

THE CONTRIBUTORY PROVIDENT FUNDS ACT.*

[BURMA ACT VII, 1943.] (8th December, 1941.)

Whereas it is expedient to make provision for safeguarding, for the benefit of the subscribers and their dependants, the assets of certain Contributory Provident Funds established in the Union of Burma ; * * * *

It is hereby enacted as follows :—

Short title,
commence-
ment and
extent.

1. (1) This Act may be called the Contributory Provident Funds Act, 1943.

(2) It shall be deemed to have come into force on the 8th day of December 1941, and shall continue in force until the President of the Union, by notification, declares that it shall cease to be operative.

Definitions.

2. In this Act—

- (1) “ dependant ” means and includes any relative or nominee of a deceased subscriber to the Provident Fund who, under the rules of the Fund, is or may become entitled to receive the whole or any portion of the sum standing to the credit of the subscriber ;
- (2) “ employer ” means any person who, by himself or through Trustees, contributes to a Provident Fund maintained for the benefit of his employees ;
- (3) “ 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 and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund ;
- (4) “ subscriber ” means any person who, in accordance with the rules of the Provident Fund, subscribes to or deposits in the Fund and thereby is entitled to participate in the Fund ;
- (5) “ Trustees ” means the Trustees of the Provident Fund, and includes any person or persons acting in similar capacity in relation to the Fund.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

* Published in Chief Secretary's Office Notification No. 54, dated 27th February 1943 and republished in *Burma Gazette*, 1946, Part I, page 135.

India XIX,
1925.

3. In the case of any Provident Fund established in the Union of Burma to which the provisions of the Provident Funds Act are not applicable, and which is such that the subscribers to the Fund have no claim upon the general assets of the employer, the President of the Union may, by notification, declare such Provident Fund to be a "notified Provident Fund" as from a specified date, whether prospectively or retrospectively, and the provisions of this Act shall thereupon be deemed to apply to such Fund as from such date.

Notification
of Provident
Funds.

4. As a condition to the issue of such notification the President of the Union may require from the Trustees or from the employer such undertakings as he may think fit, and in particular an undertaking that the Trustees will pay from the assets of the Fund to the subscribers or their dependants, debarred by reason of the provisions of this Act from receiving payment from the Trustees in accordance with the rules of the Fund, amounts computed in a specified manner.

Undertaking
by Trustees
or employer.

5. In making payments in accordance with any undertaking given in pursuance of section 4 the Trustees shall reserve a portion of the Fund sufficient, at the time of making such payments as aforesaid, to make payments similarly computed to those subscribers who are still in the employment of the employer, or whose whereabouts are unknown or to whom immediate payment is for any other reason impracticable; and no subscriber whose employment terminated on or after the eighth day of December, 1941, shall be entitled to any priority over other subscribers by reason of the date on which his employment terminated.

Rights of
continuing
employees,
and priority.

6. (1) On the issue of a notification under section 3, but subject to such undertakings as may have been given in pursuance of section 4, the Trustees of a notified Provident Fund or the employer shall, notwithstanding anything contained in the rules of the Fund, be released from liability to make payments out of the Fund to any subscriber, or to the dependants of any subscriber.

Release of
Trustees
from
liability.

(2) Such exemption from liability shall continue so long as the realization of any of the securities belonging to the Provident Fund would involve their disposal at prices below the cost of purchase; but nothing in this Act shall be deemed to prohibit the Trustees from realizing securities at prices which are not below the cost of purchase, or from making payments *pro rata* to subscribers or their dependants in excess of the undertakings given under section 4.

7. The President of the Union may at any time require any modificationⁿ of the undertakings given under section 4, and may rescind or cancel any notification issued under section 3.

Modification
of undertak-
ings, and
cancellation
of notifica-
tion.

Fund to
continue in
existence.

8. Notwithstanding anything contained in the rules of the Fund, a Provident Fund notified under this Act shall be deemed to continue in existence until such notification is rescinded or cancelled.

Bar to
jurisdiction.

9. No suit or other proceeding shall lie against the Trustees of a notified Provident Fund or against the employer for any of the reliefs to which a subscriber or the dependants of a subscriber might have been entitled but for this Act.