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The Karnataka Compulsory Gratuity Insurance Rules, 2024 – Key points

INTRODUCTION

On January 10, 2024, the Government of Karnataka notified the Karnataka Compulsory Gratuity Insurance Rules, 2024 ("Rules"), flowing from the Payment of Gratuity Act, 1972 ("Act"). Key points of the Rules are summarized below:

1. Applicability – The Rules apply to all "employers" in Karnataka, defined to mean all employers other than Central or State government establishments.
2. Requirement to obtain insurance – The Act applies to all establishments with 10 or more employees. Existing employers are required to obtain an insurance policy within sixty days from the date of applicability of the Rules, by March 10, 2024. New employers will need to obtain the insurance within thirty days from the date the Rules become applicable to the establishment. The insurance policy may be obtained from the Life Insurance Corporation of India or any other insurance company incorporated in accordance with extant law.
3. Registration requirements - Employers are required to register with the jurisdictional Controlling Authority by applying in Form I under the Rules within thirty days of obtaining the compulsory insurance. Along with the registration application, employers need to provide details of the employees insured in Form III of the Rules to the Controlling Authority. Upon receiving a registration application, the Controlling Authority will formally register the establishment in Form IV of the Rules. Whenever there is a change in the employees insured or policies or any other pertinent information, the employer is required to notify such details to the Controlling Authority.
4. Insurance premium payments and intimation - Employers with a valid insurance policy are required to make timely premium payments to the insurance company and renew the same periodically and intimate the same to the Controlling Authority within fifteen days from the date of renewal of the policy. Employers must exercise due diligence for on-time payment of premiums and renewal of the insurance policy.
5. Recovery - The Controlling Authority is empowered to recover the amount of gratuity payable to an employee from the Life Insurance Corporation of India or any other insurance provider.
6. Exemption for approved gratuity fund - Employers with an approved gratuity fund as per the Act who wish to continue with such arrangement and an employer employing more than 500 employees with an approved gratuity fund may opt to continue with such existing gratuity fund arrangement. Any such existing approved gratuity fund should cover the entire liability of all eligible employees under the Act. Employers will need to apply in a statutory form to continue any existing approved gratuity fund.
7. Conditions for an approved gratuity trust - The Rules prescribe the following requirements for the incorporation of a gratuity trust:

- The approved gratuity trust should consist of five but with not equal number of representatives of the employer and the employees.
- The gratuity trust should be registered as per the Indian Trust Act, 1882 or any other applicable law.
- The gratuity trust must be in compliance with all applicable laws including the Income Tax Act, 1961.
- The gratuity trust should be managed privately, or by the insurance company or jointly by paying the calculated amount to the approved gratuity trust fund periodically by the employer. For a privately managed gratuity trust, including a joint gratuity trust, the investment of funds / approval of trust will need to be compliant with the Income Tax Act.
- The gratuity trust should maintain a separate approved gratuity fund and the inflow of contributions to the fund should be contributory for the employer and non-contributory for the employees. The outflow of the gratuity trust should only be payments made to eligible employees. The gratuity fund is a totally protected fund and money cannot be withdrawn for any other purpose other than for the payment of gratuity to eligible employees.
- The byelaws of the gratuity trust should contain detailed procedures including claim and release of gratuity payment to each eligible employee.
- The gratuity trust should adhere to the Indian Accounting Standards 15 (Employee Benefits) and any law applicable to the trust.
- The Board of Trustees should send discharge letters and advise the insurance company or make arrangements for payment of gratuity.
- The employer of the gratuity trust and the insurance company will be jointly and severally responsible for fulfilment of their liabilities under the Act.
- Employers should maintain the gratuity trust and gratuity fund, as an irrevocable system.

8. Penalties for non-compliance - Employers who fail to make the premium payments to the compulsory insurance policy or by way of contribution to an approved gratuity trust will be liable to pay the amount of gratuity due under the Act (including interest, if any, for delayed payments) to the Controlling Authority. Further, a contravention of the delayed payments to the Controlling Authority is punishable with a fine which may extend to Rs. 10,000 (approx. USD 120) and in case of a continuing offence, Rs. 1000 (approx. USD 12) for each day during which the offence continues.

We will be happy to provide a more comprehensive analysis of the Rules and the way forward on request.

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