

Employees' Provident Fund (Amendment)

Ad. No. 42 of 1988

[Certified on 24th November, 1988]

LD-O. 21/87

AN ACT TO AMEND THE EMPLOYEES PROVIDENT FUND ACT,
No. 15 OF 1958

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows : -

1. This Act may be cited as the Employees' Provident Fund (Amendment) Act, No. 42 of 1988. Short title
2. Section 5 of the Employees' Provident Fund Act, No. 15 of 1958 (hereinafter referred to as the "principal enactment") is hereby amended as follows :- Amendment of section 5 of the principal enactment.
 - (a) by the insertion immediately after paragraph (f), of the following new paragraph :-
 - (ff) shall maintain a Suspense Account, into which shall be credited the contributions received under this Act in respect of which, the employers have failed to furnish relevant returns in terms of the Act or any regulations made thereunder, or have furnished deficient or incorrect returns and thus cannot be credited to individual accounts, and all the moneys held on the date on which this paragraph comes into force, in an account maintained by the Fund in respect of such contributions, shall be transferred by the Monetary Board to the Suspense Account created by this paragraph.

As and when an employer, who has failed to furnish relevant returns as referred to above: furnishes correct returns in respect of his employee, the Monetary Board shall transfer the moneys lying in the Suspense Account to the individual account of the member.

Where any moneys are transferred from the. Suspense Account to an individual account as provided for in this paragraph interest shall be paid on that sum, for the period from the date of receipt of such moneys to the date of transfer of such moneys to the individuals account, for a period not exceeding six years prior to the

date of such transfer, and the rate of interest shall be the rate determined in terms of section 14 (1) of the Act, and applicable for the year in respect of which the interest is paid ; ” ; and

(b) by the insertion immediately after paragraph (kk) of the following new paragraph :-

“(kkk) shall deduct any outstanding monies due on a housing loan under section 22, from the individual account of a member, upon a directive from the Commissioner to that effect, and transfer the amount so deducted to the relevant lending institution ;”.

3. Section 22 of the principal enactment is hereby amended by the insertion of the following proviso, at the end of that section :-

- Provided however, a member of the Fund may, assign or charge the contributions lying to the credit of his individual account in the Fund, with the State Mortgage and Investment Bank established under the State Mortgage and Investment Bank Act, No. 13 of 1975, or the National Housing and Development Authority established under the National Housing Development Authority Act, No. 17 of 1979 or the Housing Development Finance Corporation of Sri Lanka limited established under the National Housing Act (Chapter 401), or the Peoples' Bank established under the 'Peoples' Bank Act, No. 29 of 1961, or the Bank of Ceylon established under the Bank of Ceylon Ordinance (Chapter 397) or the National Savings Bank established under the National Savings Bank Act, No. 30 of 1971, or Multipurpose Corporative Societies established under the Corporative Societies Ordinance (Chapter 124), against, a loan given for housing purposes by any one of the said lending institutions.

Amendment
of section 22
of the
principal
enactment.

In any case where more than one member of a family are members of the Fund, all such members of the family as are members of the Fund may assign or charge the aggregate of the contributions lying to the credit of their individual accounts against a housing loan taken as aforesaid.

Where the repayment of the instalment of a loan is in default, the Commissioner shall, after being so intimated by the relevant lending Institution, settle the instalment in default together with interest accrued on such instalment to such lending institution, out of the moneys lying in the individual account or accounts of such employee or employees, notwithstanding the provisions of section 23 or 24 of the Act.

The intimation by a relevant lending institution to, the Commissioner, with respect to defaults in payment by an employee of instalments of a loan shall be made at the end of each calendar year.

Where there are any sums outstanding on account of a housing loan taken as aforesaid at the time of the payment of a benefit under section 23 or 24, as the case may be, the Commissioner may direct the Monetary Board, to deduct such outstanding sums out of the moneys lying to the credit of such member or members, in his or their individual accounts as the case may be, and transfer the moneys so deducted, immediately after such deduction, to the respective lending institutions.

For the purpose of section 22, " family " means a member of the Fund, his or her spouse, and his or her children. '

4. Section 23 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words "Save as hereinafter provided in this section", of the words "Save as hereinafter provided in this section and subject to the deductions made in section 22, "

Amendment
of section 23
of the
principal
enactment

**Employees' Provident Fund (Amendment)
Act, No. 42 of 1988**

Section 24 of the principal enactment is hereby amended as follows : -

Amendment
of section 24
of the
principal
enactment.

- (a) in subsection (1) of that section, by the substitution for the words "then such amount shall- ", of the words and figures "then subject to the deductions made in section 22, such amount shall- " :
- (b) in subsection (2) of that section, by the substitution for the words and figures "such amount shall-" of the words ' subject to the deductions made in section 22; ..such amount shall- ".

6. The following new section is hereby inserted immediately after section 31 and shall have effect as section 31A of the principal enactment : -

Insertion
of new
section 31A
in the
principal
enactment

" Imposition
of a sur-
charge on
employers
who fail
to furnish
returns.

31A Where any employer, who is, required in terms of this Act or an **regulation** made thereunder, to furnish a return together with any contribution, has failed to furnish such return; within the specified period or has furnished incorrect or deficient return and is -unable to explain to the satisfaction of the Commissioner, the reason ~~for the~~ failure to furnish such return for that period, he shall be liable to pay to the Fund a surcharge at the rate of one per cent of the amount of such contribution for every completed month or a part thereof from the last date on or before. which the return was due to the date of receipt by the Central Bank of Sri Lanka of a duly completed return. "