

## THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

### 1. Short title, extent and application.—1[

(1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.]

(2) It extends to the whole of India except the State of Jammu and Kashmir. 2[(3) Subject to the provisions contained in section 16, it applies—

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which 3[twenty] or more persons are employed, and

(b) to any other establishment employing 3[twenty] or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf: Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than 3[twenty] as may be specified in the notification.] 4[(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in 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, he 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 from any subsequent date specified in such agreement.] 5[(5) An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty

### 2. Definitions.—In this Act, unless the context otherwise requires,— 1[

(a) "appropriate Government" means—

(i) in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry, 2[or in relation to an establishment having departments or branches in more than one State,] the Central Government; and

(ii) in relation to any other establishment, the State Government;] 3[(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;]

(b) "basic wages" means all emoluments which are earned by an employee while on duty or 4[on leave or on holidays with wages in either case] in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

(c) "contribution" means a contribution payable in respect of a member under a Scheme 5[or the contribution payable in respect of an employee to whom the Insurance Scheme applies];

(d) "controlled industry" means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest; 6(e) "employer" means—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;]

(f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of 7[an establishment], and who gets, his wages directly or indirectly from the employer, 8[and includes any person,—

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment;] 9[(ff) "exempted employee" means an employee to whom a Scheme 5[or the Insurance Scheme, as the case may be,] would, but for the exemption granted under 10 section 17, have applied;

(fff) "exempted 11[establishment]" means 7[an establishment] in respect of which an exemption has been granted under section 17 from the operation of all or any of the provisions of any Scheme 8[or the Insurance Scheme, as the case may be], whether such exemption has been granted to the 12[establishment] as such or to any person or class of persons employed therein;]

(g) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;

(h) "Fund" means the provident fund established under a Scheme;

(i) "Industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4; 14[(ia) "Insurance Fund" means the Deposit-linked Insurance Fund established under sub-section (2) of section 6C;

(ib) "Insurance Scheme" means the Employees' Deposit-linked Insurance Scheme framed under sub-section (1) of section 6C;] 15[16[(ic) "manufacture" or "manufacturing process" means any process for making, altering, repairing, ornamenting, finishing, packing oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;]

(j) "member" means a member of the Fund;

(k) "occupier of a factory" means the person who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory; 17[(kA) "Pension Fund" means the Employees' Pension Fund established under sub-section (2) of section 6A;

(kB) "Pension Scheme" means the Employees' Pension Scheme framed under sub-section (1) of section 6A;] 18[(ka) "prescribed" means prescribed by rules made under this Act;

(kb) “Recovery Officer” means any officer of the Central Government, State Government or the Board of Trustees constituted under section 5A, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act;] 19[(l) “Scheme” means the Employees Provident Fund Scheme framed under section 5;] 20[(ll) “superannuation”, in relation to an employee, who is the member of the Pension Scheme means the attainment, by the said employee, of the age of fifty-eight years;] 21[(m) “Tribunal” means the Employees’ Provident Funds Appellate Tribunal constituted under section 7D.]

1[2A. Establishment to include all departments and branches.—For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.]

1[3. Power to apply Act to an establishment which has a common provident fund with another establishment.—Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to such other establishment.]

4. Power to add to Schedule I.—

(1) The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

5. Employees’ Provident Fund Schemes.—1[

(1) ] The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees’ Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the 2[establishments] or class of 2[establishments] to which the said Scheme shall apply 3[and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme]. 4[(IA) The Fund shall vest in, and be administered by, the Central Board constituted under section 5A.

(IB) Subject to the provisions of this Act, a scheme framed under sub-section (1) may provide for all or any of the matters specified in Schedule II.] 5[(2) A Scheme framed under sub-section (1) 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 the Scheme.]

1[5A. Central Board.—

(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 Central Board) consisting of the following 2[persons as members], namely:—

(a) 3[a Chairman and a Vice-Chairman] to be appointed by the Central Government; 4[(aa) the Central Provident Fund Commissioner, ex officio;]

(b) not more than five persons appointed by the Central Government from amongst its officials;

(c) not more than fifteen persons representing Governments of such states as the Central Government may specify in this behalf, appointed by the Central Government;

(d) 5[ten persons] representing employers of the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; and

(e) 5[ten persons] representing employees in the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf.

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

(3) The Central Board shall 6[, subject to the provisions of section 6A 7[and section 6C]] administer the Fund vested in it in such manner as may be specified in the Scheme.

(4) The Central Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme 8[, the 9[Pension] Scheme and the Insurance Scheme]. 10

(5) The Central Board shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor General of India, specify in the Scheme.

(6) The accounts of the Central Board shall be audited annually by the Comptroller and Auditor General of India and any expenditure incurred by him in connection with such audit shall be payable by the Central Board to the Comptroller and Auditor General of India.

(7) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Central Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Central Board.

(8) The accounts of the Central Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Central Board which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor General.

(9) It shall be the duty of the Central Board to submit also to the Central Government an annual report of its work and activities and the Central Government shall cause a copy of the annual report, the audited accounts together with the report of the Comptroller and Auditor General of India and the comments of the Central Board thereon to be laid before each House of Parliament.]

1[5AA. Executive Committee. —

(1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.

(2) The Executive Committee shall consist of the following persons as members, namely:—

(a) a Chairman appointed by the Central Government from amongst the members of the Central Board;

(b) two persons appointed by the Central Government from amongst the persons referred to in clause (b) of sub-section (1) of section 5A;

(c) three persons appointed by the Central Government from amongst the persons referred to in clause (c) of sub-section (1) of section 5A;

(d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause (d) of sub-section (1) of section 5A;

(e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause (e) of sub-section (1) of section 5A;

(f) the Central Provident Fund Commissioner, ex officio.

(3) The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme.]

1[5B. State Board.—

(1) The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees (hereinafter in this Act referred to as the State Board) in such manner as may be provided for in the Scheme.

(2) A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.

(3) The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.]

1[6A. **Employees' Pension Scheme.**—

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 6, 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 from the employer's contribution under section 6, not exceeding eight and one-third per cent, of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;

(b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;

(c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;

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

(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 Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that Scheme.

(7) A Pension Scheme, framed under sub-section (1), 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 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 may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.]

#### 1[6C. **Employees' Deposit-linked Insurance Scheme.**—

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

(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, the expressions, "dearness allowance" and "retaining allowance" have the same meanings as in section 6.

(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. 3

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

(6) The Insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) 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.]

**8. Mode of recovery of moneys due from employers.—Any amount due—**

(a) from the employer in relation to 2[an establishment] to which any 3[Scheme or the Insurance Scheme] applies in respect of any contribution payable to 4[the Fund or, as the case may be, the Insurance Fund] damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 5[or under sub-section (5) of section 17], or any charges payable by him under any other provision of this Act or of any provision of the 3[Scheme or the Insurance Scheme]; or

(b) from the employer in relation to an exempted 6[establishment] in respect of any damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified 7[under section 17 or in respect of the contribution payable by him towards the 8[Pension] Scheme under the said section 17], may, if the amount is in arrear, 9[be recovered 10[in the manner specified in sections 8B to 8G.]

**1[8A. Recovery of moneys by employers and contractors.—**

(1) 2[The amount of contribution (that is to say the employer's contribution as well as the employee's contribution in pursuance of any Scheme and the employer's contribution in pursuance of the Insurance Scheme)], and any charges 3for meeting the cost of administering the Fund paid or payable by an employer in respect of any employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him, may recover from such employee the employee's contribution 4[under any Scheme] by deduction from the basic wages, dearness allowance and retaining allowance (if any) payable to such employee.

(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (1) from the basic wages, dearness allowance, and retaining allowance (if any) payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee. Explanation.—In this section, the expressions, "dearness allowance" and "retaining allowance" shall have the same meanings as in section 6.]

**Employees' Provident Funds Appellate Tribunal.—**

(1) The Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Act and every such Tribunal shall have jurisdiction in respect of establishments situated in such area as may be specified in the notification constituting the Tribunal.

(2) A Tribunal shall consist of one only to be appointed by the Central Government. 2[(3) A person shall not be qualified for appointment as a Presiding Officer of a Tribunal (hereinafter referred to as the Presiding Officer) unless he is, or has been, or is qualified to be,—

(i) a Judge of a High Court; or

(ii) a District judge.

Term of office.—The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.]

1[7F. Resignation.—2[

(1) The Presiding Officer may by notice in writing under his hand addressed to the Central Government, resign his office: Provided that the Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.] 3

(2) The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which such Presiding Officer had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Presiding Officer.]

1[7G. Salary and allowances and other terms and conditions of service of Presiding Officer.—The salary and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer shall be such as may be prescribed: Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after his appointment.]

1[7H. Staff of Tribunal.—

(1) The Central Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and other employees of a Tribunal shall be such as may be prescribed.]

1[7I. Appeals to Tribunal.—

(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4) of section 1, or section 3, or sub-section (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.]

1[7J. Procedure of Tribunals.—

(1) A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

(2) A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 7A and any proceeding before the Tribunal shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973

Orders of Tribunal.—

(1) A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.

(2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal: Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(3) A Tribunal shall send a copy of every order passed under this section to the parties to the appeal.

(4) Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law.]

**Penalties.** —

(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act [the Scheme [the [Pension] Scheme or the Insurance 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 of five thousand rupees, or with both].

[(1A) An employer who contravenes, or makes default in complying with, the provisions of section 6 or clause (a) of sub-section (3) of section 17 in so far as it relates to the payment of inspection charges, or paragraph 38 of the Scheme 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 years], but—

(a) which shall not be less than [one year and fine of ten thousand rupees] in case of default in payment of the employees' contribution which has been deducted by the employer from the employees' wages;

(b) which shall not be less than six months and a fine of five thousand rupees, in any other case] Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term

[(1B) An employer who contravenes, or makes default in complying with, the provisions of section 6C, or clause (a) of sub-section (3A) of section 17 in so far as it relates to the payment of inspection charges, shall be punishable with imprisonment for a term which may extend to [one year] but which shall not be less than [six months] and shall also be liable to fine which may extend to [five thousand rupees]: Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term

(2) [Subject to the provisions of this Act, the Scheme], the [Pension] Scheme or the Insurance Scheme] 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].

(2A) Whoever, contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to [six months, but which shall not be less than one month, and shall be liable to fine which may extend to five thousand rupees]

### **36 [ 14A Offences by companies .—**

(1) If the person committing an offence under this Act [,the Scheme or [the [Pension] Scheme or the Insurance Scheme]] is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under the Act [, the Scheme or [the [Pension] Scheme or the Insurance Scheme]] has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm and other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.]

1[14AA. Enhanced punishment in certain cases after previous conviction.—Whoever, having been convicted by a court of an offence punishable under this Act, the Scheme or 2[the 3[Pension] Scheme or the Insurance Scheme], commits the same offence shall be subject for every such subsequent offence to imprisonment for a term which may extend to 4[five years, but which shall not be less than two years, and shall also be liable to a fine of twenty-five thousand rupees].]

[14AB. Certain offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898) an offence relating to default in payment of contribution by the employer punishable under this Act shall be cognizable.]

[14AC. Cognizance and trial of offences.—

(1) No court shall take cognizance of any offence punishable under this Act, the Scheme or 2[the 3[Pension] Scheme or the Insurance Scheme] except on a report in writing of the facts constituting such offence made with the previous sanction of the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf, by an Inspector appointed under section 13.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or Scheme or 2[the 3[Pension] Scheme or the Insurance Scheme].]

