

The Jammu and Kashmir Provident Funds Act, 1998

JAMMU & KASHMIR

India

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Rule

THE-JAMMU-AND-KASHMIR-PROVIDENT-FUNDS-ACT-1998 of 1998

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The Jammu and Kashmir Provident Funds Act, 1998(Act No. 22 of Svt. 1998)[Received the assent of His Highness the Maharaja Bahadur on 2nd December, 1941/17th Maghar, 1998 and published in Government Gazette dated 25th Poh, 1998.]An Act to amend and consolidate the law relating to Government and other Provident Funds.Whereas it is expedient to amend and consolidate the law relating to Government and other Provident Funds; It is enacted as follows:-

1. Short title, extent and commencement.

(a)This Act may be called the Jammu and Kashmir Provident Funds Act, 1998.(b)It extends to the whole of the Jammu and Kashmir State.(c)[It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.] [Enforced from 1st Sawan, 1999 (Government Gazette dated 12th Har. 1999).]

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"compulsory deposit" means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance or the payment of subscriptions or premia in respect of a family pension fund, and includes any contribution and any interest or increment which has accrued under the rules of the Fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, and interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;(b)"contribution" means any amount credited in a Provident Fund by any authority administering the Fund, by way of addition to, a subscription to, or deposit or balance at the credit

of an individual account in the Fund, and "Contributory Provident Fund" means a Provident Fund, the rules of which provide for the crediting of contributions;(c)"dependent" means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son's widow and child and where no parent of the subscriber or depositor, is alive, a paternal grandparent;(d)"government provident fund" means a Provident Fund constituted, by the authority of the Government for any class or classes of its employees;(e)"Provident Fund" means a fund in which subscription or deposits of any less or classes of employees are received and held on their individual accounts and includes any contributions and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund.

3. Protection of compulsory deposits.

(1)A compulsory deposit in any Government Provident 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 Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the official assignee nor any receiver appointed under Order XXI-A of the Code of Civil Procedure, 1977, shall be entitled to, or have any claim on any such compulsory deposit.(2)any sum standing to the credit of any subscriber to, or depositor in, any such fund at the time of his decease any payable under the rules of the fund to any dependent of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall, subject to any deduction authorised by this Act and, save where the dependent is the widow or child of the subscriber or depositor, subject also to the right of an assignee under an assignment made before the commencement of this Act, vest in the dependent, and shall, subject as aforesaid, be free from any debt or other liability incurred by the dependent before the death of the subscriber or depositor.

4. Provisions regarding repayments.

(1)When under the rules of any Government Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or if he is dead, shall-(a)if the sum or balance, or any part thereof vests in a dependent under the provisions of section 3, pay the same to the dependent or to such person as may be authorised by law to receive payment on his behalf; or(b)if the whole sum or balance, as the case may be does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (a), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or(c)in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b), pay the same-(i)to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1997, entitling the holder thereof to receive payment of such sum, balance or part, or(ii)where no person is so nominated, to any person who

produces such probate, letters or certificate: Provided that where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall, after making any deduction authorised by this Act and any payment due under clause (a) to or on behalf of the widow or children of the subscriber or depositor- (i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or (ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it. (2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

5. Rights of nominees.

- Subject to the provisions of this Act, but otherwise notwithstanding anything contained in any law for the time being in force or any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in a Government Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, any nomination, duly made in accordance with the rules of the fund, which purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor, shall be deemed to confer such right absolutely until such nomination is varied by another nomination made in like manner or is expressly cancelled by the subscriber or depositor by notice given in such manner and to such authority as is prescribed by those rules. (2) Notwithstanding anything contained in the Succession Certificate Act, 1977, any such person shall, on the death of the subscriber or depositor, be entitled to the grant of a certificate under that Act, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person or probate or letter of administration to the estate of the deceased.

6. Power to make deduction.

- When the sum standing to the credit of any subscriber or depositor in any Government Provident Fund which is a Contributory Provident Fund becomes payable, there may, if the authority specified in this behalf in the rules of the Fund so directs, be deducted therefrom and paid to Government- (a) any amount due under a liability incurred by the subscriber or depositor to Government but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or (b) where the subscriber or depositor has been dismissed from his employment for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the commencement thereof, the whole or any part of the amount of any such contributions, interests and increment.

7. Protection of acts done in good faith.

- No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

8. Power to apply the Act to the Provident Fund.

(1)The Government may, by notification in the Government Gazette, direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local Authorities Act, 1977, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government.(2)The Government may, [by notification in the Government Gazette] [See Notification No. 512-G/43 Government Gazette 19-10-2002.], direct that the provisions of this Act shall apply to any provident fund established for the benefit of the employees of any of the institutions specified in the Schedule and on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and the authority having the custody of the Fund were the Government:Provided that section 6 shall apply as if the authority making the contribution referred to in that section were the Government.(3)The Government may, by notification in the Government Gazette, add to the Schedule the name of any public institution they may deem fit, and any such addition shall take effect as if had been made by this Act.

Schedule

[See section 8]

1. Dharmarth Trust.

2. Municipal Committee.

3. Sri Partap Rajput Memorial School.

4. [Regional Engineering College, Srinagar.] [Item 4 added by SRO-407 dated 7-10-1961.]

5. [Sainik School Manasbal, Kashmir.] [Added by SRO-319 dated-3-8-1982.]