

Certain Provisions Of the Code On Social Security 2020 Will be effective by 3rd May, 2023

The provisions of the code on social security shall come into force. The details of the same are given below:

•Section 15(3) of the Code on Social Security relating to the Employee's Pension Scheme. Section 15 of the code reads asunder:

I. Section 15 - Schemes

(1) The Central Government may, by notification

(a) Frame a scheme to be called the Employees' Provident Fund Scheme for which the provident funds shall be established under this Chapter for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply;

(b) Frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for-

(i) Superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies;

(ii) Widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and

(iii) Nominee pension;

(c) 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 Chapter applies;

(d) frame any other scheme or schemes for the purposes of providing social security benefits under this Code to self-employed workers or any other class of persons; and

(e) Modify any scheme referred to in clauses (a), (b), (c) and (d) by adding thereto, amending or varying therein, either prospectively or retrospectively.

(2) Subject to the provisions of this Chapter, the schemes referred to in clauses (a), (b) and (c) of sub-section (1) may provide for all or any of the matters respectively specified in Part A, Part B and Part C of the Fifth Schedule.

(3) The schemes may provide that all or any of its provisions shall take effect either prospectively or retrospectively on and from such date as may be Specified in that behalf in the scheme."

Sub-Section-15(3) shown in bold letters would come into force with effect from 03.05.2023 in so far as it relates to Employees Pension Scheme 1995.

II. Clause-(a) of Subsection (1) of Section 16 in so far as it relates to Employees Pension Scheme 1995.

Section-16 of the code reads as under

"Funds.

(1) The Central Government may, for the purposes of

(a) The Provident Fund Scheme, establish a Provident Fund where the contributions paid by the employer to the fund shall be ten per cent. of the wages for the time

being payable to each of the employees (whether employed by him directly or by or through a contactor), and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten per cent. of the wages, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section:

Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification, specify, this section shall be subject to the modification that for the words 'ten per cent.' at both the places where they occur, the words " twelve per cent." shall be substituted:

Provided further that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of employees' contributions and the period for which such rates shall apply for any class of employee;

(b) The Pension Scheme, establish a Pension Fund in the manner specified in that scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(i) Such sums from the employer's contribution under clause (a) not exceeding eight and one third per cent of the wages or such per cent of wages as may be notified by the Central Government;

(ii) Such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies;

(iii) Such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;

(c) the Insurance Scheme, establish a Deposit-Linked Insurance Fund in the manner specified in that scheme by that Government into which there 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 wages or such per cent. of wages as may be notified by the Central Government for the time being payable in relation to such employee:

Provided that 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 this clause, 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 the Insurance Scheme.

(2) The Provident Fund, the Pension Fund and the Insurance Fund shall vest in, and be administered by, the Central Board in such manner as may be specified in the respective schemes.

Section 16 itself would come into force effective from 3rd May, 2023 in so far as it relates to employee's pension fund.

III. Section 143, in so far as it applies in giving effect to the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 16 in relation to the Employee's Pension Scheme 1995.

Section 143 is with regard to the power of the Government of India to exempt establishments from the provisions of the Social Security Code.

The provisions of Section 1 of Section 164 to repeal the corresponding provisions of the Employees Provident Fund and Miscellaneous Provident Fund specified in item 3 thereof and Clause-B of Sub-section 3 of Section 164 in so far as in relates to Employees Pension Scheme.

Section 164 relates to the repeal and savings of the Acts which are in existence prior to the date on which the code on social security 2020 will come into force.

“Section 164(2)(b)- the Employees' Provident Funds Scheme, 1952, the Employees, Deposit Linked Insurance Scheme, 1976 the Employees' Pension Scheme, 1995 and the Employees' Provident Funds Appellate Tribunal Procedure Rules, 1997 framed or made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the rules, regulations and schemes made or framed under the Employees' State Insurance Act, 1948, shall remain in force, to the extent they are not inconsistent with the provisions of this Code for a period of one year from the date of commencement of this Code”

Note- Employees' Pension Scheme, 1995 shall remain in force, to the extent they are not inconsistent with the provisions of this Code for a period of one year from the date of commencement of this Code.

IV. All the above provisions have been brought into force as a part of implementation of the judgment of the Supreme Court in the case of EPFO vs. Sunil Kumar. B decided on 4thNovember, 2022.