

Employee State Insurance Act 1948

Employees' State Insurance (abbreviated as ESI) is a self-financing social security and health insurance scheme for Indian workers. The fund is managed by the Employees' State Insurance Corporation (ESIC) according to rules and regulations stipulated in the ESI Act 1948. ESIC is a Statutory and an Autonomous Body under the Ministry of Labour and Employment, Government of India.

Constitution of Corporation

The composition of the ESIC is defined in Section 4, and it is as follows:

- The Director-General.
- Chairman, appointed by the Central Government.
- Vice-Chairman appointed by the Central Government.
- Not more than 5 persons nominated by the Central Government.
- 1 person to represent each state.
- 1 person representing the Union Territories.
- 10 persons representing employers.
- 10 persons representing employees.
- 2 persons representing the medical profession.
- 3 members of parliament (2: Lok Sabha and 1: Rajya Sabha).

Application and scope of the Act

The Employees' State Insurance Act, 1948 (ESI), enables the financial backing and support to the working class in times of medical distress such as:

- Sickness
- Maternity Leave.
- Disorders (mental or physical).
- Disability
- Death

Benefits

- Medical benefit
- Sickness benefit
- Maternity benefit
- Disablement benefit
- Dependants benefit
- Funeral expenses
- Rehabilitation allowance

For all employees earning ₹21,000 or less per month as wages, the employer contributes 3.25% and the employee contributes 0.75%, total share 4%. This fund is managed by the ESI Corporation (ESIC) according to rules and regulations stipulated there in the ESI Act 1948, which oversees the provision of medical and cash benefits to the employees and their family. ESI scheme is a type of social security scheme for employees in the organised sector.

The employees registered under the scheme are entitled to medical treatment for themselves and their dependents, unemployment cash benefit in certain contingencies and maternity benefit in case of women employees. In case of employment-related disablement or death, there is provision for a disablement benefit and a family pension respectively. Outpatient medical facilities are available in 1418 ESI dispensaries and through 1,678 registered medical practitioners. Inpatient care is available in 145 ESI hospitals and 42 hospital annexes with a total of 19,387 beds. In addition, several state government hospitals also have beds for the exclusive use of ESI Beneficiaries. Cash benefits can be availed in any of 830 ESI centres throughout India.

Recent years have seen an increasing role of information technology in ESI, with the introduction of Pehchan smart cards as a part of Project Panchdeep.] In addition to insured workers, poor families eligible under the Rashtriya Swasthya Bima Yojana can also avail facilities in ESI hospitals and dispensaries. ESI Corporation also runs medical, nursing and paramedical schools in some ESI hospitals across India.

New Amendment

The Employees' State Insurance Corporation (ESIC) raised the monthly wage limit to Rs. 21,000 from the existing Rs. 15,000, for coverage with effect from 1 January 2017. The rate of contribution was reduced from 6.5% to 4% (employer's share 3.25% and employee's share 0.75%) effective from 1 July 2019.

Constitutionality of the Act

The ESI Act serves as a constitutional instrument because of its practice of providing insurance and medical insurance. While the ESI Act is mostly executed through the ESI Corporation, the Central Government takes control of most of the proceedings.

This control by the Central Government largely contributes to the constitutionality of the Act, because Insurance, be it public or private, is listed in the Seventh Schedule of the Indian Constitution as a Union List subject i.e., it can only be legislated by the Central Government.

Term of office of members of the Corporation

Via Section 5, the following members are appointed for up to a 4 year period:

- Director-General.
- Chairman
- Vice-Chairman.
- The 5 people nominated by Central Government.
- The members representing each state.
- The members representing each Union Territory.

Supersession of the Corporation and Standing Committee

The supersession of the Corporation and the Standing Committee occurs when there is a persistent failure to perform the duties prescribed to both parties. In such a case, the Central Government, via a notification in the Official Gazette, can take the place of the corporation, or with the consultation of the corporation, can take the place of the Standing Committee.

The supersession of the corporation will take place by rendering all of the seats of the corporation, previously occupied by the members, as vacant.

In the case of the Standing Committee, a new one shall be constituted immediately as per Section 8 of the ESI Act.

Duties of the Medical Benefit Council

The Medical Council's functions are as follows:

- Advise the other two ESIC bodies on matters relating to the implementation that would be beneficial in the medical field. It acquires certification for the grant of medical benefits.
- Investigate against complaints lodged against medical practitioners with relevance to the medical relief offered.

Employees' State Insurance Fund

The Employees' State Insurance Fund is the primary monetary source for the ESIC to perform its functions. All contributions paid under this Act and all other money received on behalf of the Corporation shall be paid into this fund to be held and administered by the Corporation.

These could be in the form of grants, donations or gifts by the government.

Expenses of the fund

The ESI Fund is responsible for maintaining the expenses of ESIC, which are as follows:

- Payment of benefits and provision of medical treatment and attendance to insured persons and their families, if required.
- Payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical Benefit Councils.
- Payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, etc.
- Establishment and maintenance of hospitals, dispensaries, and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and their families, if required.
- Payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and their families, if required.

Contributions

All employees to be insured

All employees employed in the factories which meet ESIC prescribed rules (under Section 2) are insured for all the benefits offered by it.

Contribution

- The contribution is a determinable amount of money payable by both the employer and the employee, as per the situation, to the corporation.
- The rates, while usually prescribed by the government, are not set in stone, and are subject to change. Rates defined by the government are mostly set as the unit standard for the contribution payable by the employer.
- In the case of the employee's contribution, the wage period in relation to the respective employee shall be held as a unit to determine the compensation payable, and are normally due on the last day of the wage period.
- Failure to pay contributions by the employer will make him liable to pay an interest rate of 12%.

Principal employer to pay contribution in the first instance

- The primary employer has to collectively pay the contribution, both his own and that of his employees, regardless of whether they are directly employed under him or are working through an immediate employer.
- If a directly employed employee fails to pay his contributions, then the employer can recover that contribution only by deducting the wages of said employee.
- The employer bears all the transfer costs of the payment to the Corporation.

Recovery of contribution from the immediate employer

In the case of an employee who is indirectly employed under the principal employer, via an immediate employer, the principal employer shall be entitled to recover the payment made on behalf of an indirect employee, from the immediate employer, as a debt payable to him.

The immediate employer also has to prepare a list of all the employees under him and submit the same to the principal employer, before paying his dues.

General provisions as to payment of contribution

In case an employee's wage falls below the prescribed wage range prescribed by the Central Government, the employee shall not be liable for his contribution and it shall not be payable.

Method of payment of contributions

The manner for payments which the Act provides regulations for, has been elaborated in the following conditions:

- The nature and time of contribution being paid.
- Payment which involves the usage of stamps or other adhesives fixed upon the books of accounts, or any other documents.
- The evidence of the contributions, which reaches the Corporation, is to be dated.
- The different entries in the books of accounts along with the details of the insured persons.
- The replacement of documents which have been lost, destroyed or defaced.

Social Security Officers and their functions

ESIC has the power to appoint persons as Social Security Officers. Their functions are mostly to serve a role in inspecting the function of the corporation.

- If required, he can acquire any information from any employer as he sees fit.
- He can enter any corporation at any time and can get all the accounts, books and other employment documents presented to him without any due notice. This can include information like wages, expenses, etc.
- He can inspect and look into any matter regarding the employers and employees as and when required under the jurisdiction of the court.
- He can make copies or take extracts from any register or account back as per his discretion.

Determination of Contribution in certain cases

A Social Security offer is restricted from exercising his functions and discharging his duties, if the accounting statements of the factory/establishment are not submitted, or not maintained in accordance with Section 44 of the ESI Act. As such, the Corporation may, with the available information, determine the contribution (defined under Section 39) amount payable to employees. However, this procedure will not take place until after the person in charge has been given a reasonable opportunity to be heard regarding the absence of such records.

Appellate Authority

In the scenario specified in Section 45A, once the employer in charge is heard, and he is not satisfied with the verdict given by the corporation, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of the verdict. He must also pay a sum of 25% of his calculated contribution, in order to file the appeal. In case he is successful, the corporation will also refund the contribution paid by him.

Recovery of contributions

Any and all contributions which are payable under the provisions of ESI Act, can be recovered, termed as 'arrear of land revenue'.

Issue of certificate to the Recovery Officer

In lieu of Section 45B, where the contribution is to be recovered, an authorised officer of the corporation issues a certificate bearing his signature and the amount to be recovered, to a Recovery Officer, who then proceeds to recover the amount specified from the factory where the default took place. He does this via:

- Attachment or sale of the property of the factory, or the employer, as per the situation.
- The arrest of the employer and getting him detained in prison.
- Appointing a receiver for the management of the property acquired, be it from the factory or the employer.

Recovery Officer to whom the certificate is to be forwarded

For the contribution certificate to be forwarded to the Recovery Officer, the factory employer must be under the jurisdiction of the Officer in the following ways:

- The location where the employer carries on his business and where the factory is located.
- The location where the employer resides or he has any personal property situated within the Officer's jurisdiction.
- The inability to recover the amount solely through the sale of property alone.

Employee Provident Fund

The Employee Provident Funds, 1952 is a beneficial legislation enacted for the betterment of the future of industrial worker:

1. On his retirement.
2. For his dependents in case of death of employment.

This Act is enacted as a social security measure which falls under the ground of "retirement benefit", the object of this Act is to inculcate, non-withdrawable financial benefit, the sum is payable normally on retirement or on the death of the employee. Administration of the scheme given under this act is done by the central board, state board, and regional committee, a chief executive committee appointed and constituted by the central government.

- Central board – Section 5A
- Executive committee – Section 5AA
- State board – Section 5B
- Regional committee

Boards under the Act

Constitution and position

Central board: Section 5

Central board: Central board is created by official gazette notification given by the Central government.

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Functions

1. Section 6 and Section 6C discussions how the central board should use their fund vested on them.
2. Duty of the central board is to send an annual report to the Central government, of its work and activities.
3. The central government will submit a report to the comptroller and Auditor General of India. Comments of Central board is laid down before parliament.

Constitution of the following a person as a member:

- Chairman and a vice-chairman appointed by the central government
- The central Provident fund commissioner, ex-official
- Among Central government officials (not more than five-person)
- A representative of states (not more than 50)
- Representing the employer of the establishment (10 people)
- Representing the employee of the establishment (10 people)

Executive committee: Section 5AA

State Board: section 5 B

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The central government, after consulting with any of the states constitute the state board in the following state, as provided for in the scheme. Constitution of the state board is done by the notification in the official gazette. Central government from time to time prescribes the duties to be performed by the state board and the powers exercised by the state government. The following scheme will provide the terms condition subject to which a member of state board is appointed, time place and procedure for conducting meetings etc. Every board of trustee constituted under this section is a Body Corporate, being a body corporate, it has perpetual succession, a common seal and right to sue or get sued in its name.

Regional committee

Until state board is constituted, the Central Government may set up Regional Committee, which is under the control of Central Government, it works under the advice of the following person:

1. Central board, when matters referred to it from time to time.
2. All the matter regarding "administration of the Scheme", such as the progress of recovery of PF, contribution and other charges, speedy disposal of prosecution, settlement of claims and sanctions of advances.

Appointment of central fund commissioner

- The central government shall appoint Central provident fund commissioner, deputy provident commissioner and regional provident fund commissioner by discharging his duty they will assist central provident fund commissioner.
- Chief executive officer is appointed by the central provident fund commissioner.
- Central Board will appoint other officers, employees for the efficient administration of various schemes.

EPF Features

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The employer is under a statutory obligation to deduct a specified percentage of the contribution from the employee's salary for provident fund. The employer should also contribute such percentage for provident fund. An employee who gets more than 15,000 is eligible for getting the provident fund.

This Act contains nearly 20 sections and four schedules. Section 7E, F, G, H, M, N is omitted, section 20 is repealed.

Applicability of the Act – section 1 of this Act deals with the application of the Act. This is applicable to "every factory engaged in any industry specified in schedule I".

1. Every establishment in which 20 or more are employed.
2. Any establishment notified by the central government.
3. Any class of such establishment employing 20 or more. This Act is applicable to home workers held in the case Mangalore Gandhi Beedi workers V. U.O.I and P.M.Patel V. U.O.I.
4. This Act is applied when the establishment satisfies the two tests, namely:
 - Whether there is an establishment is a 'factory'?
 - Whether 20 or more person is employed which is held in the case Andhra University V. Regional Provident Fund Commissioner.

Some workers will not come under this Act. They are Casual, or temporary workers can't be considered as employee held in the case Bikar cold storage co. Ltd. V. Regional PF Commissioner.

Non-applicability of the Act

The Act does not apply to the following things. Any establishment registered under the co-operative society Act, 1912. Any state-related co-operative society employed less than 50 people and working without the aid of power. From the date on which the establishment is set up, where the establishment as:

- Only 50 or more persons, after the expiry of 3 years.
- Only 20 or more, but less than 50 people before the expiry of 5 years, which is held in the case V.K. Bhatt V. A.C.B & T. Mfg. Co.

Central Government also has the power to exempt any class of establishment on such condition

Central Government also has the power to exempt any class of establishment, on such condition mentioned in the notification:

- On the ground of financial position.
- Other circumstances of the case which is held in the case Mohammed Ali V. U.O.I.

Eligibility For getting EPF- Any person is eligible, who is employed:

- For work of the establishment.
- Through contractor.
- Connection with work of establishment is eligible for the benefit of the Act.

This Act was constitutionally challenged on the ground that it is:

- Discriminative in nature.
- Article 14 is violated because it is applied only to a particular class of industry, but the Supreme Court said that it doesn't violate article 14, it is certain, classification of a certain class of industry falls in reasonable classification which is valid.

Schemes under EPF

Employees provident fund scheme 1952

Section 5 gives wholly unrestricted unguided direction to the central government to frame a scheme, and it appears on the other hand that the Act is full of carefully laid down principles to guide the central government which is held in the case R.P.F. Commr. V. L.R.F Works, A.I.R 1962 Punj. 507

When they say that this scheme has retrospective effect, the employer cannot be asked to pay the employees contribution for the period antecedent to the notification applying the scheme because he has no right to deduct the same for the future wages payable to the employee. The payment of employee contribution by the employer with the corresponding right to deduct the same from the wages of the employees could be only for the current period during which the employer also has to pay his contribution, which is held in the case District exhibitors Assn., Muzaffarnagar & others V. Union of India (1991) II LLJ 115 (SC).

They were re-employment by the petitioner on a temporary basis. It was held that the employer cannot be asked to pay a contribution in respect of re-employed employees on a temporary basis which is held in the case Bombay printers LTD. & Others V. Union of India and others (1992) I LLJ 816 (BOM).

The fund shall be administered by the central board constituted under section 5A of the Act. The scheme shall take effect either prospectively or retrospectively.

Employees deposit linked insurance scheme, 1976

The scheme Established the purpose of providing life insurance benefits to the employees. The benefit under the scheme is to provide the incentive to the members to save more in the Provident fund account. The benefit under this scheme is linked to the amount of accumulation in the Provident fund account of the member. All the members of the employee's Provident Fund Scheme are covered as members of the employee's deposit linked insurance scheme also.

Employee's family pension scheme, 1995

For the benefit of providing family pension and life insurance benefit. Following benefit package is:

- Pension for life to the member, on retirement and invalidation
- To the member of the family upon the death of the members.
- Facility for capital return (corpus accretion) on an option formula basis
- Commutation if pension up to 1/3 Rd of pension amount.
- Retention of membership of the scheme till attaining the age of 68

Retirement pension under the new scheme will be payable on fulfilling minimum 10 years eligible service and on attaining the age of 58 years.

UAN- Universal Account Number

Universal account number (UAN) is number given to an employee by the Ministry of Employment and Labour under the government of India, who is maintaining PF account. It used to know information or track information done by his employer regarding his provided fund (PF). When an employee joined in the new organisation, he was assigned with new PF account, after UAN came into existence, the member of the assemble (employee) all his PF account associated with multiple Ids of difference organization at one place. So through UAN, difficulties faced by the employee when he/she joins the new organization is overcome, with UAN they can track the activities if there are any payment issues.

Uses of UAN

- It is a unique number given to an employee, which is independent of employers.
- UAN is used to link all the PF account when the employee is switching his company.
- An employer can authenticate his employee by verifying this number and KYC documents.
- EPF passbook can be verified by sending SMS EPFOHO UAN ENG TO 7738299899 from the mobile number which is registered under employee provident fund organization.
- An employee can check his deposit done by his employer through online using UAN number, and you can also get a monthly update regarding your deposit done by the employer.

Transparency Through UAN

- Through UAN employee can check the employer is depositing his PF amount periodically, by registering on EPF member Portal using his UAN.
- The employee would be able to find out whether his employer is deducted or hold back his PF.

EPF Calculation and Example

Contribution for EPF is two parts, one is by the employee, and the other is by the employer.

Contribution by the employee is, including basic wage and dearness allowance is -12%.

Contribution on the part of the employer is-

- 8.33% (for Employees Pension Scheme Account of Employee)
- 3.67 % (for Employee Provident Fund Account of Employee)
- 0.50% (for Employees Deposit Linked Insurance Account of Employee)
- 0.50% (is Employer has to pay an additional charge for an administrative account- minimum 500 rupees and if there is no contribution by the employer that month, an employer must pay rupees 75)

Miscellaneous Provision Act 1948

1st January 2021

By INDIAFREENOTES

(1) This Act may be called the Coal Mines Provident Fund and Miscellaneous Provisions Act 1948.

(2) It extends to the whole of India.

An Act to make provision for the framing of a Provident Fund Scheme a Pension Scheme, a Deposit-linked Insurance Scheme and a Bonus Scheme for persons employed in coal mines

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

(a) "bonus" means any sum of money payable to an [vi][employee] under the Coal Mines Bonus Scheme framed under this Act;

[vii][aa] "coal" includes lignite;

[viii][(b) "coal mine" means any excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, and includes—

(i) all borings and bore holes;

(ii) all shafts, in or adjacent to and belonging to a coal mine, whether in the course of being sunk or not;

(iii) all levels and inclined places in the course of being driven;

(iv) any opencast working or quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, not being a shaft or an excavation, which extends below superjacent ground;

(v) all conveyors or aerial rope ways provided for the bringing into or removal from a coal mine of coal or other articles or for the removal of refuse therefrom;

(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings, in or adjacent to and belonging to a coal mine;

(vii) all workshops situated within the precincts of a coal mine and under the same management and used for purposes connected with that coal mine or a number of coal mines under the same management;

(viii) any office of a coal mine;

(ix) all power-stations for supplying electricity for the purpose of working the coal mine or a number of coal mines under the same management;

(x) any premises for the time being used for depositing refuse from a coal mine, or in which any operation in connection with such refuse is being carried on, being premises exclusively occupied by the employer of the coal mine;

(xi) all hospitals and canteens maintained for the benefit of the employees of a coal mine or a number of coal mines under the same management;

(xii) any coke oven or plant;

(xiii) any premises in or adjacent to and belonging to a coal mine, on which any plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of a coal mine is being carried on.

(c) "contribution" means the contribution payable in respect of a member under the Coal Mines Provident Fund Scheme framed under this Act [ix], or the contribution payable in respect of an employee to whom the Insurance Scheme applies.

[x][(d) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in connection with a coal mine and who gets his wages directly from the employer and includes:

(1) any person employed by or through a contractor in or in connection with a coal mine, and

(2) for the purposes of the Coal Mines Provident Fund Scheme, also:

(i) any other person who is employed as a sanitary worker, Mali, teacher, or domestic servant in or in connection with a coal mine and who receives wages directly from the employer, and

(ii) any apprentice or trainee who receives stipend or other remuneration from the employer;]

[xi][(e) "employer", when used in relation to a coal mine, means any person who is the immediate proprietor or lessee or occupier of the coal mine or of any part thereof and in the case of a coal mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver, and in the case of a coal mine owned by a company the business whereof is being carried on by a managing agent, such managing agent, but does not include a person who merely receives a royalty, rent or fine from the coal mine, or is merely the proprietor of the coal mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the coal of the coal mine; but any contractor for the working of a coal mine or any part thereof shall be subject to this Act in like manner as if he were an employer, but not so as to exempt the employer from any liability;]

(f) "Fund" means the provident fund established under the Coal Mines Provident Fund Scheme;

[xiii][(fa) "Insurance Fund" means the Deposit-linked Insurance Fund established under sub-section (2) of Section 3-G;

(fb) "Insurance Scheme" means the Coal Mines Deposit-linked Insurance Scheme framed under sub-section (1) of Section 3-G;]

[xiv][(fc) "Managing agent" has the meaning assigned to in the Companies Act, 1956 (1 of 1956); and]

(g) "Member" means a member of the Fund.

[xv][(h) "Pension Fund" means the Pension Fund established under sub-section (2) of Section 3-E;

(i) "Pension Scheme" means the Coal Mines Pension Scheme framed under sub-section (1) of Section 3-E;

(j) "superannuation", in relation to an employee who is a member of the Pension Scheme, means the attainment, by the said employee, of such age as is fixed in the contract or conditions of service as the age on the attainment of which such employee shall vacate the employment.

Coal Mines Provident Fund Scheme.

3. Coal Mines Provident Fund Scheme. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Provident Fund Scheme for the establishment of a Provident Fund for [xvi][employees] and specify the coal mines to which the said scheme shall apply.

[xvii][(1-A) The Fund shall vest in, and be administered by the Board constituted under Section 3-A.]

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

Constitution of Board of Trustees.

[xviii][3-A. Constitution of Board of Trustees. (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act, referred to as the Board) consisting of the following persons, namely:

(a) a Chairman appointed by the Central Government;

(b) the Coal Mines Provident Fund Commissioner, ex officio;

(c) three persons appointed by the Central Government;

(d) not more than six persons representing Government of such States as the Central Government may specify in this behalf, from time to time, appointed by the Central Government;

(e) six persons representing employers, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf and of whom at least one shall be a person who is not a member of any such organisation;

(f) six persons representing employees appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf and of whom at least one shall be an employee himself and at least one shall be a person who is not a member of any such organisation.

(2) The terms and conditions subject to which a member of the Board may be appointed and the time, place and procedure, of the meetings of the Board shall be such as may be provided for in the Coal Mines Provident Fund Scheme.

(3) The Board shall [xix][subject to the provisions of Section 3-E,] [xx][and Section 3-G] administer the Fund vested in it in such manner as may be specified in the Scheme aforesaid.

(4) The Board shall perform such other functions as it may be required to perform by or under any provisions of [xxi][the Coal Mines Provident Fund Scheme] [xxii][, the [Coal Mines Pension Scheme] [xxiii] and the Insurance Scheme].

3-B. Board of Trustees to be a body corporate. The Board of Trustees constituted under Section 3-A shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

3-C. Appointment of officers. (1) The Central Government shall appoint a Coal Mines Provident Fund Commissioner, who shall be the chief executive officer of the Board and shall be subject to the general control and superintendence of the Board.

(2) The Central Government may also appoint as many other officers whose minimum monthly salary in the scale of pay (if any), applicable to them is not less than four hundred rupees, as it may consider necessary to assist the Coal Mines Provident Fund Commissioner in the discharge of his duties.

(3) Subject to the provisions of sub-sections (1) and (2), the Board may appoint such other officers and employees as it may consider necessary for the efficient administration of the Coal Mines Provident Fund Scheme [xxiv][and the [Coal Mines Pension Scheme] and the Insurance Scheme].

(4) The method of recruitment, salary and allowances, discipline and other conditions of service of the Coal Mines Provident Fund Commissioner shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Fund.

(5) The method of recruitment, salary and allowances, discipline and other conditions of service of the other officers and employees of the Board shall be such as may be specified by the Board with the approval of the Central Government.

Coal Mines Pension Scheme.

[xxv][3-E. Coal Mines Pension Scheme. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Pension Scheme for the purpose of providing for:

(a) superannuation pension, retiring pension or permanent total disablement pension to the persons employed in any coal mine or class of coal mines to which this Act applies; and

(b) widow or widower pension, children pension or orphan pension and life assurance benefits, payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in Section 3, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme:

(a) such sums, not exceeding one-fourth, of the amount payable to the Fund under sub-section (1) of Section 10-D as the employer's contribution as well as the employee's contribution, as may be specified in the Pension Scheme;

(b) such sums as the Central Government may, after due appropriation made by Parliament by law in this behalf, specify;

(c) the net assets of the Pension Fund as existed immediately before the establishment of the Pension Fund; and

(d) any other contribution which may be made to the Pension Fund with the previous approval of the Central Government.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in, and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension Fund shall vest in and be administered by the Board in such manner as may be specified in the Pension Scheme.

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

3-F. Special grant by Central Government.

[xxvi][3-F. Special grant by Central Government. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay such further sums as may be determined by it into the [Pension Fund][xxvii] to meet all the expenses in connection with the administration of the [Coal Mines Pension Scheme] other than the expenses towards the cost of any benefits provided by or under the said scheme.]

3-G. Coal Mines Deposit-linked Insurance Scheme.

[xxviii][3-G. Coal Mines Deposit-linked Insurance Scheme. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to such employees as are covered by the Coal Mines Provident Fund Scheme.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee, in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee, as the Central Government may, by notification in the Official Gazette, specify.

Explanation. For the purposes of this sub-section:

(a) the expression "basic wages" has the meaning assigned to it in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(b) "dearness allowance" means all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living and shall be deemed to include also the cash value of any food concession allowed to the employee;

(c) "retaining allowance" means an allowance payable for the time being to an employee of any coal mine during any period in which the coal mine is not working, for retaining his services.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in relation to each employee covered by the Coal Mines Provident Fund Scheme, an amount representing one-half of the contribution which an employer is required, by sub-section (2), to make.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine, to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(b) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (a), to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(5) The Insurance Fund shall vest in the Board and shall be administered by the Board in such manner as may be specified in the Insurance Scheme.

(6) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Third Schedule.

4. Fund to be recognised under Act 43 of 1961.

[xxix][4. Fund to be recognised under Act 43 of 1961. For the purposes of the Income Tax Act, 1961, the Fund shall be deemed to be a recognised Provident Fund within the meaning of Part A of the Fourth Schedule to that Act.]

5. Coal Mines Bonus Scheme.

Coal Mines Bonus Scheme. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Bonus Scheme for the payment of bonus to [xxx] [employees] and specify the coal mines to which the said scheme shall apply.

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

[xxxii][(3) The employer shall pay the bonus in accordance with the Scheme as aforesaid.]

Retrospective operation of a scheme.

6. Retrospective operation of a scheme. A scheme framed under this Act may provide that any of its provisions shall come into force either prospectively or retrospectively with effect from such date as may be specified in this behalf in the scheme.

7. Modification of a scheme.

8. Modification of a scheme. The Central Government may, by notification in the Official Gazette, add to, amend or vary [xxxiii][either prospectively or retrospectively] a scheme framed under this Act.

7-A. Schemes to be laid before Parliament.

[xxxiv][7-A. Schemes to be laid before Parliament. Every scheme made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in [xxxv][two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

7-B. Determination of moneys due from employer.

7-B. Determination of moneys due from employer. (1) The Coal Mines Provident Fund Commissioner or any other officer duly authorised in this behalf by the Central Government may by order determine the amount due from any employer under any provisions of this Act or of any scheme framed thereunder and for this purpose may conduct such enquiry as he may deem necessary.

(2) The officer conducting the enquiry under sub-section (1) shall, for the purpose of such enquiry, have the same power as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely:

- (a) enforcing the attendance of any person or examining him on oaths;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses;

and any such enquiry shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purposes of Section 196 of the Indian Penal Code, 1860 (45 of 1860).

(3) No order determining the amount due from any employer shall be made under sub-section (1), unless the employer is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be questioned in any court of law.]

Protection against attachment.

8. Protection against attachment. (1) The amount of the provident fund 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, shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit any member in the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall, subject to any 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.

[xxxvi][(3) The provisions of sub-section (1) and sub-section (2) shall, so far as may be, apply in relation to the [pension][xxxvii] or any other amount payable under the [Coal Mines Pension Scheme] [xxxviii][and also in relation to any amount payable under the Insurance Scheme] as they apply in relation to any amount payable out of the Fund.]