



Circular No – 014/2024

Date:06.02.2024

To

All Members of the Association

KEA SUGGESTS TO STATE GOVERNMENT TO DEFER THE GRATUITY INSURANCE RULES 2024

1. The Government of Karnataka have notified Karnataka compulsory Gratuity Insurance Rules 2024 and the said rules have come into force with effect from 01.10.2024, the date on which the Rules were published in Karnataka Gazette.
2. The Association has circulated the Rules vide circular no. 005 /2024 dated 11.01.2024.
3. Enclosed is the copy of the letter dated 03.02.2024 addressed to the hon'ble Chief minister and other Authorities of the Government of Karnataka.
4. The Association has made following suggestion for consideration of the Government.
 - The implementation of the rules may be deferred by one year and thus, provide opportunity to the establishment to plan their financial outlay and to mobilize resources to pay premium towards insurance.
 - The rules be made applicable to those establishments employing 100 or more employees on or after 10.01.2024. Such measure would give relief to the smaller establishment which employed 10 re more employees and covered under the Payment of Gratuity Act and to



who are obligated to obtain compulsory gratuity insurance under the rules of 2024.

- Labour Department officials may be instructed to guide and educate employers to comply with the provisions of the Rules of 2024.

For KARNATAKA EMPLOYERS' ASSOCIATION
Sd/
[B C Prabhakar]
President



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KARNATAKA EMPLOYERS' ASSOCIATION

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B.C. Prabhakar, B.A., B.L.,
President

Date: 03.02.2024

The Hon'ble Chief Minister
Government of Karnataka
Vidhana Soudha
Bengaluru-560001

Dear Sir,

Sub: The Karnataka Compulsory Gratuity Insurance Rules 2024

1. The Government of Karnataka in exercise of the powers conferred by Sub-section 4 of Section 4-A of the Payment of Gratuity Act 1972 has notified the above rules and the same has been published in the Gazette of Karnataka on 10.01.2024. Accordingly, the rules have come into force effective from 10.01.2024.
2. The Association submits that Section -4A was inserted to the Payment of Gratuity Act 1997 by Act no.22/1987 and the amendment came into force with effect from 01.10.1987.
3. The Government of Andhra Pradesh was first to implement the amended provisions of the Section 4-A of the Act and Compulsory Gratuity Insurance Rules 2011 came into force with effect from 04.03.2011. No other state and Central Government have framed any rules for implementation of the mandatory insurance stipulated under Section 4-A of the Act.
4. Now the Government of Karnataka has notified the rules which have come into force from 10.01.2024.
5. The notification mandates as under:
 - "Every new employer shall within a period of **thirty days** from the date on which the rules become applicable to such establishment shall obtain valid insurance policy in a manner as prescribed under sub-section 4 of Section 4-A of the Act.

- The employer of an establishment which is in existence at the time of commencement of these rules shall obtain valid insurance policy within **sixty days** from the date of commencement of these rules.”
6. The definition of appropriate Government as contained in Section 2(a) of the Payment of Gratuity Act reads as under:
- “Section 2 (a) of the Payment of Gratuity Act defines.
- i) Appropriate government to mean in relation to an establishment -
- (a) Belonging to or under the Control of Central the Government
 - (b) Having branches in more than one State
 - (c) Of a factory belonging to or under the Control of the Central Government.
 - (d) Of a major port, mine, oilfield, or railway company,
the Central Government.
- ii) In any other case, the State Government
7. In terms of the above definition the Rules notified by the Government of Karnataka will not be applicable to the Industrial Establishment having branches in other States including Karnataka. In such cases, Central Government is the appropriate Government. Central Government has not notified any rules making it mandatory for obtaining insurance coverage towards liability to pay gratuity under the Payment of Gratuity Act. The rules notified by the Government of Karnataka will be applicable to those Industrial Establishments which are in Karnataka and do not have branches in other States.
8. In view of the above position, the association suggest that it would be more appropriate to withhold the implementation of the rules until the social security code 2020 Act comes into force. The code has already become an Act, but the Government of India has not yet notified the date from which the code would come into force.
9. Reference may also be made to definition of appropriate Government as contained in section 2(3) reads as under:

“(3) "appropriate" Government means.

(a) in relation to, an establishment carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified by notification in this behalf, by the Central Government or the establishment of railways including metro railways, mines, oil field, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or the central public sector undertaking or subsidiary companies set up by the central public sector undertakings, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies or any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, as the case may be, or **in relation to an establishment having departments or branches in more than one State, as the case may be, the Central Government;** and **(Emphasis added)**

(b) in relation to any other establishment, the State Government.

Explanation 1---.....

Explanation 2. ---.....

10. Section 57 of the Social Security Code 2020 contains the provision for compulsory insurance by the employer towards liability to pay gratuity. The section reads as under:

“Compulsory Insurance.

(1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of subsection **(2), obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under this Chapter, from any insurance company regulated by the Authority as defined under clause (Emphasis added)** (b) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999):

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(2)

- (3)
- (4).....
- (5)
- Explanation.* -

- 11. In terms of the above provision in Section 57 of the Social Security Code, the compulsory insurance shall have to be obtained in accordance is the manner prescribed by the Central Government.
- 12. Once the Code is implemented, the provision relating to mandatory insurance towards liability to pay gratuity would be applicable to all the States in India and to all the Industrial and Commercial Establishments covered under the code.
- 13. In other words, the difference which now exist between the establishments having establishment in only one state and those establishments who have branches in other State will not be there and the compulsory Insurance Scheme as prescribed by the Government of India shall have to be obtained by all the establishments throughout the Country. Thus, there will be uniformity in the matter of mandatory insurance to cover gratuity liability.
- 14. In view of the position explained above, the Association humbly suggests that the implementation of the Karnataka Compulsory Gratuity Insurance Rules 2024 may be deferred until the Social Security Code comes into force.

Alternative Suggestion

- 15. The rules of 2024 of Karnataka have come into force from 10.01.2024. As a result all the employees of the company will have to be covered under the insurance coverage mandated under the rules. The establishments may be given one year time from 10.01.2024 to obtain insurance to cover the liabilities to gratuity to all the employees who are on the rolls of the establishment as on 10.01.2024. Such extension would provide opportunity to the establishment to plan their financial outlay and to mobilize resources to pay premium towards the insurance.

Rules to be made applicable to as Establishment employing 100 or more employees.

- 16. We further suggest that the rules may be modified and mandate that the rules shall be applicable only to establishments who had employed 100 or more employees as on 10.01.2024 or to those establishment who employ

100 or more employees after 10.01.2024. This would give the relief to the smaller establishments which employ 10 or more employees i.e. the threshold limit for number of the employees for the applicability of the Payment of Gratuity Act but below 100 employees. Further in the event of noncompliance by any establishments, the Payment of Gratuity Act itself contains the provision for recovery of the amount of gratuity due to an employee by approaching the Controlling Authority. No prejudice will be caused to the employees if the above suggestion is implemented.

17. Further, we request that the Government may issue instructions to the Labour Department officials to guide and educate the employers to comply with the provisions of the Rules of 2024. The Labour Department may be advised that in the process of monitoring the implementations of the rules, they should not harass the employers or take any coercive steps.
18. The Association hopes that the Government will consider the above suggestions and take steps to implement the suggestions accepted by the Government expeditiously.

For Karnataka Employers' Association

B. C. Prabhakar

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President

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