

# **BSNL EMPLOYEES GRATUITY TRUST RULES**

## **RULES**

### **(SECTION-1)**

#### **DEFINITIONS, ELIGIBILITY & REQUIREMENTS OF MEMBERSHIP**

##### **1. DEFINITIONS**

In these rules, where the context so admits the masculine shall include the feminine, the singular shall include the plural and the following words and expressions shall unless repugnant to the context, have the following meanings:-

- i) **"COMPANY"** shall mean BHARAT SANCHAR NIGAM LIMITED and subject to the prior approval of the Commissioner of Income Tax shall include any firm, concern, agency or body corporate which may, by purchase, amalgamation or otherwise take over the whole or substantially the whole of the business of the Company and which may enter into a Deed in such a form as the Trustees shall require undertaking to continue the obligations of the Company under these presents and releasing the Company from all further liabilities thereof.
- ii) **"CONTINUOUS SERVICE"** means uninterrupted service and includes service, which is interrupted by sickness, accident, leave, lay-off or lockout, or cessation of work not caused due to any fault of the employee concerned.
- iii) **"EMPLOYEES"** shall mean employees of the Company and shall exclude apprentice or personal/ domestic servants & absorbed officials of erstwhile DOT/DTS/DTO who are already covered by Rules

50 of the CCS (Pension) Rules 1972 read along with Rules 37-A of CCS (Pension) Rules 1972, and shall be deemed to include whole time bonafide working directors who do not own beneficially share holding carrying more than 5% voting rights in the Company.

- iv) **“MEMBERS”** shall mean an eligible employee who has been admitted to the membership of the Scheme.
- v) **“NOMINEE”** shall mean the person nominated by the member to receive the benefits in the event of his death.
- vi) **“NORMAL RETIREMENT DATE”** shall mean in respect of each member the date on which he completes the age of 60 years or the age as may be decided by the Company. However, at the sole discretion of the Company normal retirement date can be extended on case-to-case basis.
- vii) **“QUALIFYING SERVICE”** means the un-interrupted service rendered in the Company after completion of 18 years of age, excluding period of service rendered as apprentice or as casual but includes the period of training followed by regular appointment in the case of trainees. The period will also include service which was uninterrupted by authorized leave and cessation of work not due to any fault of the employee concerned.
- viii) **“RETIREMENT”** means termination of the service of any employee otherwise than on superannuation.
- ix) **“RULES”** shall mean the Rules of the Scheme as set out below and as amended from time to time.
- x) **“SALARY”** shall mean the monthly sum paid by the company to the employee as basic salary or wages together with any Dearness Allowance which may for the time being be paid to such employee but

shall not include commission, house rent allowance, bonus, overtime and any other allowance and perquisite which such employee may receive from the Company.

- xi) **“SCHEMES OR FUND”** shall mean **BSNL EMPLOYEES GRATUITY TRUST FUND** described in these rules or by such other name as the Trustees may decide from time to time, subject to the prior approval of the Commissioner of Income Tax having jurisdiction over the Trust/Fund.
- xii) **“SERVICE”** shall mean continuous service as defined in the Payment of Gratuity Act 1972. For the purposes of this scheme, any part of service period of six months or more, after completion of the initial period of 5 years, is to be treated as one year.
- xiii) **“SUPERANNUATION”** in relation to an employee means: -
  - a) the attainment by the employee of such age as is fixed in the conditions of service as the age on the attainment of which the employee shall cease to be in employment; and
  - b) in the other case the attainment by the employee of the age of Sixty years.
- xiv) **“TRUSTEES”** shall mean the Trustees for the time being of the Trust.
- xv) **“YEAR”** shall mean the financial year of the Fund/Trust, which shall be ending on 31<sup>st</sup> March in any year.

**2. DATE OF COMMENCEMENT**

The fund shall be deemed to commence on and from 1.4.2007 notwithstanding the date of Trust Deed.

**3. FUND TO BE IRREVOCABLE**

The Fund shall be constituted as irrevocable Trust subject to the provisions of the Rules. The Trust shall not (except as provided in these Rules) be revocable save with the consent of all the beneficiaries.

**4. THE TRUSTEES TO ACT FOR THE COMPANY AND MEMBERS:**

The Trustees will act for and on behalf of the BHARAT SANCHAR NIGAM LIMITED and members in any matter relating to the Scheme and every such act shall be binding on the Company and the members. The members in this scheme shall be all the eligible employees of the company who has been admitted to it.

**SECTION-II**

**PROVISIONS REGARDING TRUSTEES**

**5. MANAGEMENT OF THE FUND:**

The Fund shall vest in and be managed by a Board of Trustees constituted under the Trust. The Fund shall be irrevocable and no money belonging to the Fund in the hands of Board of Trustees shall be recoverable by the Company under any pretext whatsoever nor shall the Company have any lien or charge of any description on the same. The Trustees for the time being shall have the exclusive administration and control of the Fund and its income in accordance with the Rules for the time being in force and their

decision with reference to the interpretation or application of any of these Rules shall be final.

## **6. APPOINTMENTS OF TRUSTEES TO BE MADE BY THE COMPANY**

The Company shall constitute a Board of Trustees in the manner hereunder provided for a period of five years.

The Company shall nominate his representatives to the Board of Trustees from amongst the officers employed in managerial or administrative capacity in the Company to act as Trustees of the Trust.

Provided that the number of Trustees on the Board will be neither less than two nor more than Six. A Company as defined in sub-clause (i) of sub-section (1) of Section 3 of the Companies Act, 1956 shall not be appointed as a Trustee without the prior approval of the Commissioner of Income Tax.

The term of a Trustee shall be five years from the date of Election or nominations.

Provided further that a Trustee nominated to fill the casual vacancy shall hold office for the remaining period of the term of the Trustee in whose place he is nominated.

## **7. DISQUALIFICATION OF TRUSTEES**

A person shall be disqualified for being a Trustee of the Board:

1. If he is declared to be of unsound mind by a competent Court, or
2. If he has been convicted of an offence involving moral turpitude, or
3. is an un-discharged insolvent, or
4. If he ceases to be an employee of the Company, or
5. If he ceases to be a resident of India

## **8. CHAIRMAN OF THE BOARD OF TRUSTEES**

The Company shall nominate one of his representatives on the Board to be the Chairman thereof. The Chairman of the Board of Trustees shall preside at every meeting of the Board at which he is present. If the Chairman is absent at any meeting then Trustees present shall elect one of the Trustees to preside over the meeting and the Trustee so elected shall at that meeting exercise all the powers of the Chairman.

## **9. FILLING OF CASUAL VACANCIES**

In the event of a nominated Trustee ceasing to be a Trustee during the tenure of the Board, his successor shall be nominated by the company, as the case may be, in the manner hereinafter provided for nomination.

Provided that the Trustee(s) so nominated shall hold office for the unexpired term of the Board of Trustees.

## **10. CESSATION AND RESTORATION OF TRUSTEESHIP**

A trustee ceases to be a Trustee on the Board if he

1. Incurs any of the disqualification mentioned in Para 7 above
1. Fails to attend three consecutive meetings of the Board without obtaining leave of absence from the Chairman of the Board of Trustees. Provided that the Chairman of the Board of Trustees may restore him to Trusteeship, if he is satisfied that there were reasonable grounds for such absence.

## **11. APPOINTMENT OF NEW TRUSTEE OR TRUSTEES**

A Trustee of the Board may resign from his office by letter in writing addressed to the Company and his office shall fall vacant from the date on which his resignation is accepted by the company. The vacancy so caused

in the Trust shall be filled in accordance with the provisions of Rule 6 above and on every such appointment the fund shall vest in the continuing and new Trustees. Such Trustees shall hold office up to the end of the terms of the other Trustees of Board.

## **12. REMOVAL OF TRUSTEES**

The Board of Directors may remove from office any Trustee of the Board if in its opinion any Trustee or member has ceased to represent the interest, which he purports to represent on the Trust.

Provided that no such Trustee shall be removed from office unless a reasonable opportunity is given to such Trustee.

## **13. MINUTES OF THE MEETINGS**

The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modifications, if any, as may be considered necessary at the next meeting.

## **14. MEETINGS**

The Board of Trustees shall meet at such place and time as may be decided by the Chairman. Meeting of the Board of Trustees shall be held at least once in every financial year.

Provided that if the Chairman is of opinion that a decision in any particular matter cannot be delayed till the next meeting of the Board, the matter may be circulated to the Trustees for decisions, and any decision by majority votes taken would have the same validity as that of a resolution passed in a meeting and shall be recorded in Minutes Book.

Provided, however, that any decision so taken shall be placed before the Board at the next meeting for confirmation.

**15. DECISION BY MAJORITY**

All matters considered at the Meeting shall be decided by a majority of votes. Each Trustee present at the meeting shall be entitled to one vote on any matter arising thereat and in case of equality of votes the Chairman shall have a second or casting vote.

**16. QUORUM**

At any meeting of the Board of Trustees, two or one third of total number of Trustees, whichever is higher, be a quorum. If at any meeting the number of Trustees is less than the required quorum, the Chairman shall adjourn the meeting to a date not later than seven days from the date of the original meeting informing the Trustees of the date, time and place of holding the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of Trustees present, not being less than two.

**17. TRUSTEES' POWER TO APPOINT A SECRETARY**

The Trustees shall have power to appoint any one of the Trustees or any other person, with or without remuneration, to act as Secretary of the Fund and the said Secretary may be vested with such powers of management of the Trust as the Trustees may from time to time in their absolute discretion determine. With the consent of the Company, the Trustees shall have power to employ any person or persons to do any legal, accounting or any other work which they may consider necessary or expedient in connection with the management of the Trust or for the assets thereof.



## **18. SIGNING OF RECEIPTS, CHEQUES AND CORRESPONDENCE**

All correspondence in relation to the operation of the Trusts may be conducted by *the* Chairman or by any one of the Trustee as authorised by the Trustees. Receipts for moneys received may be signed by the Chairman or by a Trustee authorized by the Trustees on their behalf. Cheques on the Bank Account may be drawn and signed by any two of the Trustees on behalf of all the Trustees. The Trustees shall decide which of the Trustees shall operate the Bank Account on their behalf.

### **SECTION – III**

## **19. CONTRIBUTIONS**

These shall be paid by the Company to the Trustees in respect of each member annually for providing the Gratuity Benefits to the Members under this Scheme on the basis of:

- i) Valuation of the benefits on actuarial basis before 31<sup>st</sup> March of every year

or

- ii) determined and recommended by the Life Insurance Corporation of India or any other Insurance Company approved by IRDA for providing the Gratuity Benefits to the Members under a Scheme of Insurance.

The contribution shall be expressed as a percentage of salary of each member and may be varied from time to time on the basis of an evaluation of the benefits to be made at intervals of not more than five years. The contributions will be paid through out the future service of the members unless specified otherwise in Rules.

Provided that the contribution payable by the Company in any year in respect of any member shall not exceed 8.33% (or such other percentage as may

be notified from time to time) of the salary paid to the member for each year of his past service with the Company. However, the company shall pay to the Trustees in respect of each member, an initial contribution as certified by the actuary in respect of the past services of the member subject to the provisions of rules 104 of Income Tax Rules, 1962.

The Company shall undertake to make the good the deficiency or shall adjust any excess contribution already made over and above the required amount in making future ordinary annual contributions.

## **20. COMPANY TO FURNISH PARTICULARS AND MEET EXPENSES**

- i) The Company agrees to furnish to the Trustees all particulars regarding the members and such other information as may be in the possession of the Company as the Trustees may require.
- ii) All expenses incurred by the Trustees in connection with the management and administration of the Fund including the remuneration of the professional advisors or employees, if any, and fees for the audit of the accounts of the Fund shall be borne by the Company.

## **21. SCHEME TO BE NON-CONTRIBUTORY**

The members shall not be required to make any contributions to the Fund.

## **22. CONDITIONS FOR THE GRANT OF GRATUITY**

Gratuity will be granted for good, efficient and faithful service to the employee(s) of the Company in the following circumstances:-

- a. On superannuation
- b. On resignation/retirement/termination
- c. On death
- d. On permanent incapacity due to bodily or mental infirmity

PROVIDED THAT :

- a) Gratuity will not be admissible to an employee who resigns from service before completing five years or whose services are terminated for misconduct, insolvency or inefficiency.
- b) The completion of qualifying service of five years shall not be necessary where the termination of employment is due to death or disablement.
- c) In case of death, gratuity shall be payable to the nominee or if no nomination has been made to the legal heirs of employee in the same order as contained in the Rule.

#### **SECTION - IV**

**23. BENEFITS ON RETIREMENT AT OR AFTER NORMAL RETIREMENT DATE, EARLY RETIREMENT DUE TO ILL HEALTH DISABILITY AND DEATH WHILE IN SERVICE / AFTER NORMAL RETIREMENT DATE :**

Upon retirement of a member on or after Normal Retirement date or upon death whilst in service after Normal Retirement or upon retirement owing to ill- health on incapacitation, the benefits payable will be equal to fifteen days salary for each completed year of service, subject to maximum of <sup>1</sup>[Rs. 10 lakhs (*Rupees Ten Lakhs only*) 'or', as amended from time to time by the *Central Government*]. Fifteen days wages / salary shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

**24. BENEFITS ON DEATH BEFORE NORMAL RETIREMENT DATE:**

Upon death of a member whilst in service before Normal retirement date, the Gratuity benefits payable will be calculated as below:

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<sup>1</sup>substituted by 1st amendment (w.e.f. 24<sup>th</sup> May,2010) for %Rs.3.5 lakh (three lakh and fifty thousand)+

<u>Length of qualifying service</u>	<u>Rate of death gratuity</u>
i. Less than 1 year	2 times of salary
ii. One year or more but less than 5 years	6 times of salary
iii. 5 years or more but less than 20 years	12 times of salary
iv. 20 years or more	1 month salary for every completed year of service subject to maximum of 33 times of salary

Or, in accordance with the payment of Gratuity Act . 1972 i.e. fifteen days salary for each completed year of service, subject to maximum of <sup>1</sup>[Rs.10 lakhs (Rupees Ten Lakhs only) 'or', as amended from time to time by the Central Government], whichever is higher. Fifteen days wages/salary shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

Provided that the amount of retirement gratuity or death gratuity payable under this rule shall in no case exceed <sup>2</sup>[Rs.10 lakhs (Rupees Ten Lakhs only) 'or', as amended from time to time by the Central Government].

In addition to the Gratuity benefits as calculated above the life cover as may be in force as on date of death shall become payable

## **25. BENEFITS ON LEAVING SERVICE**

Upon a member leaving the service of the Company of his own free will after completion of 5 years of service the benefits payable will be equal to fifteen days salary as on the day of leaving service for each year of service subject to a maximum of <sup>3</sup>[Rs 10 lakhs (Rupees Ten Lakhs only) 'or', as amended from time to time by the Central Government]. The member will not be entitled to any benefits if he leaves the service before completing five years of service.

<sup>1</sup>substituted by 1st amendment (w.e.f. 24<sup>th</sup> May,2010) for %Rs.3.5 lakh (three lakh and fifty thousand)+

<sup>2</sup>substituted by 1st amendment (w.e.f. 24<sup>th</sup> May,2010) for %Rs. 3.5 lakh rupees+

<sup>3</sup>substituted by 1st amendment (w.e.f. 24<sup>th</sup> May,2010) for %Rs.3.5 lakh+

## **26. FORFEITURE OF GRATUITY**

- A) Gratuity may be wholly or partly forfeited in case of termination of service of the member (a) for riotous or disorderly conduct or any other act of violence of his part or (b) for any act which constitutes an offence involving moral turpitude provided that such offence is committed by him in the course of his employment. The decision for forfeiture of Gratuity shall be taken by the Company and such decision shall be communicated by the Company to the Trust in writing.
- B) In case of termination of service, for any act, willful omission or negligence of the member causing any damage or loss to or destruction of property belonging to the Company, gratuity payable under the scheme shall be forfeited to the extent of the damage or loss so caused. The decision for forfeiture of Gratuity shall be taken by the Company and such decision shall be communicated by the Company to the Trust in writing

## **27. SCHEME OF GRATUITY**

For the purpose of providing the Gratuity for beneficiaries, the Trustees shall:

- i) Enter into a Scheme of insurance with the Life Insurance Corporation of India or any other Insurance Company approved by IRDA; or
  - ii) Accumulate the contributions in respect of each member and invest as per rules and in the manner prescribed from time to time in Rule 101 read with Rule 67 of the Income Tax Rules 1962 and pay gratuity at the time of retirement or death of such member or on his becoming incapacitated prior to retirement out of the scheme existing at the time of retirement or death of the member.
28. The gratuity payable in respect of any member under the scheme will be paid only in a lump sum and shall be payable as per the provisions of Gratuity Act 1972.

29. The amount of gratuity payable to an employee shall not exceed <sup>1</sup>[Rs.10 lakhs (Rupees Ten Lakhs only) 'or', as amended from time to time by the Central Government] or such other amounts as may be specified pursuant to the provisions of the Payment of Gratuity Act 1972.
30. The Company will always have the right to deduct from the Gratuity payable and admissible under these rules to an employee, such amount as may be due from the employee.

## **SECTION – V**

### **MISCELLANEOUS PROVISIONS**

#### **31. INVESTMENT OF FUND**

All moneys contributed to the Fund or received or accruing by way of interest or otherwise to the Fund may be deposited in a Post Office Saving Bank Account in India or in a Current Account with any Scheduled Bank or utilized for the purpose of making contributions under a Group Gratuity Scheme entered into with the Life Insurance Corporation of India or any other Insurance Company and to the extent such moneys as are not so deposited or utilized shall be invested in the manner prescribed from time to time in Rule 101 read with Rule 67 of the Income Tax Rules 1962.

#### **32. RESTRAINT ON ANTICIPATION ON:**

The benefits assured under the Scheme are strictly personal and cannot be assigned, charged or alienated in any way.

33. Except as provided in these Rules, no member or his Nominee shall have any legal claim, right or interest in the scheme;

Provided always that the Trustees shall administer the scheme for the benefit of the members and their nominee in accordance with the provision of these Rules.

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<sup>1</sup>substituted by 1st amendment (w.e.f. 24<sup>th</sup> May,2010) for %Rupees three lakh and fifty thousand+.

#### **34. JURISDICTION**

All benefits under the Scheme shall be payable only in India. Should anything contained in these rules, or in any amendment made thereof be repugnant to any provision or provisions of the Income Tax Act 1961 or the provision of the Income Tax Rules 1962, it shall be ineffective to the extent of such repugnance. Any such repugnance shall be removed by the Trustees if so directed by the Commissioner of Income Tax.

#### **35. INCOME TAX AND OTHER TAXES**

- a) In any case where the Trustees are liable to account to the Income Tax authorities for income tax on any payment made under the Rules, the Trustees shall deduct a sum equal to such tax from any such payment made and shall not be liable to the members for the sum so deducted.
- b) If the Gratuity fund and scheme for any reason cease to be approved by the Commissioner of Income Tax, the Trustees shall nevertheless remain liable to tax on any benefits paid to any members his nominee.

#### **36. DEDUCTION OF TAX ON CONTRIBUTIONS PAID TO AN EMPLOYEE**

When any contribution made by the Company including interest on contributions, if any are paid to a member during lifetime in circumstances other than referred to in clause (13) of Section 10 of the Income Tax Act 1961, the Income tax on the amount so paid shall be deducted and paid to the credit of the Central Government within the time and in such manner as provided in paragraph 6 of part C of Schedule IV of the Income Tax Act 1961.

#### **37. NOMINATION**

- A) Every employee shall make a nomination conferring or one or more persons the right to receive the benefits hereunder in the event of his death before the benefits become payable. Such a nomination shall be made according to the form given in the Annexure . A;

- B) If a member nominates more than one person under clause (A) above, he shall in his nomination specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount of gratuity that may be payable in the event of his death;
- C) Where a member has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person or persons not belonging to his family shall be invalid.
- D) If at the time of making a nomination, the member has no family, the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.
- E) A nomination made by a member may, at any time, be modified by him giving written notice to the Trustees of his intention of doing so. If the nominee predeceases the member the interest of the nominee shall revert to the member, who may thereupon make a fresh nomination.
- F) A nomination or its modification shall take effect to the extent it is valid on the date on which it is received by the Trustee.
- G) In the event of the death of the Member, if he had not appointed a nominee or if such nominee has pre-deceased the member and no fresh appointment of nominee has been made, the contributions made in respect of him shall be paid to the Member's wife, failing which to his child/ children in equal amounts, failing which to his other dependent members of his family in equal amounts. If a deceased member has not left a wife, child or any other dependent member of the family, the amount lying to the credit of the member shall be paid to the legal heirs after obtaining the necessary succession certificate.



FOR THE PURPOSE OF THIS RULE, ~~FAMILY~~MEANS:

The employee's spouse, legitimate children, step children, deceased son's widow, deceased son's legitimate children, deceased son's step children, dependent parents, sisters, minor brother and the dependent parents of the employee's spouse.

**EXPLANATION:** Where the personal law of a member permits the adoption by him of a child, and child lawfully adopted by him shall be deemed to be in his family and where a child of a member has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful such child shall be deemed to be excluded from the family of the employee.

### **38. INTERPRETATION**

It shall be a condition of membership of the Scheme that on any question arising on any point of interpretation of these Rules or any point relating to admission of new members and cessation of membership, the decision of the Trustees shall be final. If the decision has any bearing of the provisions of Part C of the Fourth schedule of the Income Tax Act 1961 or the Rules made there under it shall be forthwith reported to the Commissioner of Income Tax and the Commissioner of Income Tax as requires, the Trustees shall review the decision.

### **39 RULES NOT TO BE REPUGNANT TO INCOME-TAX ACT.**

Where there is repugnance between any of the Rules of the Fund and any provision of the Income-Tax Act, 1961, or the Rules made there under, the Rule will to the extent of the repugnance be ineffective. If the Commissioner so requires, the Trustees shall remove such repugnance from the Rules of the Fund.

If the Fund for any reason ceases to be an approved Gratuity Fund, under the Rules, the Trustees shall nevertheless remain liable to tax as per the provisions of Income Tax Act.

Where any gratuity is paid to an employee, the tax shall be deducted at source as per the provisions of Income Tax Act.

Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer the amount so repaid shall be deemed for the purpose of Income-Tax to be the income of the employer of the previous year in which they are so repaid.