

ASSAM ACT X OF 1955

THE ASSAM TEA PLANTATIONS PROVIDENT
FUND SCHEME ACT, 1955

(Passed by the Assembly)

(Received the assent of the President on the 5th June 1955)

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An

Act

to make provision for the framing of a Compulsory Provident Fund Scheme for
Labourers including artisans employed in Tea Plantations in Assam

Preamble.—WHEREAS it is expedient to make provision for the framing of a Compulsory Provident Fund Scheme for Labourers employed in Tea Plantations in Assam ;

It is hereby enacted in the Sixth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Assam Tea Plantations Provident Fund Scheme Act, 1955.

(2) It extends to the whole of Assam.

(3) It shall come into force at once

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

(a) "Adult" means a person who has completed his sixteenth year of age ;

(b) "Contribution" means the deduction from the wages of a labourer for deposit to the fund and the amount payable by the employer in respect of each labourer to the Fund under the Scheme ;

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

(d) "Fund" means the fund established under the Scheme ;

(e) "Labourer" means any adult person residing in a Plantation who is employed in any kind of work, manual or otherwise, in connection with a Plantation and who gets his wages, directly or indirectly from the employers, and includes artisans but does not include a member of the clerical, medical or similar staff ;

(f) "member" means a member of the fund ;

(g) "plantation" means any tea plantation with an area of not less than 25 acres under tea where twenty or more labourers are employed or were employed on any day of the twelve months preceding the inforcement of the Scheme, and all tea gardens whose crop basis under the Tea Act, 1953 (Act XXIX of 1953), is more than 456 lbs. per acre ;

(h) "scheme" means the Assam Tea Plantations Provident Fund Scheme, framed under section 3(1).

3. Compulsory Provident Fund Scheme.—(1) The State Government may, by notification in the official Gazette, frame a Scheme to be called the Assam Tea Plantations Provident Fund Scheme for the establishment of provident fund for the adult labourers residing and employed in plantations and specify the plantations to which the same shall apply.

[Price annas 2 or 2 d.]

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

(3) The contribution which shall be paid by the employer to the Fund shall be six and a quarter per cent. of the basic wages and the dearness allowance for the time being payable to each of the employees, and the employees contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires and if the Scheme make provision therefor, be an amount not exceeding eight and one-third per cent. of his basic wages and dearness allowance:

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

Explanation.—For the purposes of this sub-section, dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

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

5. Modification of the Scheme.—The State Government may, by notification in the official Gazette, add to, amend or vary a Scheme framed under this Act.

6. Protection against attachment.—(1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the member and neither the official Assignee nor any Receiver appointed under the Provincial Insolvency Act, 1920 (Act V of 1920) shall be entitled to, or have any claim on any such amount.

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

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

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

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

Provided that any person acting in good faith shall not be so liable and shall be immune from penalty.

(3) No Court shall take cognizance of any offence punishable under any such Scheme except on a report in writing of the facts constituting the offence made by an Inspector with the previous sanction of such authority as may be specified in this behalf by the State Government,

8. **Employer not to reduce wages.**—No employer shall, by reason only of his liability for any contribution payable under this Act, reduce, whether directly or indirectly, the wages of any employee, or, except as provided by any Scheme, discontinue or reduce any benefit (similar to any benefit conferred by this Act or by any Scheme) to which the employee is entitled under the terms of his employment.

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

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

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

(b) at any reasonable time, after sunrise and before sunset enter any plantation or its office and require any one in charge thereof to produce before him such accounts, books, registers and other documents relating to the Scheme and employment of persons in the plantation as he may consider necessary ;

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

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

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

10. **Priority of payment of contribution over other debts.**—The amount due in respect of any contribution under a Scheme or any charges incurred in respect of the administration of any such Scheme, shall, where the liability therefor has accrued before the person has been adjudicated an insolvent or in the case of a Company ordered to be wound up before the date of such order, be deemed to be included among the debt which, under section 61 of the Provincial Insolvency Act, 1920 (Act V of 1920) or section 230 of the Indian Companies Act, 1913 (Act VII of 1913) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the Company being wound up as the case may be.

11. **Responsibility of collection of contribution.**—Every employer shall be responsible for collection of the contributions, their remittances in accordance with the provisions of the Scheme and maintenance of necessary records in respect of the members of his tea estates and shall bear the cost thereof.

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

13. **Protection for acts done in good faith.**—No suit or other legal proceeding shall lie against an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or under the Scheme.

THE SCHEDULE

(See Section 3)

MATTERS TO BE PROVIDED FOR IN THE SCHEME

1. (a) The Constitution of a Board of Trustees with four nominees of Government of whom one shall be the Chairman, (ii) Three representatives of the employers and three representatives of labourers.

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

2. The appointment of officers and servants of the Board and the opening of regional and other offices.

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

4. The conditions under which withdrawals from the Fund may be permitted or any deduction may be made.

5. (a) The manner of investment of any portion of the Fund in Government Securities by the Board of Trustees and the proportion of the interest accruing from such investment to be allotted to the members after deduction of the cost of administration of the Fund.

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

6. The form in which an employee shall furnish particulars about himself and his family when required.

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

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

9. The form or design of an identity card or badge or disc for purposes of identifying the employee and for the issue, custody and the replacement thereof.

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