) interest as provided in paragraph 26 ;

(iv) advance and repayment of advances ;

(v) final payment on closure of the account.

(b) An annual statement in such form as may be prescribed by the Board showing the amount at credit in a member's account shall be furnished to such member by the employer.

**26. Interest :-**

The Board shall determine the interest payable on the account of each member on the credit balance of such member on such date in the accounting year as may be decided by the Board.

**27. Accounts of the Board of Trustees :-**

The Board shall maintain the overall accounts of the Fund in such form and manner as may be specified by it with the approval of the Government.

**28. Nomination :-**

(1) Each member shall make in his declaration in Form No. 3 a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount has become payable :

Provided that in the case of a member below the age of majority as defined in the Indian Majority Act, 1875, he shall make such nomination only on his attaining the age of majority. Pending such nomination, the legal or natural guardian of the minor member may make a nomination on behalf of the minor but such nomination shall be valid only during the period of his minority.

(2) A member, or if he is below the age of majority his legal natural guardian may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his own discretion.

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

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

(5) A nomination made under sub-paragraph (1) may at any time be modified by member, or if he is below the age of majority his legal natural guardian, after giving a written notice of his intention of doing so. If the nominee predeceases the member the interest of

the nominee shall revert to the member who may make fresh nomination in respect of such interest.

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

## **29. Withdrawals from the fund :-**

(a) On application to the Primary Committee, a member may withdraw the full amount standing to his credit in the fund, if

(i) he retires permanently ; or

(ii) his services are terminated by the employer; or

(iii) he ceases to be employed in a plantation for more than six months ; or

(iv) he is an emigrant labour and is exercising his right of repatriation. All settlements shall be in Form No. 4 and attested by a member of the Primary Committee.

(b) The Board may at its discretion permit withdrawal of the full amount standing to the credit of a member in the fund if he is promoted to a post of executive cadre such as Manager or Assistant Manager, or if his wages exceed Rs. 500 per mensem.

(c)

(i) If a member is dismissed for gross misconduct, the employer shall pay off the member's portion of the contributions and interest thereon and shall send intimation to the Board stating the nature of misconduct, the views of the Primary Committee on the question of forfeiture of the employer's portion of contributions with interest thereon. The Board may with the approval of Government, forfeit to the fund the whole or part of the employer's contributions and interest thereon.

(ii) Any amount forfeited under Cl. (i) above shall not be returned to the employer but shall be credited to the reserve account of the Fund.

(d) A member, ceasing to be a member of the Fund, whose membership is less than one year shall be entitled to withdraw only his own contribution. The employer's contribution and interest thereon shall be forfeited to the Fund :

Provided that continuous membership in any Company Scheme of a

transferee member shall be counted towards the period of membership of this Scheme.

**30. Transfer of account :-**

If a member is transferred from one plantation to another, his account shall be transferred by the transferring plantation to the receiving one with details prescribed in Form No. 2.

**31. Provident Fund of deceased member :-**

On the death of a member before the amount standing to his credit has become payable, or when the amount has become payable, before payment has been made

(i) if a nomination made by the member in accordance with paragraph 28 subsists, the amount standing to his credit in the fund, or that part to which the nomination relates shall become payable in accordance with such nomination;

(ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall become payable to the members of the family in equal shares.

Provided that no share shall be payable to

(a) sons who have attained majority;

(b) sons of a deceased son who have attained majority;

(c) married daughters whose husbands are alive;

(d) married daughters of a deceased son whose husbands are alive;

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

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

**32. Distribution where shares not specified :-**

In the cases where there is more than one nominee, and no share has been specified, the amount due shall be payable to all

nominees in equal shares.

### **33. Payment of Provident Fund :-**

It shall be the duty of the Board to make prompt payment as provided in the Scheme. For this purpose, the following procedure shall be adopted:

(i) Where payment is to be made to a member who is discharged or due to be repatriated, or to a nominee of a deceased member, the Chairman of the Primary Committee, in consultation with the Primary Committee, shall close the account of the member and tender payment on behalf of the Board from the collection of the contributions of the current week after obtaining a receipt in Form No. 4 and shall record such payment in the relevant column in Form No.1 ;

(ii) Where payment is to be made to a member dismissed for gross misconduct the employee's own portion of the contributions shall be paid off forthwith in the manner prescribed in (i) above. Regarding the employer's portion of the contributions, a report on the nature of the misconduct, the amount involved and the recommendations of the Primary Committee on the proposal of forfeiture, shall be forwarded to the Board for a decision; Provided that the account of a member whose discharge or dismissal is under dispute, shall not be finally closed until decision of the dispute ;

(iii) If the collections of contributions of the current wage period is inadequate to meet the amount to be repaid to members at a time, the Chairman of the Primary Committee may report to the Board with full details of the payees. The Chairman of the Board of Trustees shall then forward the required amount to the Chairman of the Primary Committee who shall be held responsible for proper disbursement and accounting of the amount received from the Board.

(b) Unclaimed amounts shall be kept alive for one year after which, the Board may decide to credit such amounts as lapsed to the Fund.

### **34. Advances from the Fund :-**

(a) The Primary Committee may grant loans and advances not exceeding 25 per cent of the total amount standing at the credit of a member or three months' pay whichever is less, for the following purposes :

- (i) Marriage or death ceremony in a member's family ;
- (ii) Payment of insurance premium for the Insurance Policies of the member concerned.
- (b) The Primary Committee with the approval of the Board shall prescribe the period in which loans shall be repaid.
- (c) No loan shall be given during the period a loan is being repaid, and no loan shall be granted until after an interval of three months from the repayment of a previous loan ; save and except with the sanction of the Board.
- (d) All loans and advances shall be recorded in Form No. 4.

**35. Investment :-**

- (a) All moneys belonging to the Fund, shall be deposited in the State Bank of India and shall be invested in Government Securities mentioned in S. 20 of the Trust Act, 1882.
- (b) The Board shall prepare a classified statement of the assets of the Fund on such date in each year as the Government may specify.

**36. Expenses of administration :-**

In order to cover all expenses of administration of the Fund the employer shall pay an administration charge of such percentage of the total contributions within such time and in such manner as the Board may, with the approval of Government, decide.

**37. Bank accounts :-**

- (a) The Board may open such number of accounts with the State Bank of India as may be necessary for efficient administration of the Fund.
- (b) The Bank accounts of the Fund shall be operated upon jointly by the Chairman and Secretary of the Board.

**38. Powers of the State Government until the Board is constituted :-**

- (1) Until the Board of Trustees is constituted the State Government shall administer the affairs of the Fund and may exercise any of the powers and perform any of the functions of the Board. All income derived and all expenditure incurred in this behalf shall be brought into the books of the Fund.

(2) All expenses incurred by the State Government for and in connection with the establishment of the Fund, whether before or after the date of its establishment shall be treated as a loan advanced by the State Government to the Fund and such loan shall be repaid to the State Government from the Administration Account.

**39. Appeal :-**

In the event of any dispute with or grievances against the decision of "a Primary Committee, a member shall have the right to appeal to the Board of Trustees.

**40. Annual Report on the working of the Scheme :-**

The Board shall submit to the State Government an annual report on the working of the Scheme during the previous accounting year.

**41. Audit :-**

The accounts of the Fund shall be audited in such manner as the Board with approval of the Government may direct.

**42. Inspectors :-**

(a) The officers of the Labour Department or any other officers appointed by the Government shall be Inspectors for purposes of carrying out the Scheme.

(b) Functions of Inspectors. An Inspector may (a) make such examination of the records of the Primary Committee as he considers fit in order to ascertain the true affairs of the Fund in a particular tea estate; and (b) exercise such other powers as may be assigned to him by the Government or the Board.

(c) Facilities to be afforded to the Inspectors. Every employer shall afford to the Inspector all reasonable facilities to examine the records and assets of the Fund.

**43. Punishment for failure to pay contribution, etc. :-**

If any person

(a) fails to pay any contribution which he is liable to pay under this Scheme, or

(b) deducts or attempts to deduct from the wages or other remunerations of a member the whole or any part of the employer's contribution, or

(c) fails or refuses to submit any return, statement or other



document required by this Scheme or submits a false return, statement or other document, or

(d) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties, or

(e) is guilty of any contravention of or non-compliance with any of the requirements of the Act or of this Scheme in respect of which no special penalty is provided, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

**44. Powers to issue directions :-**

The Government may, from time to time, issue such directions as it considers necessary for proper implementation of the Scheme.