

- 1[(ci) as respects the establishments engaged in rendering—
- (i) courier services,
 - (ii) aircraft or airlines other than the aircrafts or airlines owned or controlled by the Central or State Government, and
 - (iii) cleaning and sweeping services, specified in the notification of Government of India in the Ministry of Labour, No. S.O. 746, dated 22-3-2001, published in Part II, Section 3, sub-section (ii) of the Gazette of India dated 7th April, 2001, come into force with effect from 1st April, 2001.]
- 2[(cii) with respect to the establishment engaged in Railways for construction maintenance, operation and commercial activities of Railways, excluding Indian Railways exclusively managed by Government of India whose employees are in enjoyment of the Provident Fund Pension and other retiral benefits under the rules made by the Central Government; specified in notification of the Government of India in the Ministry of Labour and Employment, GSR 401, dated 10.11.2005 published in Part I of Section 3, sub-section (i) of the Gazette of India dated 19.11.2005 comes into force from the date of publication.]

2. Definitions:—In this Scheme, unless the context otherwise requires:—

- (a) "Act" means the Employees' ³[Provident Funds and Family Pension Fund Act], 1952 (19 of 1952);
- ⁴***] (c) "Children" means legitimate children and includes adopted children if the Commissioner is satisfied that under the personal law of the Member adoption of a child is legally recognised;
- ⁵[(d) "Commissioner" means a Commissioner for Employees' Provident Fund appointed under section 5D of the Act and includes a Deputy Provident Fund Commissioner and a Regional Provident Fund Commissioner;]
- (e) "continuous service" means uninterrupted service and includes service which is interrupted by sickness, accident, authorised leave, strike which is not illegal, or cessation of work not due to the employee's fault;
- (f) "excluded employee" means—
 - ⁶[(i) an employee who, having been a Member of the Fund, withdrew the full amount of his accumulations in the Fund under ⁷[clause (a) or (c) of] sub-paragraph (1) of paragraph 69;]

1 Ins. by Notification NO. S-35016/1/1997-SS. II dated 22nd July, 2002.
 2 Ins. by the EPF (Amendment) Scheme, 2004 vide Notification No. SO 45 (E), dated 17.1.2006 (w.e.f. 17.1.2006).
 3 Subs. by G. S.R. 320, dated 16th February, 1972 (w.e.f. 13-2-1971).
 4 Clause (b) deleted by G. S.R. 1854, dated 28th November, 1963 (30-11-1963).
 5 Subs. by G.S.R. 1845, dated 28th November, 1963.
 6 Subs. by S.R.O. 1845, dated 28th November, 1963 (w.e.f. 30-11-1963).
 7 Ins. by G. S.R. 1122, dated 19th September, 1960 (w.e.f. 24-9-1960).

1[(ii) an employee whose pay at the time he is otherwise entitled to become a Member of the Fund, exceeds ²[six thousand and five hundred rupees] per month;

Explanation:—Pay includes basic wages with ³[dearness allowance, retaining allowance (if any) and cash value of food concessions] admissible thereon;]

⁴***];

⁵[(iv) an apprentice.

Explanation:—An apprentice means a person who, according to the certified standing orders applicable to the factory or establishment, is an apprentice, or who is declared to be an apprentice by the authority specified in this behalf by the appropriate Government;]

(g) "family" means—

(i) ⁶[in the case of a male Member, his wife, his children, whether married or unmarried, his dependant parents and his deceased son's widow and children:]

Provided that if a Member proves that his wife has ceased, under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance she shall no longer be deemed to be a part of the Member's family for the purpose of this Scheme, unless the Member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded; and

(ii) ⁷[in the case of a female Member, her husband, her children, whether married or unmarried, her dependant parents, her husband's dependant parents and her deceased son's widow and children :]

Provided that if a Member by notice in writing to the Commissioner expresses her desire to exclude her husband from the family, the husband and his dependant parents shall no longer be deemed to be a part of the Member's family for the purpose of this Scheme, unless the Member subsequently cancels in writing any such notice.

Explanation:—In either of the above two cases, if the child of a Member ⁸[or, as the case may be, the child of a deceased son of the Member] has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised, such a child shall be considered as excluded from the family of the Member;

(h) "financial year" means the year commencing on the first day of April;

(i) "Government security" shall have the meaning assigned to it in the Public Debts Act, 1944 (18 of 1944);

(j) "Inspector" means a person appointed as such under section 13 of the Act;

1 Subs. by S.R.O. 1337, dated 16th April, 1957 (w.e.f. 31-5-1957).
 2 Subs. by E.P.F. (Amendment) Scheme, 2001 dated 4th May, 2001 (w.e.f. 1-6-2001).
 3 Added by G. S.R. 201, dated 8th February, 1961 (w.e.f. 31-12-1960).
 4 Sub-clause (ii) and Explanation thereto omitted by G. S.R. 1467, dated 2nd December, 1960.
 5 Subs. by S.R.O. 331, dated 15th January, 1958, for clauses (iv) and (v).
 6 Subs. by G. S.R. 351, dated 3rd March 1966.
 7 Subs. by G. S.R. 351, dated 3rd March 1966.
 8 Subs. by G. S.R. 351, dated 3rd March 1966.

employee is a subscriber to a provident fund maintained in respect of the factory or other establishment or in respect of any other factory or establishment (to which the Act applies) under the same employer:

Provided that where the Scheme applies to a factory or other establishment on the expiry or 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.

(2) After this paragraph comes into force in a factory or other establishment, every employee employed in or in connection with the work of that factory or establishment, other than an excluded employee, who has not become a Member already shall also be entitled and required to become a Member of the Fund from the date of joining the factory or establishment.

(3) An excluded employee employed in or in connection with the work of a factory or other 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 date he ceased to be such employee.

(4) On re-election of an employee or a class of employees exempted under paragraph 27 or paragraph 27A to join the fund or on the expiry or cancellation of an order under that paragraph, every employee shall forthwith become a Member thereof.

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

(6) Notwithstanding anything contained in this paragraph, an officer not below the rank of an Assistant Provident Fund Commissioner may, on the joint request in writing of any employee of a factory or other establishment to which this Scheme applies and his employer, enrol such employee as a Member or allow him to contribute more than ¹[six thousand and five hundred rupees] of his pay per month if he is already a Member of the fund and thereupon such employee shall 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 charges payable and shall comply with all statutory provisions in respect of such employee.]

26A. Retention of Membership:-(1) A Member of the Fund shall continue to be 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 paragraph 27A.

Explanation:-In the case of 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 authorised to him by the authority specified in this behalf by the Commissioner irrespective of the date of claim.

(2) Every Member employed as an employee other than an excluded employee in a factory or other establishment to which this Scheme applies shall contribute to the Fund, and the contribution shall be payable to the Fund in

¹ Subs. by G.S.R. 326 (E), dt. 4.5.2001 (w.e.f. 1-6-2001).

respect of him by the employer. Such contribution shall be in accordance with the rate specified in paragraph 29:

Provided that subject to the provisions contained in sub-paragraph (6) of paragraph 26 ¹[in paragraph 27] or sub-paragraph (1) of paragraph 27A, where the monthly pay of such a Member exceeds ²[six thousand and five hundred rupees] the contribution payable by him, and in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of ³[six thousand and five hundred rupees] including ⁴[dearness allowance, retaining allowance (if any) and cash value of food concession.]]

⁵[26B. Resolution of doubts:-If any question arises whether an employee is entitled or required to become or continue as a Member, or as regards the date from which he is so entitled or required to become a Member, the decision, thereon of the Regional Commissioner ⁶[***] shall be final:

Provided that no decision shall be given unless both the employer and the employee have been heard.]

⁷[27. Exemption of an employee:-(1) 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 benefit in the nature of a Provident Fund, gratuity or old age pension according to the rules of the factory or their establishment and such benefits separately or jointly are on the whole not less favourable than the benefits provided under the Act and the 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.]

⁸[27A. Exemption of a class of employees:-(1) ⁹[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 ¹⁰[factory

¹ Subs. by G. S.R. 1522, dated 16th December, 1960 for certain words.

² Subs. by G.S.R. 326 (E), dt. 4.5.2001 (w.e.f. 1-6-2001).

³ Subs. by G.S.R. 326 (E), dt. 4.5.2001 (w.e.f. 1-6-2001).

⁴ Subs. By G.S.R. 201, dated 8th February, 1961 (w.e.f. 31-12-1960).

⁵ Ins. by G.S.R. 584, dated 11th May, 1959.

⁶ Omitted by G. S.R. 1845, dated 28th November, 1963 (w.e.f. 30-11-1963).

⁷ Subs. by G. S.R. 852, dated 6th May, 1962.

⁸ Ins. by G. S.R. 2035, dated 28th October, 1953.

⁹ Subs. by G. S.R. 1286, dated 13th October, 1961.

¹⁰ Subs. by S.R.O. 1363, dated 26th April, 1957.