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ANALYSIS OF THE KARNATAKA COMPULSORY GRATUITY INSURANCE RULES, 2024

A. Introduction

On January 10, 2024, the Karnataka Government notified the Karnataka Compulsory Gratuity Insurance Rules, 2024 (the **Rules**) mandating private establishments to obtain compulsory gratuity insurance for its gratuity obligations under the Payment of Gratuity Act, 1972 (**PGA**).

B. Key Features

The Rules:

1. Define 'employer' as an employer other than of establishments belonging to or under the control of the Central Government (**CG**) or State Government (**SG**). Therefore, all private commercial establishments are covered by the Rules.
2. Mandate an employer to obtain insurance policy from the Life Insurance Corporation of India or any other insurer established under the Insurance Act, 1938, Companies Act, 2013, or the Insurance Regulatory and Development Authority of India Act, 1999, (the **Insurer**).
3. Require that new employers obtain insurance from the Insurer within 30 days from the commencement of the Rules and within 60 days, in case of an already existing establishment.
4. Permit the setting-up or continuation of an approved gratuity fund (**AGF**) for employers who have already set up an AGF and wish to maintain this arrangement, as well as for other employers with 500 or more employees.
5. Require an employer to submit application with the Controlling Authority (**CA**) for:
   a. registration of its establishment;
   b. furnishing details of employees insured at the time of registration and whenever there is a change in any relevant information; and
   c. for continuing with or adopting of AGF.
6. Mandate employers opting for setting-up or continuation of AGF to register the Gratuity Trust (**GT**) with five but not equal number of employer-employee representatives with the registration authority under the Indian Trusts Act, 1882, or any other applicable laws.
7. Require that GT must either be managed privately, or by the Insurer, or jointly between the two parties.
8. Require that GT must maintain a separate gratuity fund. It is a protected fund and neither the

employer nor GT can withdraw from the fund, except for meeting its gratuity payment obligations.

9. Require employers to maintain the GT and gratuity fund as an irrevocable system.

C. Analysis

1. The Rules bear similarity to the Andhra Pradesh Compulsory Gratuity Insurance Rules, 2011. No other state has come out with similar rules.
2. The Rules, notified under Section 4A (*Compulsory Insurance*) of the PGA, allows the 'appropriate Government' to establish rules for implementing Section 4A's provisions.
3. Under the PGA, SG is the 'appropriate Government' for employers having offices in only that state. Therefore, it can be deduced that the Rules are applicable on all establishments having presence only in Karnataka. For employers having offices in more than one state, CG is the appropriate Government and hence, the Rules will not apply to them.
4. Employers falling under the Rules' regime must have obtained insurance from the Insurer by March 9, 2024. Alternatively, they can choose to maintain the already existing AGF or set it up in case they have more than 500 employees.
5. The Rules do not prescribe any penalty in case of contravention. However, the PGA prescribes imprisonment of 3-12 months, fine ranging from INR 10,000-20,000, or both, in case an employer violates any rules made under PGA.

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