



The Gujarat Shops and Establishments (Employees Life Insurance) Act, 1980

Act 32 of 1980

Keyword(s):

Apprentice, Continuous Service, Contribution, Employee, Employer, Member of the Family of an Employer, Qualified Employee, Scheme, Wages

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXI] WEDNESDAY, NOVEMBER 26, 1980/AGRAHAYANA 5, 1902

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the President on the 21st November, 1980 is hereby published for general information.

N. B. PATEL,
Secretary to the Government of Gujarat,
Legal Department.

Gujarat Act No. 32 of 1980.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 26th November, 1980.)

An Act to provide for life insurance benefits to employees engaged in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith.

It is hereby enacted in the Thirty-first Year of the Republic of India, as follows :—

1. (1) This Act may be called the Gujarat Shops and Establishments (Employees Life Insurance) Act, 1980.

(2) It extends to the whole of the State of Gujarat.

Short title,
extent,
commence-
ment and
application.

(3) It shall come into force on such date, as the State Government may, by notification in the *Official Gazette*, appoint.

(4) It shall apply in the first instance to all the establishments mentioned in the Schedule.

(5) The State Government may, after giving by a notification in the *Official Gazette* not less than three months' notice of its intention so to do may by a like notification, add to the Schedule any establishment or a class of establishments in respect of which it is of opinion that this Act should apply and thereupon the Schedule shall be deemed to be amended accordingly.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

(2) "continuous service" means uninterrupted service rendered by an employee before or after the application of this Act to the establishment in which the employee is employed.

Explanation.—For the purpose of determination of continuous service, the period of absence of the employee on account of sickness, accident, leave, lay off, strike or a lock out or cessation of work not due to any fault of the employee concerned, shall be included;

(3) "contribution" means the sum of money payable as contribution in accordance with the provisions of section 6;

(4) "employee" means a person wholly or principally employed, whether directly or through any agency and whether for wages or other consideration in or in connection with any establishment; and includes an apprentice but does not include a member of the employer's family;

(5) "employer" means a person owning or having ultimate control over the affairs of an establishment;

(6) "establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment which is registered under the Bombay Shops and Establishments Act, 1948, or which is required by the provisions of that Act to be registered but is not so registered;

Bom.
LXXI.
X of
1948.

(7) "Inspector" means an Inspector appointed under section 13;

(8) "local authority" means—

(i) a municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949 ;

(ii) a municipality constituted under the Gujarat Municipalities Act, 1963;

(iii) a district panchayat constituted under the Gujarat Panchayats Act, 1961;

and includes any other body which the State Government may, by notification in the *Official Gazette*, declare to be a local authority for the purposes of this Act;

(9) "member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother, sister of an employer who lives with and is dependent on such employer;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "qualified employee" means an employee qualified under section 5;

(12) "scheme" means a scheme made under section 3;

(13) "wages" means wages as defined in the Payment of Wages Act, 1936;

(14) other words and expressions used, but not defined in this Act shall have the meanings respectively assigned to them in the Bombay Shops and Establishments Act, 1948.

3. (1) Subject to the other provisions of this Act, the State Government may, by notification in the *Official Gazette*, make a group insurance scheme for providing insurance on the lives of all qualified employees in the establishments to which this Act applies.

Group insurance scheme.

(2) A scheme under sub-section (1) may provide for all or any of the following matters, namely :-

(a) the plan of assurance,

(b) the sum assured,

(c) the rates of contribution,

(d) the proof of age of the qualified employee,

(e) nomination by a qualified employee or a person to whom the sum assured is payable and the manner of making such nomination,

(f) such other matters relating or incidental to the scheme as may be prescribed.

Limitation
on the
schemes.

4. (1) No scheme shall provide for,—

(a) insurance of a qualified employee for a sum exceeding two thousand and five hundred rupees ;

(b) a rate of contribution from each employer exceeding six rupees per employee per annum and a rate of contribution from each qualified employee exceeding six rupees per annum.

Qualifi-
cations of
employees for
benefit of
life
insurance.

5. No employee shall be qualified for the benefit of the life insurance under the scheme unless on a qualifying date,—

(a) he is a full time employee;

(b) he has attained the age of 18 years but has not attained the age of 60 years ;

(c) he is in continuous service for a period of six months immediately before the said date.

Explanation I .—For the purposes of this section “a full time employee” means an employee who is engaged to work for such time as is not less than a normal working day within the meaning of the Minimum Wages Act, 1948. 11 of 1948.

Explanation II .—For the purposes of this section an employee who has not rendered uninterrupted service for six months, shall be deemed to be in continuous service, if he has been actually employed for not less than 120 days by an employer during the six months immediately preceding.

Explanation III .—For the purposes of this section a “qualifying date” means the 1st day of January of a year.

Contribu-
tions.

6. (1) (a) The contribution payable under this Act in respect of a qualified employee shall comprise of —

(i) contribution payable by the employer (hereinafter referred to as “the employer’s contribution”), and

(ii) contribution payable by the qualified employee (hereinafter referred to as “the employee’s contribution”).

(b) The contribution shall be paid to such insurer and at such rates as specified in the scheme.

(2) A year shall be the unit in respect of which all contributions shall be payable.

(3) The contribution payable in respect of each year shall fall due on the 1st January of the year to which it relates.

(4) Every employer shall be liable to pay to the insurer specified in the scheme both the employer's and employee's contribution and such contribution shall be paid before the 15th January of the year to which the contribution relates.

(5) Notwithstanding anything contained in any enactment but subject to the provisions of this Act and the rules made thereunder, the employer shall be entitled to recover from the qualified employee, the employee's contribution by deduction from his wages in twelve equal monthly instalments but not otherwise, and such deduction shall be deemed to be the deduction authorised by or under the Payment of Wages Act, 1936:

4 of
1936.

Provided that no such deduction shall be made from any wages other than such as relate to the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.

(6) Notwithstanding any contract to the contrary no employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from the employee.

(7) Any sum duly deducted by an employer from the wages of the employee under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(8) The employer shall remit the employee's contribution to the insurer by cheque, money order or in cash and shall bear the expenses of such remittance.

(9) Where a qualified employee in respect of whom the employer has paid contribution under sub-section (4) ceases at any time during the year to which the contribution relates, to be an employee of an establishment, he may at any time before the amounts due to him is paid by the employer as a result of such cesser, or, within one month, of such cesser, whichever is less be called upon by the employer to exercise at any time before such cesser the option of continuing to have the benefit of the insurance scheme till the end of the year in which he ceases to be such employee.

(10) Where a qualified employee exercises under sub-section (9) the option to continue to have the benefit of the insurance scheme, the employer shall be entitled to deduct from the amounts due from the employer to the employee, the aggregate of the employee's contributions which would have become deductible from his wages till the end of the year if the employee had not ceased to be such employee.

(11) Where a qualified employee does not exercise the option within the time specified in sub-section (9) or exercises the option of not continuing the benefit, the employer shall be entitled to the refund of the amount of the contribution paid by him under sub-section (4) in so far as it relates to the period from the date of the cesser upto the end of the year.

Employers to furnish return and maintain registers.

7. (1) Every employer shall submit to such authority a return in such form and containing such particulars relating to the persons employed by him or to an establishment in respect of which he is an employer, as may be prescribed.

(2) Where in respect of any establishment, the authority prescribed under sub-section (1) (hereinafter referred to as "the prescribed authority") has reason to believe that a return required to be submitted under sub-section (1) has not been so submitted, the prescribed authority may require any person in charge of the establishment to furnish such particulars as it may consider necessary for the purpose of enabling it to decide whether the establishment is an establishment to which this Act applies.

(3) Every employer shall maintain such registers or records in respect of his establishment as may be prescribed.

Powers and duties of local authorities.

8. Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the State Government as may be prescribed :

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by its Chief Executive Officer or any other Officer subordinate to it :

Provided further that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the State Government to enforce the said provisions.

Power of State Government to enforce provisions of Act within areas of local authorities.

9. Notwithstanding anything contained in section 8, the State Government may, by a notification in the *Official Gazette*, direct that in the areas subject to the jurisdiction of such local authority as may be specified in the notification the provisions of this Act shall be enforced by the State Government from such date and for such period as may be specified in the notification and there upon such local authority and officers of such local authority shall be discharged from the duty of enforcing the provisions of this Act within such area from the date and for the period as so specified :

Provided that the bye-laws, if any, made by the local authority under section 10 and in force in such areas before the date so specified shall continue to be in force with amendments, if any, made therein, until such bye-laws are amended or superseded by the State Government.

Power to make bye-laws.

10. A local authority on which a duty is imposed under section 8 to enforce the provisions of this Act may, with the previous sanction of the State Government, make bye-laws not inconsistent with the provisions of the Act or the rules or orders made by the State Government thereunder, for the purpose of carrying out the provisions of this Act.

11. (1) If any local authority makes default in the performance of any duty imposed by or under this Act, the State Government may appoint some person to perform it and may direct that the expenses of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

Power of State Government to provide for performance of duties on default by local authority.

(2) If the expense and remuneration are not so paid, the State Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such Bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

12. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or any other local authority under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

Expenses of local authority to be paid out of its fund.

13. (1) For an area within the jurisdiction of a local authority whose duty it is to enforce the provisions of this Act the local authority and for other areas the State Government shall, subject to the provisions of sub-section (3), appoint as many Inspectors as the local authority or the State Government, as the case may be, may deem necessary for the purpose of carrying out the provisions of this Act.

Appointment of Inspectors.

(2) Notwithstanding anything contained in sub-section (1), in the areas within the jurisdiction of a local authority, the State Government may appoint Inspectors for such supervision as the State Government may prescribe.

(3) A person possessing the prescribed qualifications shall be qualified for being appointed as an Inspector.

(4) A local authority, or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any), as may be specified in the direction, be exercised—

(a) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, and

(b) in the case of the State Government, by any officer subordinate to it.

Powers and
duties of
Inspectors.

14. Subject to any rules, made by the State Government, in this behalf, an Inspector may, within the local limits for which he is appointed--

(a) enter at all reasonable times, accompanied with such persons in the service of the Government or of any local authority as he thinks fit, any place which he has reason to believe is an establishment;

(b) make such examination of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any person as he may deem necessary, for carrying out the purposes of this Act; and

(c) exercise such other powers as may be prescribed, for carrying out the purposes of this Act. :

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

Inspectors to
be public
servants.

15. Every Inspector appointed under section 13 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1960.

Employer
and
manager to
produce
register, reco-
rds etc. for
inspection.

16. Every employer and in his absence the manager shall on demand produce for inspection by an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

Offences.

17. If any person,

(a) fails to pay any contribution which he is liable to pay under section 6 ; or

(b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution ; or

(c) fails or refuses to submit any return or to maintain any register or records required under section 7 ; or

(d) makes a false return; or

(e) obstructs any Inspector or any other officer of the State Government or the insurer in the discharge of his duties ; or

(f) is guilty of contravention of or non-compliance with any of the requirements of this Act or the rules made thereunder in respect of which no penalty is provided,

he shall be punishable with imprisonment, which may extend to three months, or with fine which may extend to five hundred rupees or with both.

Determi-
nations of
employer
for the
purpose of
this Act.

18. (1) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the State to be the employer for the purpose of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director or, in case of a private Company, a share holder who is resident in the State to be the employer in the establishment for the purposes of this Act, and such director or share holder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or share holder.

19. (1) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court—

Exemption
of employer
or manager
from
liability
in
certain
cases.

(a) that he has used due diligence to enforce the execution of this Act,
and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager and the employer or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior the institution of the proceedings—

(a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(b) that the offence has been committed by a person other than the employer or manager, and

(c) that it has been committed without the knowledge, consent or connivance of the employer or manager and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like sentence as if he were the employer or manager.

20. No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of an officer or officers notified by the State Government in this behalf or the local authority, as the case may be :

Provided that any local authority may direct that the powers conferred on it by this section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, be exercised by its standing committee or by any committee appointed by it in this behalf or if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, or by any other officer as may be specified in the direction.

21. Any contribution payable under this Act shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

22. No suit or other proceeding shall lie against the State Government or a local authority or any officer or employee of the State Government or of the local authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

23. (1) Nothing in this Act shall apply to —

(i) establishments to which the Employees' Provident Funds and Family Pension Act, 1952 applies;

(ii) establishments of the Central Government, the State Government, a local authority or a scheduled bank.

Explanation.—For the purposes of this section "scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(iii) an establishment exempted under section 4 of the Bombay Shops and Establishments Act, 1948 from all the provisions of that Act.

(2) The State Government may, by notification in the *Official Gazette*, exempt any class of establishments from all or any of the provisions of this Act, subject to such conditions and for such period as may be specified in the notification.

24. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the other matters relating or incidental to the scheme under clause (f) of sub-section (2) of section 3;

(b) the returns to be submitted under sub-section (1) of section 7, the authority to which, and the form in which such returns shall be submitted, and particulars relating to the persons employed by an employer or to an establishment in respect of which he is an employer to be specified in such form ;

19 of
1952.

2 of
1934.

Bom.
LXX
IX of
1948.

Cognizance of
offence.

Recovery of
contribution.

Protection
action
taken
in good
faith.

Exemption.

Power to
make
rules.

(c) the registers or records to be maintained by an employer under sub-section (3) of section 7 ;

(d) the other powers to be exercised by an Inspector under clause (b) of sub-section (2) of section 8 ;

(e) any other matter which is to be, or may be prescribed.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

SCHEDULE

(See sub-section (4) of section 1)

Establishments

Bom. Establishments in the Cities of Ahmedabad, Vadodara, Rajkot and Surat as
LIX of constituted under the Bombay Provincial Municipal Corporations Act, 1949.