

CHAPTER IV - MEMBERSHIP OF THE FUND

27. Exemption of an employee:- A Commissioner may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme an employee to whom the scheme applies on receipt of application in Form I from such an employee:

Provided that such an employee is entitled to benefits in the nature of Provident Fund, gratuity or old age pension according to the rules of the factory or other establishment and such benefits separately or jointly are on the whole not less favorable than the benefits provided under the Act and Scheme.

(2) Where an employee is exempted as aforesaid, the employer shall in respect of such employee maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

(3) An employee exempted under sub-paragraph (1) may by an application to the Commissioner make a declaration that he shall become a member of the Fund.

(4) No employee shall be granted exemption or permitted to apply out of exemption more than once on each account.

27A. Exemption of class of employees. - (1) The appropriate Government may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme any class of employees to whom the Scheme applies:-

Provided that such class of employees is entitled to benefits in the nature of Provident Fund, gratuity or old age pension according to the rules of the factory or other establishment and such benefits separately or jointly are on the whole not less favorable than the benefits provided under the Act and this Scheme.

(2) Where any class of employees is exempted as aforesaid the employer shall in respect of such class of employees maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

(3) A class of employees exempted under sub-paragraph (1) or the majority of employees constituting such class may by an application to the Commissioner make a declaration that the class of employees shall become members of the Fund.

(4) No class of employee shall be granted exemption or permitted to apply out of exemption more than once on each account.

(5) The provisions of this paragraph shall be deemed to have come into force with

effect from the 14th October, 1953.

28. Transfer of accumulations from existing Provident Funds:-

(1) Every authority in charge of, or entrusted with the management of, any Provident Fund in existence the accumulations wherein are to be transferred to the Fund under sub-section (2) of section 15 of the Act, or sub-section (5) of section 17 thereof, as the case may be, shall,

(i) send to the Commissioner a statement showing the amount standing to the credits of each subscriber on the date of the transfer, the total accumulations to the credit of subscribers generally on that date and the advance if any, taken by the subscribers within twenty-five days of the application of the Scheme, or cancellation of exemption, as the case may be.

(ii) transfer to the Fund in the manner specified in sub-paragraph (2) the total accumulations standing to the credit of the subscribers in relation to each factory within ten days of the application of the Scheme, or cancellation of exemption, as the case may be, in case of liquid cash in bank and within thirty days, in the case of securities, and

(iii) transfer to the Central Board all pass-books, books of account and other documents relating to the said accumulations.

(2) All accumulations standing to the credit of the subscribers, howsoever invested, shall be transferred to the fund by the authority aforesaid in cash: -

Provided that where the whole or any part of such accumulations consists of investments in Government securities or in securities guaranteed by appropriate Government as regards repayment of principal and payment of interest or in both the authority making the transfer to the fund shall transfer those securities at the price for which they were actually purchased or transfer a sum equivalent to such price. In case, however, the whole or any part of such accumulations is invested in National Savings Certificates or National Plan Savings Certificates, the appreciated value of such certificates at the time of the transfer will be taken into account in determining the amount of the accumulations to be transferred, provided that the difference between the face value of such certificates and their appreciated value at the time of the transfer has already been credited to the accounts of the subscribers:

Provided further that where the whole or any part of such accumulations consists of investments in securities bearing no guarantee of an appropriate Government as regards repayment of principal and payment of interest, the Central Government may, in exceptional cases, allow acceptance of the transfer of such securities from the authority making the transfer to the fund at the price for which they were actually purchased.

Explanations: - The total amount of provident fund accumulations including interest thereon and the authority in charge of the Fund shall transfer in cash any balance of interest on investments which happens to be undistributed on the date of the

transfer, or realized or realizable for the period prior to the registration of the securities in the name of the Central Board of Trustees, Employees' Provident Fund.

(3) Any cash transferred under sub-paragraph (2) shall be deposited in any office or branch of the Reserve Bank of India or the State Bank of India to the credit of the Central Board, and the receipt obtained in respect thereof shall be forwarded to the Commissioner.

Provided that where there is no office or branch of either of the two Banks at the place where the factory or other establishment is situated, the amount shall be credited to the Central Board by means of a Reserve Bank of India Governmental draft at par.

(4) The accumulations, transferred to the Fund in accordance with this paragraph shall be credited to the account of each of the members of the Fund, to the extent to which he may be entitled thereto having regard to the statement furnished by the authority aforesaid.

(5) When the accumulations in such Provident Fund as is referred to in sub-paragraph (1) have been so transferred to the Fund, the Commissioner may, by notification in the Gazette of India, declare that the subscribers of such Provident Fund have now become vested in the Central Board.

CHAPTER V - CONTRIBUTIONS

29. Contributions. - (1) The contributions payable by the employer under the Scheme shall be at the rate of ten per cent of the basic wages, dearness allowance including the cash value of any food concession and retaining allowance if any payable to each employee to whom the Scheme applies:

Provided that the above rate of contribution shall be twelve per cent in respect of any establishment or class of establishments which the Central Government may specify in the Official Gazette from time to time under the first proviso to sub-section (1) of section 6 of the Act.

(2) The contribution payable by the employee under the scheme shall be equal to the contribution payable by the employer in respect of such employee:

Provided that in respect of any employee to whom the Scheme applies, the contribution payable by him may, if he so desires be an amount exceeding ten per cent or twelve per cent, as the case may be, of his basic wages, dearness allowance and retaining allowance if any subject to the condition that employer shall not be under an obligation to pay any contribution over and above his contribution payable under the Act.

(3) The contribution shall be calculated on the basis of the basic wages, dearness allowance including the cash value of any food concession and retaining allowance if any actually drawn during the whole month whether paid on daily, weekly,

fortnightly or monthly basis.

(4) Each contribution shall be calculated to the nearest rupee, 50 paise or more to be counted as the next higher rupee, and fraction of a rupee less than 50 paise to be ignored.

30. Payment of contribution. - (1) The employer shall, in the first instance, pay both the contribution payable by himself in this Scheme, referred to as the employer's contribution and also, on behalf of the member employed by him directly or by or through a contractor, the contribution payable by such member in the Scheme referred to as the member's contribution.

(2) In respect of employees employed by or through a contractor, the contractor shall recover the contribution payable by such employee in this Scheme referred to as the member's contribution and shall pay to the principal employer the amount of member's contribution so deducted together with an equal amount of contribution in this Scheme referred to as the employer's contribution and also administrative charges.

(3) It shall be the responsibility of the principal employer to pay both the contribution payable by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor and also administrative charges.

Explanation:- For the purposes of this paragraph the expression "**administrative charges**" means such percentage of the pay, basic wages, dearness allowance, retaining allowance, if any, and cash value of food concession admissible thereon for the time being payable to the employees other than an excluded employee, and in respect of which provident fund contributions are payable as the Central Government may, in consultation with the Central Board and having regard to the resources of the Fund for meeting its normal administrative expenses.

31. Employer's share not to be deducted from the members. - Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wage of a member or otherwise to recover it from him.

32. Recovery of a member's share of contribution. - (1) The amount of a member's contribution paid by the employer or a contractor shall, notwithstanding the provisions in this Scheme or 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:

Provided that no such deduction may be made from any wage other than that which is paid in respect of the period or part of the period in respect of which the contribution is payable:

Provided further that the employer or a contractor shall be entitled to recover the employee's share from a wage other than that which is paid in respect of the

period for which the contribution has been paid or is payable where the employee has in writing given a false declaration at the time of joining service with the said employer or a contractor that he was not already a member of the Fund.

Provided further that where no such deduction has been made on account of an accidental mistake or a clerical error, such deduction may, with the consent in writing of the Inspector, be made from the subsequent wages.

(2) Deduction made from the wages of a member paid on daily, weekly or fortnightly basis should be totalled up to indicate the monthly deductions.

(3) Any sum deducted by an employer or a contractor from the wage of an employee under this Scheme shall be deemed to have been entrusted to him for the purpose of paying contribution in respect of which it was deducted.

32-A Recovery of damages for default in payment of any contribution: -

(1) Where an employer makes default in the payment of any contribution to the Fund, or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or sub-section (5) of section 17 of the Act or in the payment of any charges payable under any other provision of the Act or Scheme or under any of the conditions specified under section 17 of the Act, the Central Provident Fund Commissioner or such officer as may be authorized by the Central Government, by notification in the Official Gazette, in this behalf, may recover from the employer by way of penalty, damages at the rates given below: -

Period of default	Rate of damages (Percentage of arrears per annum).
a. Less than two months.-	Seventeen percent.
b. Two months and above but less than four months	-Twenty-two percent.
c. Four months and above but less than six months	-Twenty seven percent.
d. Six months and above.	- Thirty seven percent.

(2) The damages shall be calculated to the nearest rupees, 50 paise or more to be counted as the nearest higher rupee and fraction of a rupee less than 50 paise to be ignored.

32-B Terms and conditions for reduction or waiver of damages - The Central Board may reduce or waive the damages levied under section 14B of the Act in relation to an establishment specified in the second proviso to section 14B, subject to the following terms and conditions, namely: -

(a) in case of a change of management including transfer of the undertaking to workers' co-operative and in case of merger or amalgamation of the sick industrial company with any other industrial company, complete waiver of damages may be allowed;

(b) in cases where the Board for Industrial and Financial Reconstruction, for reasons to be recorded in its scheme, in this behalf, recommends, waiver of damages upto 100 per cent may be allowed.

(c) in other cases, depending on merits, reduction of damages up to 50 per cent may be allowed.

CHAPTER VI - DECLARATION, CONTRIBUTION CARDS AND RETURNS

33. Declaration by persons already employed at the time of institution of the Fund. - Every person who is required or entitled to become a member of the Fund shall be asked forthwith by his employer to furnish and shall, on such demand, furnish to him, for communication to the Commissioner, particulars concerning himself and his nominee required for the declaration form in Form 2. Such employer shall enter the particulars in the declaration form and obtain the signature or thumb-impression of the person concerned.

34. Declaration by person taking up employment after the Fund has been established. - The employer in relation to a factory or other establishment shall, before taking any person into employment, ask him to state in writing whether or not he is a member of the Fund and if he is, ask for the Account Number and/or the name and particulars of the last employer. If he is unable to furnish the Account Number, he shall require such person to furnish and such person shall, on demand, furnish to him for communication to Commissioner, particulars regarding himself and his nominee required for the declaration form. Such employer shall enter the particulars in the Declaration Form and obtain the signature or thumb-impression of the person concerned:

Provided that in the case of any such employee who has become a member of the Family Pension Fund under the Employees' Family Pension Scheme, 1971, the aforesaid Declaration Form shall also contain such particulars as are necessary to comply with the requirements of that Scheme.

35. Preparation of Contribution Cards. - The employer shall prepare a contribution card in Form 3 or Form 3A as may be appropriate, in respect of every employee in his employment at the commencement of the Scheme or who is taken into employment after that date and who is required or entitled to become or is a member of the Fund including those who produce an Account Number and in respect of whom no fresh Declaration Form is prepared:

Provided that in the case of any such employee who has become a member of the Family Pension Fund under the Employees' Family Pension Scheme, 1971, the aforesaid Forms shall also contain such particulars as are necessary to comply with the requirements of that Scheme.

36. Duties of employers - (1) Every employer shall send to the Commissioner, within fifteen days of the commencement of the Scheme, a consolidated return in such form as the Commissioner may specify, of the employees required or entitled to become members of the Fund showing the basic wage, retaining allowance, if any, and dearness allowance including the cash value of any food concession paid

to each of such employees.

Provided that if there is no employee who is required or entitled to become a member of the Fund, the employer shall send a 'Nil' return.

(2) Every employer shall send to the Commissioner within fifteen days of the close of each month a return -

(a) in Form 5, of the employees qualifying to become members of the Fund for the first time during the preceding month together with the declarations in Form 2 furnished by such qualifying employees, and

(b) in such form as the Commissioner may specify, of the employees leaving service of the employer during the preceding month.

Provided that if there is no employee qualifying to become a member of the Fund for the first time or there is no employee leaving service of the employer during the preceding month, the employer shall send a 'Nil' return.

(3) ***

(4) Every employer shall maintain an inspection notebook in such form as the Commissioner may specify, for an Inspector to record his observation on his visit to the establishment.

(5) Every employer shall maintain such account in relation to the amounts contributed to the Fund by him and by his employees as the Central Board may, from time to time, direct, and it shall be the duty of every employer to assist the Central Board in making such payments from the Fund to his employees as are sanctioned by or under the authority of the Central Board.

(6) Notwithstanding anything herein before contained in this paragraph, the Central Board may issue such directions to employers generally as it may consider necessary or proper for the purpose of implementing the Scheme, and it shall be the duty of every employer to carry out such directions.

36A Employer to furnish particulars of ownership - Every employer in relation to a factory or other establishment to which the Act applies on the date of coming into force of the Employees' Provident Funds Tenth Amendment Scheme, 1961, or is applied after that date, shall furnish in duplicate to the Regional Commissioner in Form No. 5A annexed hereto, particulars of all the branches and departments, owners, occupiers, directors, partners, manager or any other person or persons who have the ultimate control over the affairs of such factory or establishment and also send intimation of any change in such particulars, within fifteen days of such change, to the Regional Commissioner by registered post and in such other manner as may be specified by the Regional commissioner:

Provided that in the case of any employer of a factory or other establishment to which the Act and the Family Pension Scheme, 1971, shall apply the aforesaid

Form may be deemed to satisfy the requirements of the Employees' Family Pension Scheme, 1971, for the purpose specified above.

36-B Duties of contractors - Every contractor shall, within seven days of the close of every month, submit to the principal employer a statement showing the recoveries of contributions in respect of employees employed by or through him and shall also furnish to him such information as the principal employer is required to furnish under the provisions of the Scheme to the commissioner.

37. Allotment of Account Numbers - On receipt of the information referred to in paragraphs 33, 34 and 36, the Commissioner shall promptly allot an Account Number to each employee qualifying to become a member and shall communicate the Account Number to the member through the employer.

38. Mode of Payment of contributions - (1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for the time being payable to the employees other than an excluded employee, and in respect of which provident fund contributions are payable as the Central Government may fix, he shall within fifteen days of the close of every month pay the same to the Fund by separate bank drafts or cheques on account of contributions and administrative charge:

Provided that if the payment is made by a cheque, it should be drawn only on the local bank of the place in which deposits are made.

Provided further that where there is no branch of the Reserve Bank or the State Bank of India at the station where the factory or other establishment is situated, the employer shall pay to the Fund the amount mentioned above by means of Reserve Bank of India Governmental Drafts at par separately on account of contributions and administrative charge.

(2) The employer shall forward to the Commissioner, within twenty-five days of close of the month, a monthly abstract in such form as the Commissioner may specify showing the aggregate amount of recoveries made from the wages of all the members and the aggregate amount contributed by the employer in respect of all such members for the month:

Provided that an employer shall send a Nil return, if no such recoveries have been made from the employees;

Provided further that in the case of any such employee who has become a member of the Pension Fund under the Employees' Pension Scheme 1995, the aforesaid Form shall also contain such particulars as are necessary to comply with the

requirements of that Scheme.

(3) The employer shall send to the Commissioner within one month of the close of the period of currency, a consolidated Annual contribution Statement in Form 6-A, showing the total amount of recoveries made during the period of currency from the wages of each member and the total amount contributed by the employer in respect of each such member for the said period. The employer shall maintain on his record duplicate copies of the aforesaid monthly abstract and consolidated annual contribution statement for production at the time of inspection by the Inspector.

(39) Fixation of administrative Charges. - The Central Government may, in consultation with the Central Board and having regard to the resources of the Fund available for meeting its normal administrative expenses, fix the percentage of administrative charges payable under sub-paragraph (1) of paragraph 38 above.

(40) Contribution to be entered in the contribution card - The amount recovered every month from the wages of an employee as well as the contribution made by the employer in respect of each such employee shall be entered by the employer every month in the contribution card opened in the name of each member under the Scheme.

40-A Supply of Pass Books to the members - With effect from such date as the commissioner may specify in this behalf, every employer shall, on an employee becoming a member of the Fund, provide a Pass Book to every such member and maintain the same in such form and manner as the Commissioner may direct from time to time:

Provided that different dates may be specified for different industries or classes of establishments or for different areas.

41. Currency of Contribution Cards - The contribution cards issued under the Scheme shall be current for one year :

Provided that the said period of one year may commence and terminate at such different times in different factories or any other establishments as may be decided by the Commissioner from time to time.

Provided further that the cards issued,

(i) in respect of the first contribution period, or
(ii) in respect of the contribution period immediately preceding the date from which the establishment is notified as an annually posted establishment,

may be for a period which may be less or more than a year.

42. Renewal of contribution card - An employer shall, on or before the

expiration of the period of currency of the contribution card, prepare in respect of each member employed by him a card in Form 3 or Form 3A as may be appropriate, for the next period of currency:

Provided that in the case of any such employee who has become a member of the Family Pension Fund under the Employees' Family Pension Scheme, 1971, the aforesaid Form shall also contain such particulars as are necessary to comply with the requirements of that Scheme.

43. Submission of contribution cards to the Commissioner - Every employer shall, within one month from the date of expiration of the period of currency of the contribution cards in respect of members employed by him, send the contribution cards to the commissioner together with a statement in Form 6:

Provided that where a member leaves service, the employer shall send the contribution card in respect of such members before the twentieth day of the month following that in which the member left the service:

Provided further that in the case of any such employee who has become a member of the Family Pension Fund under the Employees' Family Pension Scheme, 1971, the aforesaid Form shall also contain such particulars as are necessary to comply with the requirements of that Scheme.

44. Custody of contribution cards - The employer shall retain in his custody the contribution cards in respect of each member employed by him and shall take every precaution against loss or damage of the contribution cards.

45. Inspection of cards by members - Any member making a request in this behalf to the employer shall be permitted to inspect his cards himself or to have the same inspected by any person duly authorized by him in writing to do so, within 72 hours of making such request provided that no such request shall be entertained more than once in every two calendar months.

46. Production of cards and records for inspection by the Commissioner or Inspector. - Every employer shall whenever the Commissioner or any other officer authorized by him in this behalf or an Inspector so requests, either in person or by notice in writing, produce before the commissioner, Officer or Inspector, as the case may be, the records of any member employed by him and any card then in his possession, and if so required by the said Commissioner, Officer or Inspector shall deliver such record to the said commissioner, Officer or Inspector, who may, if he thinks fit, retain the record provided that he shall grant a receipt for every record retained by him.

47. Supply of cards passbooks and forms to employers - The Commissioner shall supply to employers, free of charge on demand contribution cards, passbooks Deceleration Forms and other forms referred to in this Scheme:

Provided that if any employer desires to obtain any cards, pass books or forms in excess of the number which the Commissioner considers to be the requirements of

the employer, the Commissioner may, if he thinks fit, supply such extra cards, pass books or forms and make such charge therefore as he considers reasonable.

48. Current account - The Commissioner shall deposit the Bank drafts or cheques received from the employers in the Reserve Bank or the State Bank of India in the Current Account of the Fund.

CHAPTER VIII - NOMINATIONS, PAYMENTS AND WITHDRAWALS FROM THE FUND

61. Nomination - (1) Each member shall make in his declaration in Form 2, 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 standing to his credit has become payable, or where the amount has become payable, before payment has been made.

(2) A member 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 a nomination, the nomination 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.

Provided that a fresh nomination shall be made by the member on his marriage and any nomination made before such marriage shall be deemed to 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 a fresh nomination in favour of one or more persons belonging to his family.

(4A) Where the nomination is wholly or partly in favour of a minor, the member may, for the purposes of this Scheme appoint a major person of his family, as defined in clause (g) of paragraph 2, to be the guardian of the minor nominee in the event of the member predeceasing the nominee and the guardian so appointed.

Provided that where there is no major person in the family, the member may, at his discretion, appoint any other person to be a guardian of the minor nominee.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member after giving a written notice of his intention of doing so in Form 2 annexed hereto. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a 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 Commissioner.

62. Financing of member's Life Insurance Policies - (1) Where a member desires that premium due on a policy of Life Insurance taken by him on his own life should be financed from his Provident Fund Account, he may apply in such form and in such manner as may be prescribed by the Commissioner.

(2) On receipt of such application, the Commissioner, or where so authorized by the Commissioner, any other officer subordinate to him may make payment on behalf of the member to the Life Insurance Corporation of India towards premium due on his policy :

Provided that no such payment shall be made unless the premium is payable yearly.

(3) Any payment made under sub-paragraph (2) shall be made out of and debited to the member's own contribution with interest thereon standing to his credit in the Fund.

(4) No payment shall be made under sub-paragraph (2) unless the member's own contribution in his Provident Fund Account with interest thereon is sufficient to pay the premium; and where the payment is to be made on the first premium, sufficient to pay the premium for two years.

(5) No payment shall be made towards a policy unless it is legally assignable by the member to the Central Board.

(6) The Commissioner shall before making payment in respect of existing policies, satisfy himself by reference to the Life Insurance Corporation that no prior assignment of the policy exists and the policy is free from all encumbrances.

(7) No educational endowment policy or marriage endowment policy shall be financed from the Fund, if such policy is due for payment in whole or in part before the member attains the age of 55 years.

63. Conversion of policy into a paid up one and payment of late fee, etc - Where a policy of Life Insurance of a member is financed from the Provident Fund Account, the Commissioner may,

(a) convert the insurance policy into a paid up one when the credit in his Provident Fund on account of his share becomes inadequate for the payment of any premium;

(b) pay late fee and interest out of the member's own contribution in his Provident Fund Account, if any premium cannot be remitted to the Life Insurance Corporation in time because of delay in sending to the Commissioner the policy

duly assigned to the Central Board or any other reasons for which the member or his employer may be responsible.

64. Assignment of policies to the fund - (1) the policy shall, within six months of the first payment under paragraph 62 be assigned by endorsement thereon, to the Central Board and shall be delivered to the Commissioner.

(2) Notice of the assignment of the policy shall be given by the member to the Life Insurance Corporation and the acknowledgement of the said notice by the Corporation shall be sent to the Commissioner within three months of the date of assignment.

(3) The term of the policy shall not be altered nor shall the policy be exchanged for another policy without the prior consent of the Commissioner to whom the details to the alteration or of the new policy shall be furnished in such form as he may specify.

(4) If the policy is not assigned and delivered as required under sub-paragraph (1), or is assigned otherwise than to the Board, or is charged or encumbered or lapses any amount paid from the Fund in respect of such policy shall, with interest thereon at the rate provided under paragraph 60 be repaid by the member forthwith to the Fund. In the event of default, the employer shall, on receipt of such directions as may be issued by the Commissioner in this behalf deduct the amount in lump sum or in such instalments as the Commissioner may determine from the emoluments of the member and pay it to the Fund within such time and in such manner as may be specified by the Commissioner. The amount so repaid or recovered shall be credited to the member's account in the Fund.

65. Bonus on policy to be adjusted against payments made from the fund - So long as the policy remains assigned to the Central Board, any bonus accruing on it may be drawn by the Central Board or where authorized by the Central Board by the Commissioner, and adjusted against the payments made on behalf of the member under paragraph 62.

66. Reassignment of policies - (1) Where the accumulations standing to the credit of the member are withdrawn under paragraph 69 or when the member repays to the Fund the amounts of premium paid by the Board with interest thereon at the rate provided in paragraph 60, the Central Board or, where authorized by the Central Board, the Commissioner shall reassign by endorsement thereon the policy to the member together with a signed notice of reassignment addressed to the Life Insurance Corporation.

(2) If the member dies before the policy has been reassigned under sub-paragraph (1), the Central Board or, where authorized by the Central Board, the Commissioner shall reassign by the endorsement thereon, the policy to the nominee of the member if a valid nomination subsists and if there be no such nominee, to such person as may be legally entitled to receive it together with a signed notice of reassignment addressed to the Life Insurance Corporation.

67. Recovery of amounts paid towards insurance policies - If a policy matures or otherwise falls due for payment the currency of its assignment, the Central Board or, where so authorized by the Central Board, the Commissioner shall realize the amount assured together with bonus, if any, accrued thereon place in the credit of the member the amount so realized, or the whole of the amount paid from the Fund in respect of the policy with interest thereon whichever is less, and refund the balance, if any, to the member.

68 ***

68A ***

68B Withdrawal from the Fund for the purchase of a dwelling house/flat or for the construction of a dwelling house including the acquisition of a suitable site for the purpose. - (1) The Commissioner, or where so authorized by the Commissioner, any officer subordinate to him, may on an applicator from a member in such form as may be prescribed and subject to the conditions prescribed in this paragraph sanction from the amount standing to the credit of the member in the Fund.

(a) for purchasing a dwelling house/flat, including a flat in a building owned joined with others outright or on hire purchase basis, or for construction dwelling house including the acquisition of a suitable site for the purpose from the Central Government, the State Government, a co-operative society, an institution, a trust, a local body or a Housing Finance Corporation (hereinafter referred to as the agency/agencies); or

(b) for purchasing a dwelling site for the purpose of construction of a dwelling house or a ready-built dwelling house/flat from any individual or

(bb) for purchasing dwelling house/flat on ownership basis from a promoter governed by the provision of any Flats or Apartments Ownership Act or by any other analogous or similar law of the Central Government or the State Government as may be in force in any State or area for the time-being and who intends to construct or constructs dwelling house or block of flat and the member is required to pay to the promoter in advance for financing the said construction of the house/flat.

Provided that the member has entered into an agreement with the promoter as may be required under the Flats or Apartment Ownership Act, or any other analogous or similar law of the Central Government or State Government which may be in force in nay State or any area and the said agreement is registered under the Indian Registration Act, 1908.

(c) for the construction of a dwelling house on a site owned by the member or the spouse of the member or jointly by the member and the spouse, or for completing/continuing the construction of a dwelling house already commenced by the member or the spouse, on such site, or for purchase of a house/flat in the joint name of the member and the spouse under clause (a) and (b) abode.

Explanation I - In this paragraph, the expression, co-operative society means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912) or under any other law for the time being in force in any State relating to co-operative societies.

(2) (a) For the purpose of purchase of a site for construction of house thereon, the amount of withdrawal shall not exceed the member's basic wages and dearness allowance for twenty-four months or the member's own share of contributions, together with the employer's share of contributions, with interest thereon or the actual cost towards the acquisition of the dwelling site, whichever is least.

(b) For the purpose of acquisition of a ready built house/flat or for construction of a house/flat, the withdrawal shall not exceed the member's basic wages and dearness allowance for thirty-six months or the member's own share of contributions, together with the employer's share of contributions, with interest thereon, or the total cost of construction, whichever is the least.

(3) (a) No withdrawal under this paragraph shall be granted unless:

(i) the member has completed five years membership of the Fund:

(ii) the member's own share of contributions with interest thereon in the amount standing to his credit in the Fund is not less than one thousand rupees:

(iii) the dwelling site or the dwelling house/flat or the house under construction is free from encumbrances:

Provided that where a dwelling site or a dwelling house/flat is mortgaged to any of the agencies referred to in clause (a) of sub-paragraph (1), solely for having obtained funds for the purchase of a dwelling house/flat or for the construction of a dwelling house including the requisition of a suitable site for the purpose, such a dwelling site or a dwelling house/flat as the case may be, shall not be deemed to be an encumbered property:

Provided further that a land acquired on a perpetual lease or on lease for a period of not less than 30 years for constructing a dwelling house/flat, or a house/flat built on such a leased land, shall also not be deemed to be an encumbered property:

Provided also that where the site of the dwelling house/flat is held in the name of any agency, referred to in clause (a) of sub-paragraph (1) and the allottee is precluded from transferring or otherwise disposing of, the house/flat, without the prior approval of such agency, the mere fact that the allottee does not have absolute right of ownership of the house/flat and the site is held in the name of the agency, shall not be a bar to the giving of withdrawal under clause (a) of sub-paragraph (1) if the other conditions mentioned in this paragraph are satisfied.

(b) No withdrawal shall be granted for purchasing a share in a joint property or for construction a house on a site owned jointly except on a site owned jointly with

the spouse.

(4) Subject to the limitation prescribed in sub-paragraph (2) -

(a) where the withdrawal is for the purchase of a dwelling house/flat or a dwelling site from an agency referred to in clause (a) of sub-paragraph (1), the payment of withdrawal shall not be made to the member but shall be made direct to the agency in one or more instalments, as may be authorized by the member;

(b) where the withdrawal is for the construction of a dwelling house, it may be sanctioned in such number of instalments as the Commissioner or where so authorized by the Commissioner, any officer subordinate to him, thinks fit:

(c) ***

(d) Where the withdrawal is for purchasing a dwelling house/flat on ownership basis from a promoter as referred to in clause (bb) of sub-paragraph (1), the payment of withdrawal shall be made to the member in one or more installments as may be required to be paid by the said promoter and as authorized by the member.

Explanation: - 'Promoter' includes a person who constructs or causes to be constructed a block or building of flats or apartments for the purpose of selling some or all of them to other persons or to a Company, Co-operative Society or other association of persons and his assignees and where the person who builds and the person who sells are different persons, and term 'Promoter' includes both.

(5) Where withdrawal is sanctioned for the construction of a dwelling house, the construction shall commence within six months of the withdrawal of the first installment and shall be completed within twelve months of the withdrawal of the final installment. Where the withdrawal is sanctioned for the purchase of a dwelling house/flat or for the acquisition of a dwelling site, the purchase or acquisition, as the case may be, shall be completed within six months of the withdrawal of the amount:

Provided that this provision shall not be applicable in case of purchase of a dwelling house/flat on hire-purchase basis and in cases where a dwelling site is to be acquired or houses are to be constructed by a co-operative society on behalf of its members with a view to their allotment to the members.

(6) Except in the cases specified in sub-paragraphs (7) and (7A), no further withdrawal shall be admissible to a member under this paragraph.

(7) An additional withdrawal upto twelve months basic wages and dearness allowance or the member's own share of contributions with interest thereon, in the amount standing to his credit in the Fund, whichever is less, may be granted in

one installment only, for additions, substantial alterations or improvements necessary to the dwelling house owned by the member or by the spouse or jointly by the member and the spouse:

Provided that the withdrawal shall be admissible only after a period of five years from the date of completion of the dwelling house.

(7A) A further withdrawal equivalent to the amount of difference between the amount of withdrawal admissible to a member under sub-paragraph (2) above as on the date of fresh application and the amount of withdrawal that was drawn by a member under this paragraph any time during 6 years preceding 3-10-81, may be granted to such a member (i) who had availed the earlier withdrawal for purchase of a dwelling site and has now proposed to construct a dwelling house on the land so purchase or (ii) who had availed the earlier withdrawal for making initial payment towards the allotment/purchase of a house/flat from any agency as referred to in clause (a) of sub-paragraph (1) above and has now proposed to avail a withdrawal for completing the transaction to get the sole ownership of the house/flat so purchased or (iii) who had availed the earlier withdrawal for construction of a house but could not complete the construction in time due to lack of funds.

(7B) A further withdrawal upto twelve months basic wages and dearness allowance or member's own share of contribution with interest thereon in his account, whichever is the least, may be granted for addition, alteration, improvement or repair of the dwelling house owned by the member or by the spouse or jointly by the member and the spouse, after ten years of withdrawal, under sub-paragraph (7).

(8) The member shall produce the title deed and such other documents as may be required for inspection, which shall be returned to the member after the grant of withdrawal.

(9) (a) If the withdrawal granted under this paragraph exceeds the amount actually spent for the purposed for which it was sanctioned, the excess amount shall be refunded by the member to the Fund in one lump sum within thirty days of the finalisation of the purchase, or the completion of the construction of, or necessary additions, alterations or improvements to a dwelling house, as the case may be. The amount so refunded shall be credited to the employer's share of contributions in the member's account in the Fund to the extent of withdrawal granted out of the said share and the balance, if any shall be credited to the member's share of contributions in his account.

(b) In the event of the member no having been allotted a dwelling site/welling house/flat or in the event of the cancellation of allotment made to the member and of the refund of the amount by the agency, referred to in clause (a) of sub-paragraph (1), or in the event of the member not being able to acquire the dwelling site or to purchase the dwelling house/flat from any individual or to constructs the dwelling house, the member shall be liable to refund to the fund in one lump sum and in such manner as may be specified by the Commissioner, or where so authorized by the Commissioner, any officer subordinate to him, the

amount of withdrawal remitted under this paragraph to him or, as the case may be, to the agency referred to in clause (a) of sub-paragraph (1)

The amount so refunded shall be credited to the employer's share of contributions in the member's account in the Fund, to the extent of withdrawal granted out of the said share, and the balance if any shall be credited to the member's own share of contribution in his account.

(10) If the Commissioner, or where so authorized by the Commissioner, any officer subordinate to him is satisfied that the withdrawal granted under this paragraph has been utilized for a purpose other than that for which it was granted or that the member refused to accept an allotment or to acquire a dwelling site or that the conditions of withdrawal have not been fulfilled or that there is reasonable apprehension that they will not be fulfilled wholly or partly; or that the excess amount will not be refunded in terms of clause (a) of sub-paragraph (9) or that the amount remitted back to the member by any agency referred to in clause (a) of sub-paragraph (1), will not be refunded in terms of clause (b) of sub-paragraph (9), the Commissioner, or where so authorized by the Commissioner, any officer subordinate to him, shall forthwith takes steps to recover the amount due with penal interest thereon at the rate of two per cent. Per annum from the wages of the member in such number of installments as the commissioner, or where so authorized by the Commissioner, any officer subordinate to him, may determine. For the purpose of such recovery the Commissioner or where so authorized by the Commissioner, any officer subordinate to him may direct the employer to deduct such installment from the wages of the member and on receipt of such direction, the employer shall deduct accordingly. The amount so deducted, shall be remitted by the employer to the Commissioner, or where so authorize by the Commissioner, any officer subordinate to him within such time and in such manner as may be specified in the direction. The amount so refunded, excluding the penal interest, shall be credited to the employer's share of contributions in the member's account in the Fund to the extent of withdrawal granted out of the said share and the balance if any shall be credited to the member's own share of contribution in his account. The amount of penal interest shall however, be credited to the Interest Suspense Account.

Provided that the recovery of withdrawal under sub-paragraph (10) shall be restricted to cases where the recovery has been ordered by the sanctioning authority while the member is in service.

(11) Where any withdrawal granted under this sub-paragraph has been misused by the member, no further withdrawal shall be granted to him under this paragraph within a period of three years from the date of grant of the said withdrawal or till the full recovery of the amount of the said withdrawal, with penal interest thereon, whichever is later.

68-BB Withdrawal from the Fund for repayment of loans in special cases - (1)(a) The Commissioner, or where so authorized by the Commissioner, any officer subordinate to him, may on an application from a member, sanction from the amount standing to the credit of the member in the Fund, withdrawal for the repayment, wholly or partly, of any outstanding principal and interest of a loan

obtained from a State Government, Co-operative Society, Housing Board, Municipal Corporation or a body similar to the Delhi Development Authority solely for the purposes specified in sub-paragraph (1) of Paragraph 68B.

(b) The amount of withdrawal shall not exceed the member's basic wages and dearness allowance for thirty-six months or his own share of contribution together with the employer's contributions, with interest thereon, in the member's account in the Fund or the amount of outstanding principal and interest of the said loans, whichever is least.

(2) No withdrawal shall be sanctioned under this paragraph unless -

(a) the member has completed ten years membership of the fund and

(b) the member's own share of contribution, with interest thereon, in the amount standing to his credit in the Fund, is one thousand rupees or more ; and

(c) the member produces a certificate or such other documents, as may be prescribed by the Commissioner or where so authorized by the Commissioner, any officer subordinate to him from such agency, indicating the particulars of the member, the loan granted, the outstanding principal and interest of the loan and such other particulars as may be required.

(d) The payment of the withdrawal under this paragraph shall be made direct to such agency on receipt of an authorization from the member in such manner as may be specified by the Commissioner, or where so authorized by the Commissioner, any officer subordinate to him, and in no event the payment shall be made to the member.

68-C ***

68-D ***

68-E Computation of period of membership - In computing the period of membership of the Fund of a member under paragraphs 68B, 68BB and 68K, his total service exclusive of periods of breaks under the same employer or factory/establishments before this scheme applied to him, as well as the periods of his membership, whether of the Fund or of private provident fund of exempted factories/establishments or as an employee exempted under paragraph 27 or 27A as the case may be, immediately preceding the current membership of the Fund, shall be included:

Provided that the member has not served his membership by withdrawal of his provident fund during such period.

68-F ***

68-G ***

68GG ***

68-H Grant of advances in Special cases - (1) In case a factory or other establishment has been looked up or closed down for more than fifteen days and its employee are rendered unemployed without any compensation or in case an employee does not receive his wages for a continuous period of two months or more, these being for reasons other than a strike, the Commissioner or where so authorized by the Commissioner, any officer subordinate to him may on an application from an employee, who is a member of the fund, in such form as may be prescribed, authorize payment to him, one or more non-recoverable advances from his provident fund account not exceeding his own total contributions including interest thereon upto the date the payment has been authorized.

(1A) In case a provident fund member is discharged or dismissed or retrenched by the employer and such discharge or dismissal or retrenchment is challenged by the member and the cases are pending in a Court of Law, an officer not below the rank of Assistant Provident Fund Commissioner may, on an application from the member in such form as may be prescribed, authorise payment to him of one or more non-recoverable advances from his Provident Fund Account not exceeding fifty per cent. of his own share of contribution with interest thereon standing to his credit in the Fund on the date of such authorisation.

(2) (a) In case the factory or other establishment continues to remain locked up or closed down for more than six months, the Commissioner, or where so authorised by the Commissioner any officer subordinated to him, on being satisfied that a member who has already been granted one or more non-recoverable advances from his provident fund account under sub-paragraph (1) still consistence to be unemployed and no compensation is likely to be paid to him at an early date, may, on receipt of an application therefore in such form as may be prescribed in this behalf, authorise payment to the member of one or nor recoverable advances from his provident fund account upto the extent of 100% of the employers' total contribution including interest thereon upto the date on which the payment has been authorized.

Provided that if the factory or establishment in which the member is employed remains closed for more than five years for reasons other than strike, recoverable advance may be converted into non-recoverable advance on receipt of writing from the member concerned.

(b) The advance granted under clause (a) shall be interest-free.

(c) The advance granted under clause (a) shall be recovered by deductions from the wages of the member in such installments subject to a maximum of thirty-six installments as may be determined by the Commissioner or where so authorised by the Commissioner, any officer subordinate to him. The recovery shall commence from the first wages paid to the member immediately after the re-start of the factory or establishment.

(d) The employer shall remit the amount so deducted to the Fund within such time and in such manner as may be specified by the Commissioner, or where so

authorised by the Commissioner, any officer subordinate to him. The amount on receipt shall be credited to the member's account in the Fund.

Explanation: - For the purpose of grant of advances under this paragraph, the establishment may be closed legally, illegally, with permission or without permission so long as the establishment is closed.

68-I ***

68-J Advances from the fund for illness in certain cases - (1) A member may be allowed non-refundable advances from his account in the fund in cases of -

(a) hospitalization lasting for one month or more, or

(b) major surgical operation in a hospital, or

(c) suffering from T.B., leprosy, paralysis, cancer, mental derangement or heart ailment and having been granted leave by his employer for treatment of the said illness.

(2) The advance shall be granted if -

(a) the employer certifies that the Employees' State Insurance Scheme facility and benefits thereunder are not actually available to the member or the member produces a certificate from the Employees' State Insurance Corporation to the effect that he has ceased to be eligible for cash benefits under the Employees' State Insurance Scheme; and

(b) a doctor of the hospital certifies that a surgical operation or, as the case may be, hospitalization for one month or more had or has become necessary or a registered medical practitioner, or in the case of mental derangement or ailment, a specialist certifies that the member is suffering from T.B., leprosy, paralysis, cancer, mental derangement or heart ailment.

(3) A member may be allowed non-refundable advance from his account in the fund for the treatment of a member of his family who has been hospitalized, or requires hospitalization for one month or more -

(a) for a major surgical operation, or

(b) for the treatment of T.B., leprosy, paralysis, cancer, mental derangement or heart ailment;

Provided that no such advance shall be granted to a member unless he has produced -

(i) a certificate from a doctor of the hospital that the patient has been hospitalised or requires hospitalization for one month or more, or that a major surgical

operation had or has become necessary, and

(ii) a certificate from his employer that the Employees' State Insurance Scheme facility and benefits are not available to him for the treatment of the patient.

(4) The amount advanced under this paragraph shall not exceed the member's basic wages and the dearness allowance for six months or his own share of contribution with interest in the Fund, whichever is less.

(5) ***

(6) Where the commissioner or, where so authorised by the commissioner, any officer subordinate to him is not satisfied with the medical certificate furnished by the member under this paragraph, he may, before granting as advance under this paragraph, demand from the member another medical certificate to his satisfaction.

68-K Advance from the Fund for marriages or post matriculation education of children - (1) The commissioner or where so authorised by the Commissioner, an officer subordinate to him, may on application from a member, authorise payment to him or her of a non-refundable advance from his or her provident fund account not exceeding 50% of his or her own share of contribution, with interest thereon, standing to his or her credit in the Fund, on the date of such authorization, for his or her own marriage, the marriage of his or her daughter, son, sister, or brother or for the post-matriculation education of his or her son or daughter.

(2) No advance under this paragraph shall be sanctioned to a member unless -

(a) he has completed seven year's membership of the fund; and

(b) the amount of his own share of contributions with interest thereon standing to his credit in the Fund is rupees one thousand or more.

(3) Not more than three advances shall be admissible to a member under this paragraph.

(4) ***

68-L Grant of advances in abnormal conditions - (1) The Commissioner or where so authorised by the Commissioner, any officer subordinate to him may, on an application from a member whose property, movable or immovable, has been damaged by a calamity of exceptional nature, such as floods, earthquakes or riots, authorise payment to him from the provident fund account a non-refundable advance of Rupees Five thousand of fifty per cent. of his own total contribution including interest there on standing to his credit on the date of such authorization, whichever is less, to meet any unforeseen expenditure;

(2) No advance under sub-paragraph (1) shall be paid unless -

(i) the State Government has declared that the calamity has affected the general public in the area;

(ii) the member produces a certificate from an appropriate authority to the effect that his property movable or immovable has been damaged as a result of the calamity;

(iii) the application for advance is made within a period of four months from the date of declaration referred to in sub-para (i)

68-M Grant of advance to member affected by cut in the supply of electricity - A member may be allowed a non-refundable advance from his account in the fund, if there is cut in the supply of electricity to a factory or establishment in which he is employed on the following conditions, namely: -

(a) The advance may be granted only to a member whose total wages for any one month commencing from the month of January, 1973 were three fourths or less than three-fourths of wages for a month.

(b) The advances shall be restricted to the amount of wages for a month or Rs. 300 or the amount standing to the credit of the member in the Fund as his own share of contribution with interest thereon, whichever is less.

(c) No advances shall be paid unless the State Government certify that the cut in the supply of electricity was enforced in the area in which the factory or establishment is located and the employer certifies that the fall in the member's pay was due to cut in the supply of electricity.

(d) Only one advance shall be admissible under this paragraph.

Explanation - Wages" means, for the purpose of this paragraph, basic wages and dearness allowance excluding lay-off compensation, if any.

68-N Grant of advance to members who are physically handicapped - (1) A member, who is physically handicapped, may be allowed a non-refundable advance from his account in the fund, for purchasing an equipment required to minimize the hardship on account of handicap.

(2) No advance under sub-paragraph (1) shall be paid unless the member produces a medical certificate from a competent medical practitioner to the satisfaction of the Commissioner or such other officer as may be authorised by him in this behalf to the effect that he is physically handicapped.

(3) The amount advanced under this paragraph shall not exceed the member's basic wages and dearness allowance for six month or his own share of contributions with interest thereon or the cost of the equipment, whichever is the least.

(4) No second advance under this paragraph shall not allowed within a period of

three years from the date of payment of an advance allowed under this paragraph.

68-NN Withdrawal within one year before the retirement - The Commissioner, or, where so authorised by the Commissioner, any officer subordinate to him, may, on an application from a member in such form as may be prescribed, permit withdrawal of upto 90 per cent. of the amount standing at his credit at any time after attainment of the age of 54 years by the member or within one year before his actual retirement on superannuation whichever is later.

68-O Payment of withdraw or advance - The payment of withdrawal or advance under paragraph 68-B, 68-H, 68-J, 68-K, 68-L, 68-M, 68-NN of the Scheme may be made, at the option of the member, -

(i) by postal money order, or

(ii) by deposit in the payee's bank account in any Scheduled Bank or in Co-operative Bank (including the Urban Co-operative Bank) or any post office, or

(iii) through the employer

69 Circumstances in which accumulations in the Fund are payable to a member -
(1) A member may withdraw the full amount standing to his credit in the Fund -

(a) on retirement from service after attaining the age of 55 years;

Provided that a member, who has not attained the age of 55 years at the time of termination of his service, shall also be entitled to withdraw the full amount standing to his credit in the Fund if he attains the age of 55 years before the payment is authorised.

(b) on retirement on account of permanent and total incapacity for work due to bodily or mental infirmity duly certified by the medical officer of the establishment, or where an establishment has no regular medical officer, by a registered medical practitioner designated by the establishment;

(c) immediately before migration from India for permanent settlement abroad or for taking employment abroad;

(d) on termination of service in the case of mass or individual retrenchment;

(dd) on termination of service under a voluntary scheme of retirement framed by the employer and the employees under a mutual agreement specifying, inter alia, that notwithstanding the provisions contained in sub-clause (a) of clause (oo) of section 2 of the Industrial Dispute Act, 1937, excluding voluntary retirements from the scope of definition of "retrenchment" such voluntary retirements shall for purpose be treated as retrenchments by mutual consent of the parties;

(e) in any of the following contingencies, provided the actual payment shall be made only after completing a continuous period of not less than two months

immediately preceding the date on which a member makes the application for withdrawal :-

(i) where a factory or other establishment is closed but certain employees who are not retrenched, are transferred by the employer to other factory or establishments not covered under the Act;

(ii) where a member is transferred from a covered factory or other establishment to another factory or other establishment not covered under the Act, but is under the same employer; and

(iii) where a member is discharged and is given retrenchment compensation under the Industrial Disputes Act, 1947 (14 of 1947) or;

(f) ***

(1-A) For the purpose of clause (b) of sub-paragraph (1) -

(i) Where an establishment has been closed, the certificate of any registered medical practitioner may be accepted;

(ii) where there is no medical officer in the establishments the employer shall designate a register medical practitioner stationed in the vicinity of the establishments ; or

(iii) where the establishment is covered by the Employees' State Insurance Scheme, medical certificate from a medical officer of the Employees' State Insurance Dispensary with which or from the Insurance Medical Practitioner with whom the employee is registered under that Scheme, shall be produced;

Provided that where by mutual agreement of employers and employees, a Medical Board exists for any establishment or a group of establishments, a certificate issued by such Medical Board may also be accepted for the purpose of this paragraph;

Provided further that it shall be open to the Regional Commissioner to demand from the member a fresh certificate from a Civil Surgeon or any doctor acting on his behalf where the original certificate produced by him gives rise to suspicion regarding its genuineness;

Provided further that the entire fee of the Civil Surgeon or any doctor acting in his behalf shall be paid from the Fund in case the findings of the Civil Surgeon or any doctor acting on his behalf agree with the original certificate, and that where such findings do not agree with the original

certificate, only half of the fee shall be paid from the Fund and remaining half shall be debited to the member's account.

(iv) A member suffering from tuberculosis or leprosy or cancer, even if contracted after leaving the service of an establishment on grounds of illness buy before

payment has been authorised, shall be deemed to have been permanently and totally incapacitated for work.

(2) In case other than those specified in sub-paragraph(1), the Central Board, or where so authorised by the Central Board, the Commissioner, or where so authorised by the Commissioner, any officer subordinate to him, may permit a member to withdraw the full amount standing to his credit in the fund on ceasing to be an employee in any establishment to which the Act applies provided that he has not been employed in any factory or other establishment to which the Act applies for a continuous period of not less than two months immediately proceeding the date on which he makes an application for withdrawal. The requirement of two months waiting period shall not, however, apply in cases of female members resigning from the services of the establishment for the purpose of getting married.

(3) ***

(4) ***

(5) Any member who withdraws the amount due to him under sub-paragraph (2) shall, on obtaining re-employment in a factory or other establishment, to which the Scheme applies, be required to qualify again for the membership of the Fund and on qualifying for membership shall be treated as a fresh member thereof.

(6) ***

70 Accumulations of a deceased member to whom payable - On the death of a member before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made -

(i) if a nomination made by the member in accordance with paragraph 61 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to this nominee or nominees in accordance with such nomination; or

(ii) if no nomination subsist 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 his 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;

If there is any member of the family other than those specified in clause (a), (b),

(c), (d):

Provided further that the widow or 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 the 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 clauses (i) and (ii) do not apply the whole amount shall be payable to the person legally entitled to it.

Explanation - For the purpose of this paragraph a member's posthumous child, if born alive, shall be treated in the same way as a surviving child born before the member's death.

70-A Payment of provident fund accumulations in the case of a person charged with the offence of murder - (1) If a person, who in the event of the death of a member of the fund is eligible to receive provident fund accumulations of the deceased member under paragraph 70, is charged with the offence of murdering the member or abetting in the commission of such an offence, his claim to receive the share of provident fund shall remain suspended till the conclusion of the criminal proceedings initiated against him for such offence.

(2) If on the conclusion of the criminal proceedings referred to in sub-paragraph (1), the person concerned is, -

(a) convicted for the murder or abetting the murder of the member, he shall be debarred from receiving the share of provident fund accumulations which shall be payable to other eligible members, if any, of the deceased member; or

(b) acquitted of the murdering or abetting the murder of the member, his share of provident fund shall be payable to him.

71 ***

72 Payment of Provident Fund - (1) When the amount standing to the credit of a member, becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in this scheme. In case there is no nominee in accordance with this Scheme, or there is no person entitled to receive such amount under sub-paragraph (ii) of paragraph 70 the Commissioner may if the amount to the credit of the Fund does not exceed Rs. 10,000/- and if satisfied after enquiry about the title of the claimant, pay such amount to the claimant.

(2) If any portion of the amount, which has become payable, is in dispute or doubt, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon as may be possible

(3) If the person to whom any amount is to be paid under this Scheme is a minor for whose estate a guardian under the Guardians and Wards Act, 1890 (8 of 1890), has been appointed the payment shall be made to such guardian. Where no guardian under the Guardians and Wards Act, 1890 (8 of 1890), has been appointed the payment shall be made to the guardian, if any, appointed under sub-paragraph (4A) of paragraph 61 has been appointed, the payment shall be made to the natural guardian and in the absence of a natural guardian, to such person as the commissioner, where the amount does not exceed Rupees 20,000 or the Chairman of the Central Board, if the amount exceeds rupees 20,000, considers to be the proper person representing the minor and the receipt of such person for the amount paid shall be a sufficient discharge thereof.

(3A) If the person to whom any amount is to be paid under this Scheme is a lunatic for whose estate a manager under the Indian Lunacy Act, 1912 has been appointed, the payment shall be made to such manager. If no such manager has been appointed, the payment shall be made to the natural guardian of the lunatic and in the absence of any such natural guardian, to such person as the commissioner, where the amount does not exceed Rupees 20,000 or the Chairmen of the Central Board, if the amount exceeds Rupees 20,000 considers to be the proper person representing the lunatics and the receipt of such person for the amount paid shall be sufficient discharge thereof.

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member he shall retain the amount, which will be due to the child in the event of its being born alive, and distribute the balance. If subsequently no child is born or the child is stillborn, the amount retained shall be distributed in accordance with the provisions of paragraph 70.

(5) (a) Every employer shall, at the time when a member of the Fund leaves the service, be required to get the claim application, for payment of provident fund in cases specified in clauses (a) to (dd) of sub-paragraph (1), of paragraph 69, duly filled in attested, and to forward the said application within five days of its receipt to the Commissioner or any other officer authorized by him in this behalf.

(b) Every employer shall, at the time when a member of the fund leaves the service, be required to get the claim application, for payment of provident fund in cases specified in clause (e) of sub-paragraph (1) and in sub-paragraph (2) of paragraph 69, duly filled in and attested, and to give the said application to the member, for submission, on completion of the period specified in sub-paragraph (2) of paragraph 69, provided the member continues to remain unemployed in a factory or other establishment to which the Act applies either through post or in person with proper identification, to the Commissioner or any other officer authorized by him in this behalf.

(c) Every employer shall, on the death of the member and on receipt of an application for receiving the amount standing to their credit of such member, forward forthwith but not later than five days of its receipt the said application to the Commissioner or any other officer authorized by him in this behalf.

(d) If the applicant is unable to send the claim application through the employer or duly attested by him, for any reason whatsoever, he may forward it to the Commissioner or any other officer authorized by him in this behalf, may forward

such application to the employer and the employer shall be required to return it within five days of its receipt.

(e) The payment may be made, in option of the person to whom payment is to be made, (i) by postal money order, or (ii) by deposit in the payee's bank account in any schedule bank or nay co-operative bank including the urban co-operative banks or any post office or (iii) by deposit in the payee's name the whole or part of the amount in the form of annuity term deposits scheme in any Nationalised Bank, or (iv) through the employer.

Provided that where the provident fund amount payable by postal money order exceeds Rs.500, it shall be remitted at the cost of the payee.

(6) Any amount becoming due to a member as a result of (i) supplementary contribution from the employer in respect of leave wage/arrears of pay, installment of arrear contribution received in respect of a member whose claim has been settled on account but which could not be remitted for want of latest address, or (ii) accumulation in respect of any member who has either ceased to be employed or died, but no claim has preferred within a period of three years from the date it becomes payable, or if any amount remitted to a person, is received back undelivered, and is not claimed again within a period of three years form the date it becomes payable, shall be transferred to an account to be called the 'Unclaimed Deposits Account'; Provided that in the case of a claim for the payment of the said balance, the amount shall be paid by debiting the 'Unclaimed Deposits Account'.

(7) The claims, complete in all respects submitted along with the requisite documents shall be settled and benefit amount paid to the beneficiaries within 30 days from the date of its receipt by the Commissioner. If there is any deficiency in the claim, the claim, the same shall be recorded in writing and communicated to the applicant within 30 days form the date of receipt of such application. In case the Commissioner fails without sufficient cause to settle a claim complete in all respects within 30 days, the Commissioner shall be liable for the delay beyond the said period and penal interest at the rate of twelve per cent. Per annum may be charged on the benefit amount and the same may be deducted from the salary of the Commissioner.

73. Annual statement of member's Account - (1) As soon as possible after the close of each period of currency of contribution card the Commissioner shall send to each member through the employer of the factory or other establishments in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.

(2) Members should satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

CHAPTER IX - MISCELLANEOUS

76 Punishment for failure to pay contribution, etc. - If any person -

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

(b) fails or refuses to submit any return, statement or other documents required by this Scheme or submits a false return, statement or other document, or makes a false declaration, or

(c) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties or fails to produce any record for inspection by such Inspector or other official, or

(d) is guilty of contravention of non-compliance with any other requirement of this Scheme.

he shall be punishable with imprisonment which may extend to one year or with fine which may extend to four thousand rupees, or with both.

CHAPTER X

80 Special provisions in the case of newspaper establishments and newspaper employees - The Scheme shall, in its application to newspaper establishment and newspaper employees, as defined in section 2 of the Working Journalists (conditions of Service and Miscellaneous Provisions) Act, 1955, come into force on the 31st day of December, 1956 and be subject to the modifications mentioned below: -

1. In Chapters I to IX references to 'Industry', 'factories' and 'employees' shall be construed as references to 'newspaper industry', 'newspaper establishments' and 'newspaper employees' respectively;

2. "(f) ' excluded employee' means,

(i) an employee who, having been a member of the Fund, has withdrawn the full amount of his accumulations in the Fund under clause (a) or (c) of sub-paragraph (1) of paragraph 69;

(ii) an apprentice

Explanation - 'Apprentice means a person who, according to the standing orders applicable to the newspaper establishment concerned, is an apprentice or who is declared to be an apprentice by the authority specified in this behalf by the appropriate Government.

3. For para 26, the following shall be substituted, namely: -

"26 Class of employees entitled and required to join the Fund - (1)(a) Every newspaper employee employed to do any work in, or in relation to, any newspaper establishment to which this Scheme applies, other than an excluded employee, shall be entitled and required to become a member of the Fund from the beginning of the month following that in which this paragraph comes into force in such establishment, if on the date of such coming into force he has completed three months continuous service or has actually worked for not less than 60 days during a period of three months or less in that newspaper establishment or in other such establishment to which the Act applies under the same employer or partly in one and partly in the other or has been declared permanent in any such newspaper establishment, whichever is the earliest.

(b) Every newspaper employee employed to do any work in, or in relation to, any newspaper establishment, to which this Scheme applies other than an excluded employee, shall be entitled and required to become a member of the Fund from the beginning of the month following that in which this paragraph comes into force in such newspaper establishment, if on the date of such coming into force, such employee is a subscriber to a provident fund maintained in respect of the establishment or in respect of another establishment to which the Act applies under the same employer.

(2) Where the Scheme applies to a newspaper establishment on the expiry of the cancellation of an order of exemption under section 17 of the Act, every employee, who, but for the exemption, would have become and continued as a member of the Fund shall become a member of the Fund forthwith.

(3) After this paragraph comes into force in a newspaper establishment, every newspaper employee thereof other than excluded employee, who has not become a member already shall also be entitled and required to become a member from the beginning of the month following that in which he completes three months continuous service or has actually worked for not less than 60 days during a period of three months or less, in that establishment to which the Act applies or in another such establishment under the same employer or party in one and partly in the other or has been declared permanent in any such newspaper establishment, whichever is the earliest.

(4) An excluded employee referred to in clause (ii) of paragraph 2 (f) of a newspaper establishment to which this Scheme applies shall, on ceasing to be such an employee be entitled and required to become a member of the Fund from the beginning of the month following that in which he ceases to be such employee, provided that on the date in which he ceases to be an excluded employee, he has completed three months' continuous service or has actually worked for not less than 60 days during a period of three months or less, in the newspaper establishment or in another such establishment to which the Act applies under the same employer or partly in one and partly in the or has been declared permanent in any such newspaper establishment, whichever is the earliest.

(5) On re-election of a class of newspaper employees exempted under paragraph 27-A to join the Fund or on the expiry of cancellation of an order under that paragraph, every newspaper employee, who but for such exemption would have become and continued as a member of the Fund, shall forthwith become a member thereof.

(6) Every newspaper employee who is a member of a private provident fund maintained in respect of an exempted newspaper establishment and who, but for the exemption would have become and continued as a member of the Fund shall, on joining a newspaper establishment to which this Scheme applies, become a member of the Fund forthwith.

(7) Notwithstanding the other provisions of this paragraph, a Commissioner may, on a joint request in writing of any newspaper employee of a newspaper establishment to which this Scheme applies and his employer, enroll such employee as a member who shall, thereafter, be entitled to the benefits and shall be subject to the conditions of the Fund.

Provided that the employer gives an undertaking, in writing, that he shall pay the administrative charge payable and comply with statutory provisions of the Act and this Scheme in respect of such employee.

81. Special provisions in the case of Cine-Workers - The Scheme shall, in its application to Cine-Workers as defined in clause (c) of section 2 of the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981, be subject to the following modifications, namely :-

(1) References to 'industry' and 'employees' shall be construed as references to 'film production' and 'cine-workers', respectively.

(2) for sub-paragraph (f) of paragraph 2, the following sub-paragraph shall be substituted, namely :-

"(f) 'excluded employee' means :-

(i) a cine-worker, who having been a member of the Fund, has withdrawn the full amount of his accumulations, in the Fund under clause (a) or clause (c) of sub-paragraph (1) of paragraph 69;

(ii) a 'cine-worker', whose wages at the time he is otherwise entitled to become a member of the Fund exceeds one thousand and six hundred rupees per month and where such remuneration is by way of lump sum exceeding fifteen thousand rupees.

Explanation - 'Wages' means 'wages' as defined in clause (k) of section 2 of the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (50 of 1981): ;

(3) For paragraph 26, the following paragraph shall be substituted, namely; -

"26 Class of employees entitled and required to join the Fund - (1)(a) Every cine-worker to whom this Scheme applies, other than an excluded employee, shall be entitled and required to become a member of the Fund from the beginning of the month following that in which this paragraph comes into force, if on the date of such coming into force he had worked in not less than three feature films with one or more producers.

Explanation - 'Feature film' means 'feature film' as defined in clause (f) of section 2 of the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (50 of 1981).

(b) Every cine-worker employed to do any work in, or in relation to, any feature film in a film production unit to which this Scheme applies, other than an excluded employee, shall be entitled and required to become a member of the Fund from the beginning of the month following that in which this paragraph comes into force in such film production unit, if on the date of such coming into force, such employee is a subscriber to a provident fund maintained in respect of the establishment or in respect of another establishment under the same employer.

(2) Where the Scheme applies to a film production unit on the expiry or cancellation of an order of exemption under section 17 of the Act, every cine-worker, who, but for the exemption, would have become and continued as a member of the Fund shall become a member of the Fund forthwith.

(3) After this paragraph comes into force in a film production unit, every cine-worker thereof, other than excluded employee, who has not become a member already shall also be entitled and required to become a member from the beginning of the month following that in which he completes three feature films in that production unit or in another such unit (to which the Act applies) under the same producer or partly in one and partly in the other.

(4) An excluded employee referred to in clause (ii) of paragraph 2 (f) of a film production unit to which this Scheme applies shall, on ceasing to be such an employee be entitled and required to become a member of the Fund from the beginning of the month following that on which he ceases to be such employee, provided that on the date in which he ceases to be an excluded employee, he had worked in not less than three feature films in that production unit to which the Act applies under the same producer or partly in one and partly in the other.

(5) On re-election of a class of cine-worker exempted under paragraph 27-A to join the Fund or on the expiry of cancellation of an order under that paragraph, every cine-worker, who for such exemption would have become and continued as a member of the Fund, shall forthwith become a member thereof.

(6) Every cine-worker who is a member of a private Provident Fund maintained in respect of an exempted film production unit and who, but for the exemption, would have become and continued as a member of the Fund shall, on joining a film

production unit to which this Scheme applies, become a member of the Fund forthwith.

(7) Notwithstanding the other provisions of this paragraph, a Commissioner may, on a joint request in writing of any cine-worker of a film production unit to which this Scheme applies and his producer, enroll such cine-worker as a member who shall, thereafter, be entitled to the benefits and shall be subject to the conditions of the Fund.

Provided that the producer gives an undertaking, in writing, that he shall pay the administrative charge payable and comply with statutory provisions of the Act and this Scheme in respect of such cine-worker.

26-A Retention of membership - A member of the Fund shall continue to be a member until he withdraws under paragraph 69 the amount standing to his credit in the Fund or is covered by a notification of exemption under section 17 of the Act or an order of exemption under paragraph 27 or 27A.

Explanation - In the case of a claim for refund by a member under sub-paragraph (2) of paragraph 69, the membership of the fund shall be deemed to have been terminated from the date the payment is authorized to him by the authority specified in this behalf by the Commissioner irrespective of the date of claim.

26-B Resolution of doubts - If any question arises as to whether a cine-worker is entitled or required to become or continue as member or as to the date from which he is entitled or required to become a member, the decision thereon of the Regional Commissioner shall be final.

Provided that no decision shall be given unless both the film producer and the cine-worker have been given an opportunity of being heard."