

## **Employees' Pension Scheme, 1995**

**Notification.-** G.S.R. 748(E), DATED 16-11-1995

In exercise of the powers conferred by section 6A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme, namely:—

**1. Short title, commencement and application.-** (1) This Scheme may be called the Employees' Pension Scheme, 1995.

(2) (a) This Scheme shall come into force on the 16th day of November, 1995;

(b) Subject to the provisions of this Scheme the employees have an option to become the members of the Scheme with effect from 1st April, 1993.

(3) Subject to the provisions of section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, this Scheme shall apply to the employees of all factories and other establishments to which the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, applies or is applied under sub-section (3) or sub-section (4) of section 1 or section 3 thereof.

**2. Definitions.-** (1) In this Scheme unless the context otherwise requires :—

(i) "Act" means the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(ii) "actual service" means the aggregate of periods of service rendered from the 16th November, 1995, or from the date of joining any establishment whichever is later to the date of exit from the employment of the establishment covered under the Act;

(iii) "Commissioner" means a Commissioner for Employees' Provident Funds appointed under section 5D of the Act;

(iv) "Contributory service" means the period of "actual service" rendered by a member for which the contributions to the fund have been received or are receivable;

(v) "Eligible member" means "an employee who is eligible to join the Employees' Pension Scheme";

(vi) "Existing member" means an existing employee who is a member of the Employees' Family Pension Scheme, 1971;

(vii) "Family" means—

(i) Wife in the case of a male member of the Employees' Pension Fund;

(ii) Husband in the case of a female member of the Employees' Pension Fund; and

(iii) Sons and daughters of a member of the Employees' Pension Fund.

**Explanation.—** The expression "sons" and "daughters" shall include children legally adopted by the member;

(viii) "Pension" means the pension payable under the Employees' Pension Scheme and also includes the family pension admissible and payable under the Employees' Family Pension Scheme, 1971, immediately preceding the commencement of the Employees' Pension Scheme, 1995, with effect from 16th November, 1995;

(ix) "Member" means an employee who becomes a member of the Employees' Pension Fund in accordance with the provisions of this Scheme.

**Explanation.—** An employee shall cease to be the member of Pension Fund from the date of attaining 58 years of age or from the date of vesting admissible benefits under the Scheme, whichever is earlier;

(x) "Non-contributory service" is the period of "actual service" rendered by a member for which no contribution to the "Employees' Pension Fund" has been received or is receivable;

(xi) "Orphan" means a person, none of whose parents is alive;

(xii) "Past service" means the period of service rendered by an existing member from the date of joining the Employees' Family Pension Fund till 15th November, 1995;

(xiii) "Pay" means basic wages, with dearness allowance, retaining allowance and cash value of food concessions admissible, if any;

(xiv) "Pension fund" means the Employees' Pension Fund set up under subsection (2) of section 6A of the Act;

(xv) "Pensionable service" means the service rendered by the member for which contributions have been received or are receivable;

(xvi) "Permanent total disablement" means such disablement of permanent nature as incapacitates an employee for all work which he/she was capable of performing at the time of disablement, regardless of whether such disablement is sustained in the course of employment or otherwise;

(xvii) "Table" means Table appended to this Scheme;

(xviii) The words and expressions defined in the Act but not defined in this Scheme shall have the same meaning as assigned to them in the Act.

**3. Employees' Pension Fund.-** (1) From and out of the contributions payable by the employer in each month under section 6 of the Act or under the rules of the Provident Fund of the establishment which is exempted either under clauses (a) and (b) of sub-section (1) of section 17 of the Act or whose employees are exempted under either paragraph 27 or paragraph 27A of the Employees' Provident Funds Scheme, 1952, a part of contribution representing 8.33 per cent of the employee's pay shall be remitted by the employer to the Employees' Pension Fund within 15 days of the close of every month by a separate bank draft or cheque on account of the Employees' Pension Fund contribution in such manner as may be specified in this behalf by the Commissioner. The cost of the remittance, if any, shall be borne by the employer.

(2) The Central Government shall also contribute at the rate of 1.16 per cent of the pay of the members of the Employees' Pension Scheme and credit the contribution to the Employees' Pension Fund:

**Provided that** where the pay of the member exceeds rupees six thousand and five hundred per month the contribution payable by the employer and the Central Government be limited to the amount payable on his pay of rupees six thousand and five hundred only.

(3) Each contribution payable under sub-paragraphs (1) and (2) shall be calculated to the nearest rupee, fifty paise or more to be counted as the next higher rupee and fraction of a rupee less than fifty paise to be ignored.

(4) The net assets of the Family Pension Scheme, 1971, shall vest in and stand transferred to the Employees' Pension Fund.

**4. Payment of contribution.-** (1) The employer shall pay the contribution payable to the Employees' Pension Fund in respect of each member of the

Employees' Pension Fund employed by him directly or by or through a contractor.

(2) It shall be the responsibility of the principal employer to pay the contributions payable to the Employees' Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

**Provided that** the Central Government shall pay the contribution payable to the Employees' Pension Fund in respect of an employee who is a person with disability under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) and under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) respectively, up to a maximum period of three years from the date of commencement of membership of the Fund.

**5. Recovery of damages for default in payment of any contributions.-**

(1) Where an employer makes default in payment of any contribution to the Employees' Pension Fund, or in the payment of any charges payable under any other provisions of the Act or the Scheme, the Central Provident Fund Commissioner or such officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf, may recover from the employer by way of penalty, damages at the rates given below :—

| <b>Period of default</b>                           | <b>Rate of damages<br/>(percentage of<br/>arrears per annum)</b> |
|--|--|
| (a) Less than two months.                          | Seventeen  |
| (b) Two months and above but less than four months | Twenty-two   |
| (c) Four months and above but less than six months | Twenty-seven   |
| (d) Six months and above                           | Thirty-seven.  |

(2) The damages shall be calculated to the nearest rupee, fifty paise or more to be counted as the nearest higher rupee and fraction of a rupee less than 50 paise to be ignored.

**6. Membership of the Employees' Pension Scheme.-** Subject to sub-para (3) of paragraph 1, the Scheme shall apply to every employee—

(a) who on or after the 16th November, 1995, becomes a member of the Employees' Provident Funds Scheme, 1952, or of the provident funds of the factories and other establishments exempted by the appropriate Government under section 17 of the Act, or in whose case exemption has been granted under paragraph 27 or 27A of the Employees' Provident Funds Scheme, 1952, from the date of such membership;

(b) who has been a member of the ceased Employees' Family Pension Scheme, 1971, before the commencement of this Scheme from 16th November, 1995;

(c) who ceased to be a member of the Employees' Family Pension Scheme, 1971, between 1st April, 1993, and 15th November, 1995, and opts to exercise his option under paragraph 7;

(d) who has been a member of the employees' provident fund or of the provident funds of factories and other establishments exempted by the appropriate Government under section 17 of the Act or in whose case exemption has been granted under paragraph 27 or 27A of the Employees' Provident Funds Scheme, 1952, on 15th November, 1995, but not being a member of the ceased Employees' Family Pension Scheme, 1971, opts to exercise his option under paragraph 7.

**6A. Retention of membership.-** A member of the Employees' Pension Fund shall continue to be such member till he attains the age of 58 years or he avails of the withdrawal benefit to which he is entitled under paragraph 14 of the Scheme, or dies, or the pension is vested in him in terms of paragraph 12 of the Scheme, whichever is earlier.

**8. Resolution of doubts.-** If any doubt arises whether an employee is entitled to become a member of the Employees' Pension Fund, the same shall be referred to the Regional Provident Fund Commissioner who shall decide the same :

**Provided that** both the employer and the employee shall be heard before passing final order in the matter.

**9. Determination of eligible service.-** The eligible service shall be determined as follows:

(a) In the case of "new entrant" the "actual service" shall be treated as eligible service. The total actual service shall be rounded off to the nearest year. The fraction of service for six months or more shall be treated as one year and the service less than six months shall be ignored.

**Explanation.—** In the case of employees employed seasonally in any establishment the period of “actual service” in any year, notwithstanding that such service is less than a year shall be treated as a full year.

(b) In the case of the “existing member” the aggregate of actual service and the “past service” shall be treated as eligible service :

**Provided that** if there is any period in the “past service” for which the contribution towards the Family Pension Scheme, 1971, has not been received, the said period shall count as eligible service only if the contributions thereof have been received in the Employees’ Pension Fund.

**Explanation.—** For the purpose of this sub-paragraph the total past service for less than six months shall be ignored and the total past service for six months and above shall be rounded to a year.

**10. Determination of pensionable service.-** (1) The pensionable service of the member shall be determined with reference to the contributions received or receivable on his behalf in the Employees’ Pension Fund.

(2) In the case of a member who superannuates on attaining the age of 58 years, and/or who has rendered 20 years’ pensionable service or more, his pensionable service shall be increased by adding a weightage of two years.

**11. Determination of pensionable salary.-** (1) Pensionable salary shall be the average monthly pay drawn in any manner including on piece-rate basis during the contributory period of service in the span of 12 months preceding the date of exit from the membership of the Employees’ Pension Fund:

**Provided that** if a member was not in receipt of full pay during the period of twelve months preceding the day he ceased to be the member of Pension Fund, the average of previous 12 months full pay drawn by him during the period for which contribution to the pension fund was recovered, shall be taken into account as pensionable salary for calculating pension.

(2) If during the said span of 12 months, there are non-contributory periods of service including cases where the member has drawn salary for a part of the month, the total wages during the 12 months span shall be divided by the actual number of days for which salary has been drawn and the amount so derived shall be multiplied by 30 to work out the average monthly pay.

(3) The maximum pensionable salary shall be limited to six thousand and five hundred rupees per month:

**Provided that** if at the option of the employer and employee, contribution paid on salary exceeding Rs. 6,500 per month from the date of commencement of this Scheme or from the date salary exceeds Rs. 6,500, whichever is later, and 8.33 per cent share of the employers thereof is remitted into the pension fund, pensionable salary shall be based on such higher salary.

**12. Monthly members pension.-** (1) A member shall be entitled to :—

(a) superannuation pension if he has rendered eligible service of 20 years or more and retires on attaining the age of 58 years;

(b) retirement pension, if he has rendered eligible service of 20 years or more and retires or otherwise ceases to be in the employment before attaining the age of 58 years;

(c) short service pension, if he has rendered eligible service of 10 years or more but less than 20 years.

(2) In the case of a new entrant the amount of monthly superannuation pension or retiring pension, as the case may be, shall be computed in accordance with the following factors, namely :—

(3) In the case of an employee who was a member of the ceased Family Pension Scheme, 1971, and who has not attained the age of 48 years on the 16th November, 1995;

Superannuation/retirement/short service pension shall be equal to the aggregate of—

(a) pension as determined under sub-paragraph (2) for the period of pensionable service rendered from the 16th November, 1995, or Rs. 635 per month whichever is more;

(b) past service pension benefit shall be as given below :—

The past service benefit payable on completion of 58 years of age on 6-11-1995.

| <b>Years of past service</b> | <b>Salary up to Rs. 2,500</b> | <b>Salary more than per monthRs. 2,500 per month</b> |
|------------------------------|-------------------------------|--|
| (1)                          | (2)                           | (3)  |
| (i) Up to 11 years           | 80                            | 85   |
| (ii) More than 11 years      | 95                            | 105  |

|   |     |     |
|---|-----|-----|
| but up to 15 years                              |     |     |
| (iii) More than 15 years but less than 20 years | 120 | 135 |
| (iv) Beyond 20 years                            | 150 | 170 |

Subject to a minimum of Rs. 800 per month provided the past service is 24 years. If the aggregate service of the member is less than 24 years, the pension and the benefits computed as above shall be reduced proportionately subject to a minimum of Rs. 450 per month;

(c) on completion of the age of 58 years after 16-11-1995, the benefit under column (2) or column (3) above, as the case may be, shall be multiplied by the factor given in Table B—corresponding to the period between 16-11-1995 and date of attainment of age 58 to arrive at past service pension payable.

(4) In the case of an employee who was a member of the ceased Family Pension Scheme, 1971, and has attained the age of 48 years but less than 53 years on 16th November, 1995, the superannuation/retirement pension shall be equal to the aggregate of :—

(a) pension as determined under sub-paragraph (2) for the period of service rendered from 16th November, 1995, or Rs. 438 per month, whichever is more;

(b) past service benefit as provided in sub-paragraph (3) subject to a minimum of Rs. 600 per month provided the past service is 24 years : Provided further that if it is less than 24 years, the pension payable and the past service benefits taken together shall be proportionately less subject to the minimum of Rs. 325 per month.

(5) In the case of an employee who was a member of the ceased Family Pension Scheme, 1971, and who has attained the age of 53 years or more on 16th November, 1995, the superannuation/retirement pension shall be equal to the aggregate of :

(a) pension as determined under sub-paragraph (2) for the period of service rendered from 16th November, 1995, per month or Rs. 335 per month, whichever is more;

(b) past service benefits provided in sub-paragraph (3) subject to the minimum of Rs. 500 per month, provided the past service is 24 years :

**Provided further that** if it is less than 24 years, the pension payable and the past service benefits shall be proportionately lesser but subject to the minimum of Rs. 265 per month.

(6) Except as otherwise expressly provided hereinafter the monthly members pension under sub-paragraphs (2) to (5) mentioned hereinabove, as the case may be, shall be payable from a date immediately following the date of completion of 58 years of age notwithstanding that the member has retired or ceased to be in the employment before that date.

(7) A member if he so desires, may be allowed to draw a monthly reduced pension from a date earlier than 58 years of age, but not earlier than 50 years of age. In such cases, the amount of pension shall be reduced at the rate of three per cent for every year, the age falls short of 58 years.

(8) If a member ceases to be in the employment by way of retirement or otherwise earlier than the date of superannuation from which pension can be drawn, the member may, on his option, either be paid pension as admissible under this Scheme on attaining the age exceeding 50 years or he may be issued a scheme certificate by the Commissioner indicating the pensionable service, the pensionable salary and the amount of pension due on the date of exit from the employment. If he/she is subsequently employed in an establishment coverable under this Scheme, his/her earlier service as per the Scheme certificate shall be reckoned for pension along with the fresh spell of pensionable service. The member postponing the commencement of payment of pension under this paragraph shall also be entitled to additional relief sanctioned under this Scheme from time to time :

**Provided that** if the member does not take up an employment coverable under this Scheme, but dies before attaining the age of 58 years, the amount of contributions received in his case shall be converted into a monthly widow pension/children pension. The widow pension in such cases shall be calculated at the scale laid down in Table "C" and the children pension at 25 per cent thereof for each child (up to two). If there is no widow then the orphan pension shall be payable at the rate of 75 per cent of the amount which would have been payable as a widow pension subject to the provisions of paragraph 16.

**12A. Option for commutation.-** A member eligible to pension may, in lieu of pension normally admissible under paragraph 12, opt on completion of three years from the commencement of this Scheme, to commute up to a maximum of one-third of his pension so as to receive hundred times the monthly pension so commuted as commuted value of pension. Balance

pension will be paid on monthly basis as per option exercised under paragraph 13.

**Explanation.—** If, for example, the normal pension under paragraph 12 is Rs. 600, and the pensioner opts to commute one-third of this monthly pension, the commuted value will be equal to  $1/3 \times 600 \times 100 = \text{Rs. } 20,000$  and the same shall be paid at the time of exercise of option for commutation. The balance of pension payable on monthly basis is Rs. 400.

**13. Options for return of capital.-** (1) A member eligible to pension may, in lieu of pension normally admissible under paragraph 12 subject to commutation of pension, if any, under paragraph 12A, opt to draw for reduced pension and avail of return of capital under any one of the three alternatives given below :—

| <b>Sl. No.</b> | <b>Alternatives</b>   | <b>Revised pension payable</b>  | <b>Amount payable as return of capital</b>   |
|----------------|---|---|--|
| (1)            | (2)   | (3)   | (4)  |
| 1.             | Revised pension during life time of member with return of capital on his death.   | 90 per cent of original monthly pension.  | 100 times the original monthly pension on death of member to the nominee.  |
| 2.             | Revised pension during the life time of member, further reduced pension during life time of the widow or her remarriage, whichever is earlier, and return of capital on widow's death/remarriage. | 90 per cent of original monthly pension to the member. On his death 80 per cent of the original monthly pension to the widow. | 90 times the original monthly pension on death of widow/remarriage to the nominee.   |
| 3.             | Pension for a fixed period of 20 years notwithstanding whether the member lives for that period or not.   | 87.5 per cent of the original monthly pension for a fixed period of 20 years. The pension will cease thereafter.              | 100 times the original monthly pension at the end of 20 years from the date of commencement of pension to the member if he is alive, otherwise to his nominee. |

**Explanation 1.**— In alternative 2, if the spouse dies or remarries before the death of member, capital equal to 90 times the original monthly pension shall be paid to the nominee on the member's death.

**Explanation 2.**— In alternative 3, if the member dies before the end of 20 years period, the pension shall be paid to his nominee for the balance period.

**Explanation 3.**— In the case of a member who is eligible for permanent total disablement pension, and where the payment of such pension is to commence before his attaining the age of 50 years, the options shall also be admissible but in such cases the actual pension payable shall be reduced by 1 per cent and the return of capital shall be further reduced by Rs. 1,000 for every year by which the age at the commencement of pension falls short of 50 years.

**Explanation 4.**— In cases of exercise of option for commutation under paragraph 12A, balance monthly pension payable after commutation shall be deemed to be the original monthly pension for the purpose of this paragraph.

(2) The option under sub-paragraph (1) shall be exercised by the member at the time of submission of the application form for pension in accordance with the provisions of this Scheme. The option once exercised shall be final. If no option is exercised, the member shall be deemed not to have exercised any option under this paragraph and his/her pension shall be determined under the provisions of paragraph 12.

(3) Notwithstanding that the capital is returned under this paragraph the widow/children shall continue to be eligible for normal widow pension/children pension/orphan pension under paragraph 16 of this Scheme from the date immediately following the date of death of the member

**14. Benefits on leaving service before being eligible for monthly members pension.**— (1) If a member has not rendered the eligible service prescribed in paragraph 9 on the date of exit, or on attaining the 58 years of age, whichever is earlier, he/she shall be entitled to a withdrawal benefit as laid down in Table "D" or may opt to receive the scheme certificate provided on the date he/she has not attained the 58 years of age :

**Provided that** an existing member shall receive additional return of contributions for his/her past service under the Employees' Family Pension

Scheme, 1971, computed as withdrawal-cum-retirement benefits as per Table "A" multiplied by the factor given in Table "B".

**15. Benefits on permanent and total disablement during the service.-**

(1) A member, who is permanently and totally disabled during the employment shall be entitled to pension as admissible under sub-paragraphs (2) to (5) of paragraph 12, as the case may be, subject to a minimum of Rs. 250 per month notwithstanding the fact that he/she has not rendered the pensionable service entitling him/her to pension under paragraph 12 provided that she/he has made at least one month's contribution to the Pension Fund.

(2) The monthly member's pension in such cases shall be payable from the date following the date of permanent total disablement and shall be tenable for the life time of the member.

(3) A member applying for benefits under this paragraph shall be required to undergo such medical examination as may be prescribed by the Central Board to determine whether or not he or she is permanently and totally unfit for the employment which he or she was doing at the time of such disablement.

**16. Benefits to the family on the death of a member.-** (1) Pension to the family shall be admissible from the date following the date of death of the member if the member dies :—

(a) while in service, provided that at least one month's contribution has been paid into the Employees' Pension Fund, or

(b) after the date of exit but before attaining the age of 58, from the employment having rendered service entitling him/her to monthly members' pension but before the commencement of pension payment, or,

(c) after commencement of payment of the monthly members pension.

**Note.—**The cases where a member has rendered less than 10 years eligible service on the date of exit but has retained the membership of the Pension Fund, and dies before attaining the age of 58 years, shall be regulated under sub-paragraph (8) of paragraph 12.

(2) (a) The monthly widow pension shall be :—

(i) In the cases covered by clause (a) of sub-paragraph (1) equal to the monthly member's pension which would have been admissible as if the

member had retired on the date of death or Rs. 450 or the amount indicated in Table "C" whichever is more.

(ii) In the cases covered by clause (b) of sub-paragraph (1), equal to the monthly members pension which would have been admissible as if the member had retired on the date of exit or Rs. 450 per month or the amount indicated in Table "C" whichever is more.

(iii) In the cases covered by clause (c) of sub-paragraph (1), equal to 50 per cent of the monthly members pension payable to the member on the date of his death subject to a minimum of Rs. 450 per month.

(iv) In all the cases, where the amount of family pension sanctioned under the ceased Family Pension Scheme, 1971, and is paid/payable under this scheme is less than Rs. 450 per month, the amount of family pension in such cases shall be enhanced to Rs. 450 per month.

(b) The monthly widow pension shall be payable up to the date of death of the widow or re-marriage, whichever is earlier.

**Note.**—In cases where there are two or more widows, family pension shall be payable to the eldest surviving widow. On her death it shall be payable to the next surviving widow, if any. The term "eldest" would mean seniority with reference to the date of marriage.

(3) Monthly children pension :—

(a) If there are any surviving children of the deceased member, falling within the definition of family, they shall be entitled to a monthly children pension in addition to the monthly widow/widower pension.

(b) Monthly children pension for each child shall be equal to 25 per cent of the amount admissible to the widow/widower of the deceased member as monthly widow pension payable under sub-paragraph (2)(a)(i) provided that minimum monthly children pension for each child of the deceased member shall not be less than Rs. 150 per month.

(c) Monthly children pension shall be payable until the child attains the age of 25 years.

(d) The monthly children pension shall be admissible to a maximum of two children at a time and will run from the oldest to the youngest child in that order.

(e) If a member dies leaving behind a family having son or daughter who is permanently and totally disabled, such son or daughter shall be entitled to payment of monthly children pension or orphan pension, as the case may be, irrespective of age and number of children in the family in addition to the pension provided under clause (d).

(4) (a) If the deceased member is not survived by any widow but is survived by children falling within the definition of family or if the widow pension is not payable, the children shall be entitled to a monthly orphan pension equal to 75 per cent of the amount of the monthly widow pension as payable under sub-paragraph (2)(a)(i) provided that the minimum monthly orphan pension for each orphan shall not be less than Rs. 250 per month.

(b) In the event of death or remarriage of the widow/widower after sanctioning of widow/widower pension the children shall be entitled in lieu of the monthly children pension, to a monthly orphan pension from the date following the date of death/remarriage of the widow/widower.

(c) The monthly orphan pension shall be admissible to a maximum of two orphans at a time and shall run in order from the oldest to the youngest orphan.

(5) (a) A member who is not married or who does not have any living spouse and/or an eligible child may nominate a person to receive benefits as laid down hereinafter provided that in the event of his/her acquiring a family subsequently, the nomination so made shall become void. In the event of death of the member such a nominee shall be entitled to receive a monthly pension equal to the monthly widow pension, as admissible under sub-clauses (i) and (ii) of clause (a) of sub-paragraph (2).

(aa) If a member dies leaving behind no spouse and/or an eligible child falling within the definition of family and no nomination by such deceased member exists, the widow pension shall be paid under sub-clauses (i) and (ii) of clause (a) of sub-paragraph (2) either to the dependant father or the dependant mother, as the case may be. On grant of pension to such dependant father and in the event of death of the father pensioner, the admissible pension shall be extended to the surviving mother life long.

(b) If the deceased member had not rendered pensionable service on the date of exit from the employment which would have made him entitled to a monthly members pension under paragraph 12, but had opted to retain the membership of this Scheme under sub-paragraph (8) of paragraph 12, the nominee or the dependant father or the dependant mother, as the case may

be shall be entitled to return of capital as provided in sub-paragraph (1) of paragraph 13.

**16A. Guarantee of pensionary benefits.-** None of the pensionary benefits under this Scheme shall be denied to any member or beneficiary for want of compliance with the requirements by the employer under sub-paragraph (1) of paragraph 3 provided, however, that the employer shall not be absolved of his liabilities under the Scheme.

**17. Payments on exercise of option.-** (1) Beneficiaries of the deceased members of the Employees' Family Pension Scheme, referred to in sub-paragraph (i) of paragraph 7, shall receive higher of the benefits available under the Employees' Family Pension Scheme, 1971, and under this Scheme.

(2) Members, referred to in sub-paragraph (2) of paragraph 7, shall have the option to join this Scheme by returning the amount of withdrawal benefit received, if any, together with interest at the rate of 8.5 per cent per annum from the date of payment of such withdrawal benefit and date of exercise of the option, to receive monthly pension as per the provisions of this Scheme.

(3) Members, referred to in sub-paragraph (3) of paragraph 7, shall be deemed to have joined the ceased Employees' Family Pension Scheme, 1971, with effect from 1-3-1971 on remittance of past period contribution with interest thereon.

**17A. Payment of pension.-** The claims, complete in all respects submitted along with the requisite documents shall be settled and benefit amount paid to the beneficiaries within 30 days from the date of its receipt by the Commissioner. If there is any deficiency in the claim, the same shall be recorded in writing and communicated to the applicant within 30 days from the date of receipt of such application. In case, the Commissioner fails without sufficient cause to settle a claim complete in all respects within 30 days, the Commissioner shall be liable for the delay beyond the said period and penal interest at the rate of 12 per cent per annum may be charged on the benefit amount and the same may be deducted from the salary of the Commissioner.

**18. Particulars to be supplied by the employees already employed at the time of commencement of the Employees' Pension Scheme.-**

Every person who is entitled to become a member of the Employees' Pension Fund shall be asked forthwith by his employer to furnish and that person

shall, on such demand, furnish to him for communication to the Commissioner particulars concerning himself and his family in the form prescribed by the Central Provident Fund Commissioner.

**19. Preparation of contribution cards.-** The employer shall prepare an Employees' Pension Fund Contribution Card, in respect of each employee who has become a member of the Employees' Pension Fund.

**20. Duties of employers.-** (1) Every employer shall send to the Commissioner within three months of the commencement of this Scheme, a consolidated return of the employees entitled to become members of the Employees' Pension Fund showing the basic wage, retaining allowance, if any, and dearness allowance including the cash value of any food concession paid to each of such employees :

**Provided that** if there is no employee who is entitled to become a member of the Employees' Pension Fund, the employer shall send a "Nil" return.

(2) Every employer shall send to the Commissioner within fifteen days of the close of each month a return in respect of the employees leaving service of the employer during the preceding month:

**Provided that** if there is no employee leaving service of the employer during the preceding month the employer shall send a "Nil" return.

(3) Every employer shall maintain such accounts in relation to the amounts contributed by him to the Employees' Pension Fund as the Central Board may, from time to time, direct and it shall be the duty of every employer to assist the Central Board in making such payments from the Employees' Pension Fund to his employees as are sanctioned by or under the authority of the Central Board.

(4) Notwithstanding anything contained in this paragraph, the Central Board may issue such directions to the employers generally, as it may consider necessary or expedient, for the purpose of implementing the Scheme, and it shall be the duty of every employer to carry out such directions.

**21. Employer to furnish particulars of ownership.-** Every employer in relation to a factory or other establishment to which the Act applies or is applied hereafter shall furnish to the Commissioner particulars of all the branches and departments, owners, occupiers, directors, partners, managers or any other person or persons who have the ultimate control over the affairs of such factory or establishment and also send intimation of any

change in such particulars, within fifteen days of such change, to the Commissioner by registered post.

**22. Duties of contractors.-** Every contractor shall, within seven days of the close of every month, submit to the principal employer a statement showing the particulars in respect of employees employed by or through him in respect of whom contributions to the Employees' Pension Fund are payable and shall also furnish to him such information as the principal employer is required to furnish under the provisions of this Scheme to the Commissioner.

**23. Allotment of account numbers.-** For purposes of this Scheme, where the member has already been allotted or is allotted hereafter an account number under the Employees' Provident Funds Scheme, 1952, he shall retain the same account number.

(2) In the case of employees of the establishments exempted from the Employees' Provident Funds Scheme, 1952, under section 17 of the Act, who are members of the Employees' Family Pension Fund the account number already allotted shall be retained by them.

(3) In the case of employees of the establishments exempted from the Employees' Provident Funds Scheme, 1952, under section 17 of the Act, who are not members of the Employees' Family Pension Fund but opt to become members of the Employees' Pension Fund and in case of new employees of such establishments, fresh account numbers shall be allotted by the Commissioner.

**24. Declaration by persons taking up employment after the fund has been established.-** The employer shall before taking any person into employment, ask him/her to state in writing whether or not he is a member of the Employees' Pension Fund and, if he/she is, also ask him/her to furnish a copy of the scheme certificate issued by the Commissioner to him/her in respect of the past employment in terms of paragraph 12, as the case may be. If the person concerned was not in employment previously or had availed of return of contribution in respect of his/her previous employment, he/she shall, on demand by the employer, furnish to him, for communication to the Commissioner particulars concerning him/herself and his/her family in the form prescribed by the Central Provident Fund Commissioner. Provided that if such person is a person with disability, the aforesaid Form shall further contain such particulars as are necessary for such person.

**25. Employees' Pension Fund Account.-** The account called the "Employees' Pension Fund Account" shall be opened by the Commissioner in such manner as may be specified by the Central Board with the approval of the Central Government.

**26. Investment of the Employees' Pension Fund.-** (1) All moneys accruing to the Employees' Pension Fund Account except the contributions of the Central Government shall be invested in accordance with the provisions of paragraph 52 of the Employees' Provident Funds Scheme, 1952.

(2) The net assets of the Family Pension Fund as on 16-11-1995, shall merge in the Pension Fund and remain invested in the public account of the Government of India. The future Central Government's contribution accruing to the Pension Fund from 17th November, 1995, onwards shall also be invested in the public account of the Government of India.

**27. Disposal of the fund.-** (1) Subject to the provisions of the Act and this Scheme, the Fund shall not, except with the prior sanction of the Central Government be expended for any purpose other than the payments envisaged in this Scheme; for continued payment of Family Pension, life assurance benefit and retirement-cum-withdrawal benefits sanctioned under the Employees' Family Pension Scheme, 1971, prior to the date of introduction of this Scheme or which may be sanctioned under that Scheme after the 16th November, 1995, in respect of cases arising before that date.

(2) Not exceeding 16 per cent of the administrative expenses shall be met from and out of the Employees' Pension Fund. The remaining administrative expenses shall be met from the administration accounts set up under the Employees' Provident Funds Scheme, 1952. The cost of remittance of pension shall be charged on the Pension Fund.

**28. Administration account.-** A separate account shall be kept, called the "Employees' Pension Administration Account" for recording of all the administrative expenses of the Employees' Pension Fund.

**29. Forms of accounts.-** The accounts of the Employees' Pension Fund, as also the Employees' Pension Administration Account shall be maintained by the Commissioner in such form and in such manner as may be specified by the Central Board with the approval of the Central Government.

**30. Audit.-** The accounts of the Employees' Pension Fund including the administrative expenses incurred in running this Scheme shall be audited in

accordance with the instructions issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

**31. Rounding up of the benefits.-** All items of benefits shall be calculated to the nearest rupee, 50 paise or more to be counted as the next higher rupee and a fraction of a rupee less than 50 paise shall be ignored.

**32. Valuation of the Employees' Pension Fund and review of the rates of contributions and quantum of the pension and other benefits.-** (1) The Central Government shall have an annual valuation of the Employees' Pension Fund made by a valuer appointed by it.

(2) At any time, when the Employees' Pension Fund so permits the Central Government may alter the rate of contributions payable under this Scheme or the scale of any benefit admissible under this Scheme or the period for which such benefit may be given.

**33. Disbursement of pension and other benefits.-** The Commissioner shall with the approval of the Central Board, enter into arrangement for the disbursement of pension and other benefits under this Scheme with disbursing agencies like post office or nationalised banks or treasuries or scheduled commercial banks including regional rural banks or co-operative banks. The commission payable to the disbursing agencies and other charges incidental thereto shall be met as provided in paragraph 27 of this Scheme.

**34. Registers, records, etc.-** The Commissioner shall, with the approval of the Central Board, prescribe the registers and records to be maintained in respect of the employees, the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or a member of a family entitled to receive the pension and such other forms/formalities as have to be completed in connection with the grant of pension and other benefits or for the continuance thereof subject to such periodical verification as may be considered necessary.

**35. Power to issue directions.-** The Central Government may issue such directions as may be deemed just and proper by it for resolving any difficulty in the disbursement of pension and other benefits or for resolving any difficulty in implementation of this Scheme.

**36. Regional committee.-** The regional committee set up under paragraph 4 of the Employees' Provident Funds Scheme, 1952, shall advise the Central Board, on such matters, in relation to the administration of this Scheme as the Central Board may refer to it from time to time and in particular, on—

(a) progress of recovery of contributions under this Scheme both from factories and establishments exempted under section 17 of the Act and other factories and establishments covered under the Act;

(b) expeditious disposal of prosecutions;

(c) speedy settlement of claims relating to pension and other benefits under this Scheme.

**37. Annual report.-** The Central Board shall cause to be included in the annual report on the working of the Scheme prepared under paragraph 74 of the Employees' Provident Funds Scheme, 1952, a report on the working of this Scheme during the previous financial year.

**38. Application of the provisions of the Employees' Provident Funds Scheme, 1952.-** In regard to the matters for which either there is no provision or there is inadequate provision in this Scheme the corresponding provisions in the Employees' Provident Funds Scheme, 1952, shall apply.

**39. Exemption from the operation of the Pension Scheme.-** The appropriate Government may grant exemption to any establishment or class of establishments from the operation of this Scheme, if the employees of the establishments are either members of any other pension scheme or propose to be members of a pension scheme wherein the pensionary benefits are at par or more favourable than the benefits provided under this Scheme. Where exemption is granted to any establishment or class of establishments under this paragraph, withdrawal benefits available to the credit of the employees of such establishment(s) under the ceased Family Pension Scheme, 1971, shall be paid, subject to the consent of the employees, to the Pension Fund of the establishment(s) so exempted. An application for exemption under this paragraph shall be presented to the Regional Provident Fund Commissioner having jurisdiction by the establishment or class of establishments together with a copy of the pension scheme of the establishment(s) and other relevant documents as may be called for by him. On receipt of such an application, the Regional Provident Fund Commissioner shall scrutinise it, obtain the recommendations of the Central Provident Fund Commissioner and submit the same to the appropriate Government for decision. Pending disposal of application for exemption under this paragraph, employers' share of the contribution shall not be remitted to the pension

fund as envisaged in sub-paragraph (1) of paragraph 3. An application for exemption presented under this paragraph shall be disposed of within a period of six months from the date of its receipt or such further time as may be extended for reasons to be recorded in writing. If the application for exemption is not disposed of within the period so specified, the exemption applied for shall be deemed to have been granted.

**Explanation.—** For the purpose of this paragraph, the period of six months will count from the date on which the application for exemption is given in complete form to the satisfaction of the Regional Provident Fund Commissioner.

**39A. Submission of return.-** The employer of the exempted establishment or class of establishments and/or the Board of Trustees of the exempted establishment or class of establishments shall submit a monthly return to the Commissioner in Form 1.

**39B. Transfer value.-** In case exemption is granted to any establishment or in the case of a member being transferred from pension fund of one exempted establishment to another pension fund of exempted establishment or statutory pension fund or vice versa, a transfer value payment will be made which will consist of the following :—

(a) Withdrawal benefit relating to past service period up to 15-11-1995, as per Table A multiplied by Table B factor for the period between 16-11-1995, to the date of exemption/transfer;

(b) Transfer value for pensionable service as per Table E for the service rendered from 16-11-1995, or from the date of joining the establishment to the date of exemption/transfer, as the case may be;

(c) In the event of cancellation of exemption granted under para 39, transfer of fund will be made as per the conditions mentioned in the exemption notification.

**40. Information to the Central Government.-** The Central Board shall furnish such information to the Central Government from time to time in respect of the income and expenditure from the Employees' Pension Fund account in such manner as may be directed by the Central Government.

**41. Interpretation.-** Where any doubt arises with regard to the interpretation of the provisions of this Scheme, it shall be referred to the Central Government who shall decide the same.

**42. Punishment for failure to submit return, etc.-** If any person,—

(a) deducts or attempts to deduct from the wages or other remuneration of the member, the whole or any part of the employer's contribution, or

(b) fails or refuses to submit any return, statement or other documents required by this Scheme or submits a false return, statement or other documents, or makes a false declaration, or

(c) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties or fails to produce any record for inspection by such Inspector or other officials, or

(d) is guilty of contravention of or non-compliance with any other requirement of this Scheme, he shall be punishable with imprisonment which may extend to one year or with fine which may extend to four thousand rupees or with both.

**43. Payment of pension in the case of a person charged with the offence of murder.-** (1) If a person, who in the event of the death of a member of the Pension Fund is eligible to receive pension of the deceased under paragraph 12 or paragraph 16, is charged with the offence of murdering the member or for abetting the commission of such an offence, his claims to receive pension shall remain suspended till the conclusion of the criminal proceedings instituted against him for such offence.

(2) If on the conclusion of the criminal proceedings referred to in sub-paragraph (1), the person concerned is :

(a) convicted for the murder or abetting in the murder of the member, he shall be debarred from receiving pension which shall be payable to other eligible members, if any, of the family of the member; or

(b) acquitted of the charge of murder or abetting the murder of the member, pension benefit shall be payable to him.

**44. Repeal and savings.-** (1) On commencement of this Scheme, the Employees' Family Pension Scheme, 1971, in force immediately before such commencement shall cease to operate with effect from 16th November, 1995.

(2) Notwithstanding anything contained in sub-paragraph (1), every nomination made under the Employees' Family Pension Scheme, 1971, and every form regarding the details of family of an employee for the purposes

of the Employees' Family Pension Scheme, 1971, shall be deemed to have been made under the provisions of this Scheme.

(3) All orders/authorisations/pension payment orders issued under the Family Pension Scheme, 1971, shall be deemed to have been made under this Scheme.