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# CPC Provisions in 7A Inquiries

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# Section 7A: Determination of Money's due from the employers

- Who can determine
  - CPFC, Addl. CPFC, RPFC, APFC
  - What to determine
  - a) Dispute regarding the applicability of the act
  - b) amount due from the employer
  - Inquiry vs Enquiry
  - Inquiry: A close examination of a matter in a search for information or truth.
  - Enquiry: a seeking or request for truth, information, or knowledge.
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# Process and Powers for conducting Inquiry

- Principles of Natural Justice: application
  - Imprejudicate
  - Reasonable opportunity of hearing
  - Section 7A(2)
  - 1) "...*the officer conducting such an inquiry under section (1) for the purpose of such an inquiry have the same **powers** as are vested in a court under CPC, 1908 for trying a suit in respect of....*"
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# Enforcing attendance of any person

- **Order XVI of CPC**
  - The adjudicating officer may summon any witness(Rule 1 and rule 14)
  - Any party to the hearing may produce a witness(Rule 1B)
  - Time,place,purpose to be mentioned in the summons(rule 5)
  - Summons to produce documents without requiring physical presence(rule 6)
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# Enforcing attendance of any person(Contd..)

- Rule 10: In case non-compliance of summons, the adjudicating officer may issue a proclamation to attend on a particular date and time.
  - In case the person does not attend, the officer may issue a warrant, bailable or non-bailable.
  - He can also attach his property to recover the fine amount imposed under rule 12.
  - Duty of witness to comply with the summons(rule 15)
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## Enforcing attendance of any person(Contd..)

- The summoned witness should reside either within the jurisdiction of the adjudicating authority (rule19).
  - If any party refuses to give evidence which is in its possession, when called for, without lawful excuse, the officer may pronounce the judgement against that party.(rule 20)
  - All rules in this order apply to the parties as applicable to the witnesses.(rule 21)
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# Examination on oath

- Indian Oaths Act, 1969
  - Chapter III(CPC)
  - Section 82:“ *I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth*”. (form of oath )
  - Section 83: form of oath by interpreter.
  - Section 84: the Oath shall be administered by the adjudicating officer.
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# Examination on oath(contd..)

- Section 85: recording of disposition:
  - Each page must be signed by adjudicating officer and the person disposing.
  - Section 90: the officer may take a specimen signature, handwriting or fingerprint.
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# Requiring the discovery and production of documents

- Order XI
  - Rule 1: Discovery by Interrogatories: giving questionnaires
  - Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited bona fide for the purpose of the suit, may be taken in the affidavit in answer. (rule 6)
  - If the party does not/insufficiently answer the adjudicating officer may ask those questions again(rule 11).
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# Contd..

- During the proceedings, the adjudicating authority may Order the production by any party documents in his possession or power, relating to any matter in question in such proceedings, as the authority shall think right.(rule 14).
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# Production and inspection of documents

- The party is entitled to inspect the documents which may be used as an evidence against it and can obtain copies of the same.(rule 15)
  - If the party does not comply with the discovery the adjudicating officer may pass the order against that party after giving opportunity to be heard. The party cannot appeal again on the same issue.(rule 21)
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# Receiving evidence on affidavit

- Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted provided that the grounds thereof are stated.(rule 3)
  - The person before whom an affidavit is made, shall certify at the foot of the affidavit the fact of making of the affidavit before him and the time and place when and where it was made, and shall for the purpose of identification, mark and initial any exhibits referred to in the affidavit
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## Receiving evidence on affidavit(contd..)

- Upon any application evidence may be given by affidavit, but the adjudicating authority may, at the instance of either party, Order the attendance for cross-examination of the deponent. (rule 2)
  - Statements based on personal knowledge shall be distinguished from statements based on information and belief. In the case of statements based on information, the deponent shall disclose the source of this information.
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# Issuing commissions for examination of witnesses

- The adjudicating officer may issue a commission for the examination on interrogatories or otherwise of any person resident within the local limits of its jurisdiction who is exempted under this Code from attending the court or who is from sickness or infirmity unable to attend it after recording the reasons to do so.(rule1)
  - Medical certificate from a registered medical practitioner is required.
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# Issuing commissions for examination of witnesses(contd..)

- On whom can be a commission for examination issued:
  - Suo moto or on an application by the party or the witness.(rule 2)
  - Commissions to persons beyond its jurisdiction or to persons about to leave its jurisdiction or a person whose attendance may be detrimental to public service.(rule 4)
  - Commission to examine the witness outside India(rule 5)
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# Issuing commissions for examination of witnesses(contd..)

- After commission is duly executed, it should be returned to the adjudicating authority along with the evidence.

