

THE PROVIDENT FUNDS ACT, 1925

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THE SCHEDULE

THE PROVIDENT FUNDS ACT, 1925

ACT NO. XIX OF 1925

[27th August, 1925]

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

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

It is hereby enacted as follows:-

1. (1) This Act may be called the Provident Funds Act, 1925.

Short title
extent and
commencement

(2) It extends to the whole of Bangladesh.

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

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

Definitions

- (a) "compulsory deposit" means a subscription to, or deposit in, 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 permit in respect of policy of life insurance or the payment of subscriptions or premia in respect of a family pension fund, and includes any contribution 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 any such contingency;

* Throughout this Act, except otherwise provided, the words "Bangladesh" and "Government" were substituted, for the words "Pakistan" and "Central Government" or "appropriate Government" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (b) "contribution" means any amount credited in a Provident Fund, by any authority administering the Fund, by way of addition to, a subscription to, or deposit or balance at the credit of an individual account in, the Fund; and "contributory Provident Fund" means a Provident Fund the rules of which provide for the crediting of 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 ¹[the Government] for any class or classes of persons in the service of the ²[Republic] or of persons employed in educational institutions or employed by bodies existing solely for educational purposes, ³[* * *];
- (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 contribution and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund;
- (f) "Railway administration" means-

¹ The words "the Government" were substituted, for the words and commas "the Secretary of State, the Central Government, the Crown Representative or any Provincial Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Republic" was substituted, for the word "State" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words "and references in this Act to the Government shall be construed accordingly" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹[* * *]

²[(ii) the Manager of the Railway;]

- (g) "Railway Provident Fund" means a Provident Fund constituted by the authority of ³[the railway] administration for any class or classes of its employees.

3. (1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the ⁴[* * *] Insolvency Act, 1920, shall be entitled to, or have any claim on, such compulsory deposit.

Protection of compulsory deposits

(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 rights 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.

¹ Sub-clause (i) was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Sub-clause (ii) was substituted, for sub-clause (ii) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words "the railway" were substituted, for letter and word "a railway" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The word "Provincial" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Provisions
regarding
repayments

4. (1) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer, whose duty 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 ¹[Taka], 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 ²[Succession Act, 1925,] entitling the holder thereof to receive payment of such sum, balance or part, or

¹ The word "Taka" was substituted, for the word "rupees" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, commas and figure "Succession Act, 1925," were substituted, for the words, commas and figures "Succession Certificate Act, 1889, or under the Bombay Regulation VIII of 1827," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

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

- (i) if the subscriber or depositor or, if he is dead the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or
- (ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it.

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

5. (1) Notwithstanding anything contained in any law for the time being in force 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, been paid, the said person shall

Rights of
nominees

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 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 the ¹[Succession Act, 1925], any person, who becomes entitled as aforesaid, may be granted a certificate under that Act ²[* * *] entitling him to receive payment of such or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other of person of probate or letters of administration to the estate of the deceased.

¹ The words, comma and figure "Succession Act, 1925" were substituted, for the words, comma and figures "Succession Certificate Act, 1889 or the Bombay Regulation VIII of 1827" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The commas and words ", or that Regulation, as the case may be," were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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

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

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

Power to make deductions

- (a) any amount due under a liability incurred by the subscriber or depositor to Government or the Railway Administration, but not exceeding in any case the total amount of any contributions credited to the 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 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.

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

Protection for acts done in good faith

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

Power to apply the Act to the Provident Funds

(2) The Government may, by notification in the official Gazette, direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule, or 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 contributions referred to in that section were the Government.

(3) The 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 had been made by this Act.

¹[* * *]

9. [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

10. [*Repealed by the Repealing Act, 1927 (Act No. XII of 1927), section 2 and Schedule.*]

¹ Sub-section (4) and the Explanation were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹THE SCHEDULE

List of Institutions

[see sub-section (2) of section 8]

1. A Court of Wards.
2. A College affiliated to a University established by Statute.
3. The Bangladesh Red Cross Society.
4. The Bangladesh Bank.
5. The Sonali Bank.
6. The Bangladesh Shilpa Bank.
7. The Bangladesh House Building Finance Corporation.
8. The Bangladesh Krishi Bank.
9. The Bangladesh Council of Scientific and Industrial Research.
10. The Telephone Industries of Bangladesh, Limited.
11. The Bangladesh Atomic Energy Council.]

¹ THE SCHEDULE was substituted, for the former THE SCHEDULE by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).