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KARNATAKA COMPULSORY GRATUITY INSURANCE: NEW FRAMEWORK TO MEET WITH GRATUITY LIABILITIES

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Background

The Government of Karnataka published the Karnataka Compulsory Gratuity Insurance Rules, 2024 (Karnataka Gratuity Rules) in the Official Gazette on 10 January 2024, bringing the same into effect on the same day. With the introduction of such a significant move, Karnataka joins Andhra Pradesh, Telangana, and Kerala, in incorporating a mandatory requirement for employers to obtain an insurance policy to meet with their liabilities under the Payment of Gratuity Act, 1972 (Gratuity Act). In this update, we discuss the key provisions of the Karnataka Gratuity Rules and their implications on employers operating in the state.

Understanding the Statutory Regime

Section 4A of the Gratuity Act provides that once the said provision is implemented by the 'appropriate government', every employer that falls within jurisdiction of the appropriate government and is covered under the Gratuity Act would be required to obtain an insurance to meet with its liability towards gratuity, although such appropriate government may exempt an employer from this requirement if the employer has already established an approved gratuity fund. In this regard, it may be noted that the term 'appropriate government' is defined under the Gratuity Act, and it identifies the Central Government as the appropriate government for (a) establishments having branches in more than one state, (b) establishments or factories under the control of the Central Government, and (c) major ports, mines, oilfields, and railway companies, while keeping other establishments under the purview of the relevant state government. Notably, from the information available in the public domain, it appears that the Central Government has not implemented Section 4A of the Gratuity Act for establishments that fall under its domain, and therefore, it may be said that establishments having multi-state operations are not required to obtain gratuity insurance as of the date of this update.

Key Highlights of the Karnataka Gratuity Rules:

- Procuring a gratuity insurance policy: All employers for whom the Government of Karnataka is the appropriate government are now required to mandatorily obtain a valid insurance policy from Life Insurance Corporation of India or any other insurance company regulated as per the Insurance Act, 1938. The employer must ensure that the requisite premiums are paid to the insurance company and the insurance policy is renewed periodically. The employer is also required to notify the periodical renewals of the insurance policy to the Controlling Authority (as notified under the Gratuity Act) within 15 days from the date of renewal of the policy.

- Registration of the establishment: All employers are required to register their establishment by filing Form – I as appended with the Karnataka Gratuity Rules with the Controlling Authority, within 30 days from the date of obtaining the insurance policy, along with submitting a list of the employees insured by filing Form - III. In case of any change in the details furnished by the employer, the employer is required to promptly notify the same to the Controlling Authority.

- Continuation of approved gratuity fund: All employers who already have an approved gratuity fund or those who have employed 500 or more persons and now set up an approved fund can continue the same arrangement without having to obtain an insurance by submitting an application in Form – II, provided that such gratuity fund covers the gratuity liabilities of the employer in their entirety. Such employers are also required to shall register the relevant gratuity trust with 5 (but not equal) representatives of the employer and employees respectively, with the registering authority under the Indian Trusts Act, 1882. This trust shall be managed either privately or by the insurance company or jointly with the employer paying the relevant amount to the gratuity trust fund periodically. The gratuity trust shall also maintain a separate gratuity fund and the same shall not be withdrawn either by the employer or by the gratuity trust for any purpose, other than payment of gratuity to the eligible employees as per the law. The gratuity trust and the insurance company shall be jointly responsible for the fulfilment of their liabilities under the Gratuity Act.

Comment

The Karnataka Gratuity Rules mark a significant development under the gratuity regime in India, underscoring the crucial need for adequately provisioning for gratuity liability through insurance mechanisms and organized funds particularly considering the contingency involved in the payout of gratuity.

However, as noted above, the Karnataka Gratuity Rules hold importance for employers exclusively operating within the state of Karnataka. For employers with physical establishments spanning multiple states, the relevant governing authority under the Gratuity Act remains the Central Government, and as such, unless there is a change in the statutory framework, the Karnataka Gratuity Rules may not hold relevance for such employers.

- *Anshul Prakash (Partner), Deeksha Malik (Senior Associate) and Varsha Sankara Raman (Associate)*

For any queries please contact: editors@khaitanco.com