

# Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955

ASSAM

India

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### Act 10 of 1955

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Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955(Assam Act 10 of 1955)Last Updated 12th February, 2020[Published in the Assam Gazette, dated the 15th June 1955]An Act to make provision for the framing of a compulsory Provident Fund [and Pension Fund] [Inserted by Assam Act No. 17 of 1967.] 11(and Deposit Linked Insurance Fund) Scheme for the [employees] [Substituted for the word 'Laboures' by Assam Act No. 18 of 1958.] [\*\*\*] [Deleted for the word 'including artisans' by Assam Act No. 18 of 1958.] employeeed in Tea Plantation in Assam.Preamble. - Whereas it is expedient to make provision for the framing of a compulsory Provident Fund [and Pension Fund] [Inserted by Assam Act No. 17 of 1967.] [and Deposit Linked Insurance Fund] [Inserted by Assam Act No. 9 of 1984.] Scheme for the [employees] [Substituted for the word 'Laboures' by Assam Act No. 18 of 1958.] employed in tea plantation 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 [and Pension Fund] [Inserted by Assam Act No. 17 of 1967.] [and Deposit Linked Insurance Fund] [Inserted by Assam Act No. 9 of 1984.] 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 :-(1)[\*\*\*] [Deleted '(a) Adult means a person who has completed his sixteenth year of age ;' by Assam Act 18 of 1967.](a)[Renumbered '(b)' by Assam Act X VIII of 1967.] "Contribution" means the deduction from the

wages of an [employee] [Substituted for the word 'Laboures' by Assam Act XVII of 1958.] for deposit to the [Provident Fund] [Substituted for the word 'Fund' by Assam Act XVII of 1967.] [or Insurance Fund] [Inserted by Assam Act IX of 1984.] and the amount payable by the employer in respect of each [employee] [Substituted for the word 'Laboures' by Assam Act X VII of 1958.] to the [Provident Fund] [Substituted for the word 'Fund' by Assam Act XVII of 1967.] [or insurance Fund] [Inserted by Assam Act IX of 1984.] under the Scheme.(b)[ ] [Renumbered '(c)' by Assam Act X VIII of 1967.] "Employer" means any person who is the peoprietor of a plantation and including a Managing Agent, Manager, Superitendent, [Managing Director, Director] [Inserted by Assam Act X VIII of 1958.] or any other person who is in-charge of any plantation.(c)[ ] [Renumbered '(d)' by Assam Act X VIII of 1967.] ["Fund"] [Substituted for the definition of 'Fund' by Assam Act XVII of 1967.] means the Provident Fund or the Pension Fund, [or Insurence Fund] [Inserted by Assam Act IX of 1984.],as the case may be established under the Scheme.(d)[ ] [Renumbered '(e)' by Assam Act X VIII of 1967.] ["Employees"] [Substituted for the word 'Labourer' by Assam Act X VIII of 1958.] means any person who is employed(including aprentice)to do any skilled or unskilled,manual or clerical work in or in connection with a plantation including its local head office,office,factory,workshop,school or hospital and who gets his wages directly or indirectly from the employer,but does not include a person whose total wages exceed [(Rs.6500/- (Rupees six thousand five hundred)) [Substituted for the figures and word 'Rs. 2500/- (Rupees three thousand five hundred)' by Assam Act XXIV of 1995.] per mensem inclusive of dearness allowance and value of food concession,or a person working under a contractor in work not directly with connected with cultivation and manufacture of tea.[\*\*\*] [The 'Explanation' of employed deleted by Assam Act I of 1993.](e)[ ] [Renumbered '(f)' by Assam Act X VIII of 1967.] "member" means a of [Provident Fund] [Substituted for the word 'Fund' by Assam Act X VII of 1967.] or the Pension Fund, [or Insurance Fund] [Inserted by Assam Act IX of 1984.], as the case may be,(f)[ ] [Renumbered '(g)' by Assam Act X VIII of 1967.] ["plantation"] [Substituted for the expression 'Plantation' by Assam Act X VIII of 1958.] means any tea plantation or [tea factory] [Inserted by Assam Act I of 1993.] : (i)[ with an area of not less than 5 hectares under tea where ten or more employees are employed or were employed on any day of the twelve months preceeding the enforcement of the Scheme and where the crop basis under the Tea Act of 1953 (Act XXIX of 1953) is more than 255 Kg. per hectare or green leaf of more than 1022 kg. per hectare as the case may be or] [Interested by Assam Act I of 1989.](ii)[ with an area of not less than 10 hectoros under tea where ten more employees are employed or were employed on any day preceeding twelve months of the enforcement of the Scheme or] [Interested by Assam Act I of 1989.](iii)[ any tea factory manufacturing tea where ten or more employees are employed.] [Interested by Assam Act I of 1993.](iv)[ Notwithstanding anything contained in sub-clause (i), (ii) and (iii) of this clause where it appears to the State Government, whether on an application made to it i this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, it may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or any subsequent date specified in such agreement.] [Interested by Assam Act I of 1993.](g)[ ] [Renumbered '(h)' by Assam Act X VIII of 1967.] "scheme" means the Assam Tea plantation Provident Fund (1)(and Pension Fund) [or the Insurance Fund] [Interested by Assam Act I of 1989.] Scheme framed under Section 3 (1).(h)"Wages" means any amount capable of being expressed in terms of money for the time being payable to an employee by the employer for works in or in connection with a plantation and includes

dearnes allowance, value of foo concession, amount payable for plucking whether calculated on time or piece rates or otherwise, and leave with wages and maternity allowances or benefits, but does not include-(a)bonus or(b)Commission.(i)"Interest" means the amount payable at the rate of 15 per cent per annum by the Employer over the cobined dues of Employees and Employer's share of contribution following default in depositing within 30 (thirty) days of its collection.

### **3. Compulsory Provident Fund, [Pension and Insurance] [Inserted by Assam Act IX of 1984.] Scheme.**

(1)The State Government may by notification in the official Gazette, frame a Scheme to be called the Assam Tea Plantations Provident Fund [and Pension Fund] [Inserted by Assam Act X VII of 1967.] [and Insurance Fund] [Inserted by Assam Act IX of 1984.] Scheme for the establishment of Provident Fund [and Pension Fund] [Inserted by Assam Act XVII of 1967.] [and Insurance Fund] [Inserted by Assam Act IX of 1984.] for providing Life Assurance coverage [and health care assurance to the extent and in the manner as may be specified in the Scheme] [Inserted by Assam Act No. 5 of 2019, dated 7.3.2019.] for the [\*] **[The word 'adult' deleted by Assam Act X VIII of 1958.] [employees] [Substituted for the word 'Labourer' by Assam Act X VIII of 1958.]** [\*] [The word 'residing and' deleted by Assam Act XVIII 1958.] employed in plantation and specify the plantations to which the same shall apply.(2)A Scheme framed under the provision of subsection (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 [Provident Fund] [The manner of contribution substituted by Assam Act X VIII of 1958.] shall be [twelve] [Substituted for the word 'ten' by Assam Act XI of 1999.] per cent of the total wages including all such allowances as are included within wages as defined in clause (h) of Section 2 for the time being payable to each of the employess and the employers contribution shall be equal to the contributions payable by the employer in respect of him.]Provided that where there exists any provident fund in any plantation at the commencement of this Act and the rate of contribution payable by either the employee or employer is higher than what has been prescribed above, the employee shall have the option within such period as may be fixed by the Board in its meeting to elect either to continue to subscribe to the existing Provident Rund or join the [Provident Fund] [Substituted for the word 'Fund' by Assam Act XVII of 1967.] established by this Act Act but the election once made shall not be changed except with the permission of the Board.Provided further that in respect of the employees opting to subscribe to the existing Provident Fund as above the obligation of the employer and the employee to contribute to the existing Provident Fund shall continue and shall not be affected by the provisions of this Act.(4)[ (a) Every employer shall, from time to time pay into the Insurance Fund in respect of every employer in relation to whom he is the employer, such amount not being more than one per cent of the wages as defined under Sub-Section (h) f Section, 2 of the Act for the time being payable as the State Government may, by notification in the official Gazette, specify.[Provided that if the employer fails to deposit the contribution which he is required to make under clause (a) within 15 (fifteen) days of the close of every month, the employer shall be liable to pay interest at the rate of 15% per annum on the arrear till it is deposited.] [Inserted by Assam Act IX of 1984.][Provided further that the employer shall be liable to pay the interest along with the required contribution to make under clause (a).] [Inserted by Assam Act XIV of 2002.](b)The Cenral Gvernment may contribute to the Insurance Fund in relation to each employee covered by the

Scheme, an amount representing one-half of the contribution which an employer is required by clause (a) to make.(c)The employer shall pay into the Insurance Fund such further sum of money, not exceeding one-fourth of the contribution which he is required to make under clause (a) as the Board may, with due approval of the Government from time to time, determine to meet all the expenses in connection with the administration of Insurance Scheme.(d)The Central Government may pay into the Insurance Fund such further sum of money representing one-half of the sum payable by the employer under clause (c) to meet all the expenses in connection with the administration of Insurance Scheme.(e)The Insurance Fund shall vest in the Board of Trustees and shall be administered by it in such manner as may be specified in the Scheme.(f)The Insurance Scheme may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.]

#### **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 [or Pension Fund] [Substituted for the word 'Fund' by Assam Act No. 17 of 1967.] [or Pension Fund or Insurance Fund] [Inserted by Assam Act No. 9 of 1984.] 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 [or Pension Fund] [Substituted for the word 'Fund' by Assam Act No. 17 of 1967.] [or Pension Fund or Insurance Fund] [Inserted by Assam Act No. 9 of 1984.] at the time of his death and payable under the Scheme to his 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 [or Pension Fund] [Substituted for the word 'Fund' by Assam Act No. 17 of 1967.] [or Pension Fund or Insurance Fund] [Inserted by Assam Act No. 9 of 1984.] 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 one year, or with fine which may extend to five thousand rupees, or with both.(1A)[ An employer who contravenes, or make default in complying with the provisions of Section 3 of the Act in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to three year, but(a)Which shall not be less than one year and a fine of rupees ten thousand in case of default in payment of the employee's contribution which has been deducted by the employer from the employee's wages(b)Which shall not be less than six month in any other case and shall also be liable to fine which may extend to five thousand rupees.](3)[\*\*\*] [Deleted by Assam Act No. 1 of 1989.]

#### **7A. [ [Inserted by Assam Act No. 9 of 1976.]**

Whoever, having been convicted by a Court of an offence punishable under this Act or the Scheme or the Pension Scheme commits the same offence shall be subject for every such subsequent offence to imprisonment for as term which may extend to five years but which shall not be less than two years and shall also be liable to a fine which may extend to twenty five thousand rupees.] [Inserted by Assam Act No. 9 of 1976.]

#### **7AA. [ [Inserted by Assam Act No. 9 of 1976.]**

(1)Notwithstanding anything contained in the code of Criminal Procedure, 1898 an offence relating to default in payment of contribution by the employer punishable under this Act shall be cognisable.(2)No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act or the Scheme or the Pension Scheme.]

#### **7B. [ [Inserted by Assam Act No. 9 of 1976.]**

(1)A Scheme framed under this Act may provide that any person who contravenes, or makes default in complying with any of the provisions thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to four thousand rupees, or with both, [\*\*\*](2)No Court shall take cognisance 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 juris-diction-(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 XI,V of 1860).

## **10. Priority of payment of contribution over other debts.**

- [(1)] [Re-numbered by Assam Act 9 of 1976.] 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 thereof has acquired 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 [Section (5) 30 of the Indian Companies Act, 1956] [Substituted for the figure and words 'Section 230 of the Indian Companies Act, 1913 (Act VII of 1913)' by Assam Act IX of 1976.] (.....) 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.](2)[ Without prejudice of the provisions of Sub-Section (1), if any amount is due from an employer [whether in respect of the employees' contributions deducted from one the wages of the employees] [Inserted by Assam Act 9 of 1976.] or the employer's contribution for a period of more than one month, the amount so due shall be deemed to be the first charge on the assets of the establishment, and shall notwithstanding anything contained in any other law for the time being in force, be paid in priority to all other debts.]

## **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 members of his [tea plantation or tea factory and shall bear the cost thereof.] [Substituted by Assam Act No. 1 of 1993.]

### **11A. [ [Inserted by Assam Act No. 1 of 1989.]**

If the employer fails to deposit employer's contribution together with the employee's share of contribution within 30 (thirty) days of its collection, the employer shall be liable to pay interest at the rate of 15 per cent per annum on the arrear till it is deposited.]

### **12. Power to snake 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 [\*\*\*] [Deleted 'or any other person' by Assam Act IX of 1984.] in respect of any thing which is in good faith done or intended to be done under this Act or under the Scheme.

### **14. [ Accuulation in the Provident Fund to be transferred to the Fund established under the Scheme. [Added by Assam Act No. 18 of 1958.]**

- On the application of the Scheme to a plantation, the accumulation in any existing provident fund standing to the credit of such employees as become members of the [Provident Fund] established under the Scheme, shall, notwithstanding anything contained in any law for the time being in force or any deed or instrument establishing the provident fund be transferred to the Fund established under the Scheme.]

### **15. [ Mode of recovery of money due from employer. [Added by Assam Act No. 18 of 1958.]**

- Any amount due from the employer in relation to a planation to which the Act or any Scheme framed thereunder applies in repect of any contribution payable to the (3)Provident Fund) or the Pension Fund as the case may be, damages recoverable under Section 16 of the Act, accumulation required to be transferred under Section 14 or any charges payable by him under any provisions of this Act or any provisions of the Scheme framed thereunder, may if the amount is in arrear, be recovered by the Government or a person authorised by it in the same manner as an arrear of land revenue.]

### **16. [ Power to recover damages. [Added by Assam Act No. 18 of 1958.]**

- Where an employer makes a default in the payment of any contribution to the (4)(Provident Fund) or in the transfer of accumulations required to be transferred by him under Section 14 or in the payment of any charges payable under any other provisions of this Act or the Scheme framed thereunder, the Government or any other person authorised by it may recover from the employer

such damages, not exceeding (5)[\*\*\*] the amount of arrear, as it may thing fit to impose.]

#### **16A. [ [Inserted by Assam Act 9 of 1976.]**

(1)Where an employer is convicted of an offence of making default in the payment of any contribution to the (7)(Provident Fund, Pension Fund or Insurance Fund) or in the transfer of accumulations required to be transferred by him under Section 14, the Court may, in addition to awarding any punishment, by under in writing, require him within a period specified in the order (which the Court may, it if thinks fit and an application in that behalf, from time to time, extend), to pay the amount of contributions or transfer the accumulations, as the case may be in respect of which the offence was committed.(2)Where an order is made under Sub-Section (1) the employer shall not be liable under this Act in respect of the contribution of the offence during the period of extended period, if any, allowed by the Court, but if on the expiry of sub period of extended period, as the case may be the under of the Court has been fully complied with, the employer shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof of under Section 7 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which order has not been complied with.]

#### **16B. [ [Inserted by Assam Act 9 of 1976.]**

Where an employer, in relation to an establishment, transfers that establishment in whole or in part by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Act or the Scheme, as the case may be, in respect of the period upto the date of such transfer.]

#### **17. [ Power to remove difficulties. [Added by Assam Act No. 18 of 1958.]**

- If any difficulty arises in giving effects to the provisions of this Act,the Government may by order make such other provision or give such direction, not inconsistent with the provision of this Act,as appear to it to be necessary or expedient for the removal of the difficulty.Any provision put in as amendment, addition or explanation of the provision of the Act will have to be ratified by the State Assembly in the next meeting following the making of such provision by the Government.])The Schedule(See Section 3)Matters To Be Provided For In The Scheme

**1. [(a) The constitution of a Board of Trustees with 7 nominees of the State Government of whom one shall be the Chairman and one shall be the Vice-Chairman and one shall be Member Secretary, four representatives of the employers and four representatives of the employees.] [Substituted by Assam Act No. 9 of 1984.]**

(b)The constitution of Primary Committee in each (14) tea plantation or tea factory with two representatives of the employer including the Manager or Superintended or the Manager shall be



the Chairman, and two representatives of the [workers] [Substituted by Assam Act No. 1 of 1989.] to be nominated by [workers] [Substituted by Assam Act No. 1 of 1989.] concerned.

**2. The appointment of officers and [other staff] [Substituted by Assam Act No. 1 of 1989.] of the Board and the opening of [its officers] [Substituted by Assam Act No. 1 of 1989.].**

**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 [Provident Fund or the Pension Fund as the case may be] [Substituted for the word 'Fund' by Assam Act No. 18 of 1958.], may be permitted or any deduction may be made.**

**5. (a) (i) The manner of investment of the whole or any portion of the [Provident Fund] [Substituted by Assam Act No. 17 of 1967.] in Government Securities by the Board of Trustees.**

(ii)The fixation of the rate of interest payable to members.(iii)The payment by the employer of such sums of money as may be considered necessary by the Board of Trustees to meet the cost of administration of the [Provident Fund] [Substituted by Assam Act No. 17 of 1967.] and the rate at which and the manner in which such payment shall be made.(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 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 [workers] [Substituted by Assam Act No. 1 of 1989.] 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 employees and for the issue, custody and the replacement thereof.**

**9A. [ (a) The amount that shall be set apart for payment as pensionary, retirement of gratuity benefits.**

(b)The manner of investment of the whole or any portion of the amount set apart for pensionary, retirement or gratuity benefits in Government Securities by the Board of Trustees.]

**9B. [ (i) The employees or class of employees who shall be covered by the Insurance Scheme.**

(ii)The manner of investment of money belonging to the insurance Fund.(iii)The scales of assurance amount which shall not be less than the balance in the account of the employees concerned in the Provident Fund or more than rupees [one lakh.](iv)The minimum balance to be maintained by an employee in the Provident Fund to make him eligible for the benefits under Insurance Scheme.(v)The manner in which the amount-due to the nominee of the member of the family of the employee under the Insurance Schemes is to be paid.](vi)[ The health care assurance benefit to be provided by the hospitals established under the Scheme to the extent as may be determined by the Board of Trustees under sub-para (viii) of this paragraph, which shall be in addition to any other benefits as admissible to them under the existing Health Care Schemes of the State and the Central Governments, respectively; [Inserted by Assam Act No. 5 of 2019, dated 7.3.2019.](vii)The determination of the cost of administration and maintenance of such hospitals in consultation with the Government of Assam which shall be borne by the State Government;(viii)The limit of health care assurance to be claimed by an employee under sub-para (vi) which shall be within the limit as determined under this sub-paragraph by the Board of Trustees constituted under para 1(a) of the Schedule to this Act with the approval of the Government of Assam;(ix)The manner in which the requirement of land for construction of hospitals to be established under the Scheme is to be submitted to the Government of Assam, which the State Government is to provide subject to availability of Government land.]

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

[Inserted by Assam Act No. 9 of 1984.][Inserted by Assam Act No. 17 of 1967.]