client alert

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ahead of the curve

Notification of Compulsory Gratuity Insurance Rules by Government of Karnataka

The Government of Karnataka notified the Karnataka Compulsory Gratuity Insurance Rules, 2024 (**Insurance Rules**), on January 10, 2024, under Section 4A of the Payment of Gratuity Act, 1972 (**Gratuity Act**). Highlighted below are the key aspects of the Insurance Rules:

1. <u>Compulsory Insurance for payment of gratuity</u>

   With the notification of these Insurance Rules, every employer is now obligated to obtain a valid insurance policy from the Life Insurance Corporation of India (**LIC**) or any other lawfully recognised insurance company to cover their monetary liability. Existing employers are provided 60 (sixty) days from the date of notification of the Insurance Rules to obtain an insurance policy, and new employers must comply within 30 (thirty) days from the date the Insurance Rules become applicable to them.

2. <u>Registration of establishments</u>

   Every employer will have to compulsorily register their establishment with the Controlling Authority by submitting an application in Form-I (*Application for Registration of an Establishment*) and Form-III (*Details of Employees of the Establishment Covered Under Compulsory Insurance*) within 30 (thirty) days from the date of obtaining the insurance policy. The employer must promptly notify the Controlling Authority of any change(s) in the information submitted.

3. <u>Incorporation/ continuation of approved gratuity fund</u>

   Establishments with pre-existing approved gratuity fund or establishments with more than 500 (five hundred) persons proposing to establish an approved gratuity fund have the option to continue the same or adopt an insurance arrangement, by submitting an application in Form-II (*Option to Continue Under the Existing Insurance Scheme*). Employers are also required to register the gratuity trust with 5 (five) representatives, comprising the employer and employees (but not an equal number) under the Indian Trust Act, 1882.

   The gratuity trust may be managed privately, by an insurance company or jointly, with the employer periodically paying the calculated amount to the approved gratuity trust fund; and the trust must be maintained as an irrevocable system. The trust and the insurance company will be jointly and severally responsible for fulfilling liabilities under the Gratuity Act. In case the gratuity fund is privately managed, the investment of funds should be in accordance with the investment pattern prescribed under the Income Tax Act, 1961, and in case of group scheme obtained from any insurance company, the same should be approved under part-C of the fourth schedule of the Income tax Act, 1961.

Additional obligations for maintaining a gratuity trust are prescribed – such as the trust deed and rules must contain detailed procedures on payment of gratuity to eligible employees on exit, the trust must adhere to Indian Accounting Standards 15 and the trustees must send a discharge letter and request the insurance company to pay out the relevant amounts.

4. <u>Payments and renewal</u>

Every employer shall ensure timely payment of premium to the insurance company, periodic renewal of insurance and intimation to the Controlling Authority within 15 (fifteen) days from the date of renewal.

5. <u>Recovery of gratuity amount</u>

The Controlling Authority can recover the gratuity payable to an employee (as computed by an employer in accordance with the Gratuity Act), including where there is a dispute, directly from the insurance company with whom the employer has taken insurance.

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