Corpedia

Karnataka Compulsory Gratuity Insurance Rules, 2024

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Background:

Gratuity is a monetary compensation payable by an employer to employees who have rendered 5 or more years of continuous service to an organization and retires or quits the organization. The Payment of Gratuity Act, 1972 (the "Act") governs the norms of calculation and payment of gratuity. The Act applies to:

(i) every shop or commercial establishment in which ten (10) or more persons are or have been employed in the previous twelve (12) months; and

(ii) such other establishments that may be notified.

Once the Act becomes applicable, it is still applicable even if there are fewer than 10 employees. In general, the gratuity is computed as 15/26 x No. of years of completed service x Last drawn salary (Basic Salary + Dearness Allowance).

Unless otherwise specified by either the Central Government or the respective State Government, organizations can voluntarily adopt either one of the following 3 approaches to pay gratuity:

Creation of a Gratuity Trust

- A Trust is established to accumulate funds over the period of employment
- Payout from Trust at the end of the service period

Obtaining Group Gratuity Insurance

- The organisation obtains a Group Gratuity Insurance from either LIC or any other insurance service provider.

Pay as it occurs

- A provision is created in the books of accounts on the basis of actuarial valuation.
- Payouts to employees are made directly by the Company, as and when they occure.

The Karnataka Compulsory Gratuity Insurance Rules, 2024 (hereinafter referred to as "Insurance Rules") was notified by the Government of Karnataka on 10th January 2024. The rules detail the requirement for employers in the state of Karnataka to obtain a valid insurance for payment of gratuity.

Karnataka Compulsory Gratuity Insurance Rules, 2024

The Insurance Rules have been notified to come into effect for the state of Karnataka with effect from January 10, 2024.

- **To whom are the provisions of the Insurance Rules applicable to?**
  - Applicable if you are an **employer in the state of Karnataka**.
  - This provision is **Not Applicable** to those who have branches in other states.
  - Applicable only if the **number of employees is more than 10** or has been more than 10 in the past.
  - Those employers, with more than 500 employees are allowed to incorporate a gratuity fund by way of Trust or those who already have a Trust can continue to administer their gratuity obligations through the Trust.
  - To all the others, as stated above, obtaining a Gratuity policy from the Life Insurance Corporation of India or any other insurance company is mandatory.
- **Who are the employers in the state of Karnataka?**
  - Employers in Karnataka means those establishments which have its operations in the state of Karnataka only. These rules would not apply to those establishments who have branches in other states as well.

- **What is the time period by which compliance with the provisions of the Insurance Rules must be met?**
    - For existing employers, this policy is to be obtained within 60 days from the date of the notification of the Insurance Rules, which ends on 10th March 2024.
    - Any new employer (crossing more than 10 employees) should obtain it within 30 days of the Insurance Rules becoming applicable.
- **What other compliances must be followed in order to be in compliance with the Insurance Rules?**

Form No.	Particulars	Time limit
Form – I	Getting the establishment registered with the controlling authority.	Within 30 days from the date of obtaining insurance.
Form – II	For establishments who have an existing insurance and wish to continue with the same.	No time limit is specified; however, it is recommended to ensure that this is filed within 30 days from 10th March 2024.
Form – III	Furnish the details of the employees insured at the time of registration of the establishment and thereafter whenever there is a change in the employees insured or policies or any other pertinent information.	Initially within 30 days of obtaining an insurance and as and when there is a change later
Form – IV	Approval of Registration (issued by the Government of Karnataka)	NA

Advith's Comments:

The recent notification by the Government of Karnataka regarding Compulsory Gratuity Insurance Rules, 2024 has undoubtedly been introduced with the purported interest of benefiting the working populace. However, there are a few practical challenges as follows:

- One of the primary concerns surrounding these regulations is the remarkably short timeframe provided for compliance. While the intent to swiftly enact changes is understandable, the practical implications for organizations cannot be overlooked.
- The abrupt imposition of the compulsory insurance provisions entails a substantial initial cash outflow for organizations. This may lead to a considerable strain on the financial resources of businesses, especially smaller enterprises.
- Moreover, the notification itself suffers from ambiguity regarding its applicability and scope.

The reason behind the sudden introduction of these rules is not clearly known. The time provided to comply with the rules is too short and the impact on small & medium businesses could be substantial. Since the occurrence of payout of gratuity is only when someone quits an employment after having stayed for over 5 years, employers generally don't fund it but adopt the pay as it occurs method.

There could also be instances of defaults from employers to settle gratuity dues; and to cover such instances, mandating an insurance for the same is certainly a step in the correct direction. A slightly longer time period to comply would have been better. Hope the Government considers it necessary to extend the time period.

Irrespective, employers in the State of Karnataka should start taking steps to obtain the Gratuity insurance policy at the earliest.

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