Benefits Alert

January 2024

Karnataka Compulsory Gratuity Insurance Rules 2024

Background

The Government of the State of Karnataka has drafted the Compulsory Gratuity Insurance Rules, 2024. The objective of this note is to keep our clients updated on this development. The detailed rules can be made available for review by you, if needed. The rules come into force on their date of publication in the official gazette. In summary, the rules require that all employers having operations in the State of Karnataka maintain an insurance policy for gratuity.

Highlights of the rules are below but please do also refer to the complete document.

1) Every new employer will be required to within a period of thirty days obtain a valid insurance policy in the manner to address the employer liability for gratuity as prescribed under the Gratuity Act. These valid insurance policies can be taken from any registered life insurer in India who offer an IRDAI approved gratuity insurance product.
2) Existing employers who are in existence but do not have an insurance product in place will be required to do so within sixty days from the date of commencement of these rules.
3) Employers who have valid insurance policies would also be required to ensure that they keep the policies adequately funded by making all premium payments and renewing the same on time. They are required to also intimate the same to the Controlling Authority (as identified by the State Government) within fifteen days from the date of renewal of the policy.
4) Employers who maintained a privately managed gratuity fund to meet the gratuity liabilities can continue to do so provided the fund remains adequate to meet estimated liabilities.
5) Every employer who is establishing an Approved Gratuity Fund will be required to set up and register the Gratuity Trust with five but not equal number of representatives of the employer and employees (as trustees) with the notified registration authority under law. The Trust is expected to execute their responsibilities under the Act and ensure funds are not used for any other purpose other than Gratuity.
6) The inflow of contributions to the gratuity fund shall be contributory from the employer and non-contributory for the employees.
7) The byelaws of the gratuity trust shall contain details of all related operational procedures for claiming and releasing the calculated amount of gratuity to eligible employees and discharge letter once payments are being released. The gratuity trust shall adhere to the Indian Accounting Standards 15 (Employee Benefits) and other laws applicable to the trust.

Our Point of View

- The rules clearly outline the state government intent of ensuring that employers are adequately funded to address their statutory liability to employees under the Gratuity Act. This is in line with the proposed Code on Social Security which had also outlined the provision for gratuity insurance to be subsequently notified by State Governments.
- Employers are required to set up an irrevocable Trust which ensures that the employer funds set aside for gratuity is used for the same purpose. The Trust then appoints a life insurer/s to manage the associated past service liability funds to comply with these provisions. The Trust mechanism ensures that these funds are irrevocably used only for gratuity via a dedicated bank account set-up for the purpose.

- Gratuity trust contributions and subsequent interest earnings can attract income tax benefits to the employer once the Gratuity Trust is Income Tax approved – hence this is an option that employers can explore based on their tax status.
- Employers and Trustees will need to be now more aware of the Trust and Trustee obligations as laid down under law. The rules enable provisions for employers to notify the Controlling Authorities of their compliance to the same on an ongoing basis.
- Employers must consider actuarially assessed liabilities while making funding decisions. Insurer offered gratuity plans will generally consider these liabilities when setting the annual premiums to ensure these are fully funded. These insurance plans offer multiple investment options for these funds to be managed – as also options for supplementary life cover.
- **Please Note**: For employers having operations across more than one state of India, it may be noted that the Gratuity Act 1972 defines the Central Government guidelines to be applicable for gratuity plan provisions for such employers. As on date, the Central Government has not mandatorily required that employers buy gratuity insurance policies – hence the applicability of the Karnataka Compulsory Gratuity Insurance Rules 2024 to your situation, may need to be examined with your labor law advisor.

How we can help

- Aon can offer support clients in life insurer selection, actuarial and funding assessments, and overall project management for setting up a gratuity insurance plan.
- Please reach out to our client manager for additional information on how we can support.

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