

ABOUT US

V & M Associates is a full-fledged law firm established in the year 2003 at Chennai by a team of qualified practicing Advocates. The team has been practicing in different portfolios like Employment and Industrial Laws, Civil laws, Criminal laws, Intellectual Property Act, and from inception we have been representing clients of different backgrounds and advise them in diverse, complex and high profile matters. We cater to all clients from small scale industries to multinational companies during these years. Our support is to provide complete Legal Assistance, Advisory Services, Opinions, Court Representations and Arbitrations to Corporate Organizations. Our expertise includes complete Statutory Compliance Audit for corporate and submission of Management Information Report with Compliance percentage and guiding the corporate for continuous improvement. Our services are of highest quality legal work executed in an efficient and cost effective manner.

Editor - In Chief

S.S.Madhavan, M.A., MBA. BL.,

Editorial Board

R.R.Ravindran, M.A., MBA., BL.,

G.K. Kalidass, M.Sc., MBA., ML.,

P. Nehru, B.Sc., B.L.,

In this Issue:

- ✂ **News**
- ✂ **Changing Scenario Law Scenario**
- ✂ **Amendments & Notifications**
- ✂ **Case Laws**
- ✂ **Statutory Compliance Check-List**

Having our Associate Support Office At:

1. Chennai – Head Office
2. Mumbai
3. Cochin
4. Kolkata
5. Bangalore
6. Delhi
7. PudhuChery
8. Ahmedabad

Our Vision:

Client service is the foundation of our law associates success and we value the relationships we build with our clients.

Our Mission:

We believe strongly in relationships and personal attentions are essential elements in delivering service excellence

From the Desk of Editor

The Federal & State Investors Initiatives call for Professional refinement framework

The Business Emperors - Sunil Mital, Mukesh Ambani, Tata's Cyrus Mistry, the Economic Guardians - Dharmendra Pradhan, Piyush Goyal, NITI Aayog vice-chairman Arvind Panagariya, RBI governor Raghuram Rajan and chief economic adviser Arvind Subramanian and the central Ministers Mr. Jaitly & Gadkari had a workshop in the presence of Prime Minister and drawn conclusion note to increase the Indian Inc Investors to really make the conversion of every promise made by the Foreign Investors at Delhi recently

Similar situation cloned at Regional Capitalthe moguls of Corporate like HCL Shiv Nadar, Anand Mahindra of Mahindra and Mahindra, Venu Srinivasan of Sundaram Clyton came under one roof in the presence of Union Ministers of Commerce under the lead role of the State Chief 's call on Global Investors Meet

The city's own pride corporate like MRF promised to invest Rs.5,000 Crs in the state of Tamil Nadu followed by Apollo Tyres to the tune of 3000 Crs, JSW Steels for an amount of Rs.1000 Crs, Staint Globin's initiative of Rs.800 Crs and many such corporate proposals leaving the mark of Several Lac of Crs investment in the state

Be it our Central or State constantly invites investments and explore opportunities for growth The situation is not only appears to be healthy and also bring larger challenges to every practicing manager

Many questions of managerial significance require highly accurate knowledge on how to create right structural parameters governed Frame Work - such as resources augmentation, financial placement, utilization parameters etc. The refinement of these structural parameters is therefore an essential step of macro managerial design to determine the elementary structure to.

When the entire Government machinery have geared up To energize the corporate sector is it not our responsibility to Scale up now.....

We at **V & M Associates** understands your accountability and created an adhoc professional facilitation cell exclusively to work as part of your team on Scaling Up..... Count on us in every step and call us to hold you back for easy and smooth beneficial transition.... Consider the merit of **V & M Associates** and make us part of your performing team

Editor in Chief ...

.....



CHANGING LABOUR LAW SCENARIO

The New ceilings under the Bonus Act are likely to be Rs.19000 per month (salary limit for eligibility) and Rs.6, 600/- (Salary limit for bonus calculation purposes)

The Government is initiating stakeholder consultations to amend the Maternity Benefits Act of 1961, the labour ministry officials added. The leave may be enhanced to 24 weeks, the officials said. One option is being considered to limit the maternity leave to 2 children and an employee having a third child would be granted 12 weeks off, in line with the present norm.

Tripartite discussion is also being launched on amending the Payment of Gratuity Act, 1972. Employee representatives have been seeking a reduction in the 5 year continuous service clause to qualify for Gratuity and the social security committee of the Indian Labour Conference had endorsed the idea in May 2013.

Under the Small Factories Bill, the labour minister wants to exempt factories deploying less than 40 workers from complying with 14 central labour laws, including the Industrial Disputes Act. If approved, the Bill will also allow extending the Overtime hours from 50 to 100 and 75 to 125 hours in cases of emergencies.

Under the Employees' Provident Fund Amendment, the Government has proposed to make the National Pension System (NPS) an alternative to the EPF and allow small factories to deduct 9% of salary instead of the current 12% for mandatory provident fund compliances.

According to Labour Ministry Proposal, there will be amendment in the Contract Labour (Regulation and Abolition Act), 1970 with related to "Equal Wage for Equal Work ". The officials feel that by providing for this concept in the Act itself, the implementation would get stronger.

The Employees' State Insurance Corporation is going to launch a 24 x 7 helpline number 1800 11 3839 for attending the calls of insured persons and their family members who wish to seek advice and guidance form casualty / emergency of ESIC hospitals. In continuation of taking the Reforms Agenda further, ESIC will be extending its coverage for bringing more and more workers under the Social Security Umbrella of ESI Scheme.

The Labour Ministry is all set to cap premature provident fund withdrawal at 75% of total deposits in case an EPFO subscriber goes without a job for two months. The rest 25% would be paid to the subscriber at the age of 58 years.

An Employer is liable to pay EPF contributions along with damages and interest if it fails to prove that its employees are excluded ones. Associated Security & Intelligence Agency Vs.APFC, Muzaffarpur – ATA No.151 (3) 2013, decided on 29.07.2015

An Employer is liable to pay EPF contributions even after closure of establishment till such intimation is sent to EPF authorities. Sun Orange Enterprises Pvt. Ltd., Vs. RPFC, Pune ATA No.866 (9) 2012, decided on 31.07.2015

The Supreme Court of India in Himachal Pradesh Forest Corporation Vs. Regional Provident Fund Commissioner, 2008, LLR 980, has directed that the determination of money by the PF authority under Section 7-A of the Act will be only when employees for whom the contributions are payable, are identifiable.

AMENDMENTS

Through Web Circulation Only

Telephone : 01126172668

Fax : 01126105549



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation
श्रम एवं रोजगार मंत्रालय, भारत सरकार

Ministry of Labour And Employment, Government Of India

मुख्य कार्यालय/ Head Office

भविष्य निधि भवन, 14, भीकाजी कामा प्लेस, नई दिल्ली- 066 110

Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi - 110 066

No IWU/7(3)2009/Canada / Quebec

To

All Additional CPFCs (Zones)

All Regional P.F. Commissioner, ROs and SROs

Date : 31 JUL 2015

Sub: Implementation of Social Security Agreement between India and Canada with effect from 1st August, 2015.

Sir,

In pursuance to the Social Security Agreement (SSA) signed with the Republic of Canada, the Government of India has now notified vide order No. H-11012/03/2008-EP-II (Vol. III) dated 15-07-2015 that the above Agreement has come into force with effect from 1st August, 2015. The text of the Agreement is available on the official website of EPFO, www.epfindia.gov.in.

2. The agreement provides for detachment, totalisation and portability. Under the detachment clause, the employees of one country deputed by their employers to the other country on short-term assignment are exempted from Social Security contribution in that country up to a period of 60 months. However, such exemption can be availed on the basis of "Certificate of Coverage."

3. In view of above, concerned employee through employer may apply for the "Certificate of Coverage" in the prescribed format (copy enclosed). Since the "Certificate of Coverage" are to be issued by the RO/SRO, it may be ensured that on receipt of the application complete in all respect, necessary action is taken by the concerned RO/SRO for issuing COC in accordance with the consolidated guidelines issued by the Head Office view letter No. IWU/7(15)2011/Gen (Software)/9209 dated 13-08-2013.

4. In case any further clarification is required, IWU Head Office may be contacted.

Yours faithfully,

Encl: As above


31.07.2015

(Chandramauli Chakraborty)

Addl Central PF Commissioner (Pension & IWU)

Copy to :-

Director, NATRSS

All Officers in Head Office

ALL ZTIs/ZAOs/DDs (Vig.)

RPFC(NDC) with a request to upload the circular on EPFO website

Hindi version will follow.

2



Email: rpfc.coordination@epfindia.gov.in

Tel: 011-26172672

Fax: 011-26103100



कर्मचारी भविष्य निधि संगठन

(श्रम मंत्रालय भारत सरकार)

Employees' Provident Fund Organisation
(Ministry of Labour, Govt. Of India)

WEB CIRCULATION ONLY

मुख्य कार्यालय / Head Office

भविष्य निधि भवन, 14-भीकाजी कामाप्लेस, नई दिल्ली-110066

Bhavishya Nidhi Bhawan, 14- Bhikaji Cama Place, New Delhi – 110066www.epfindia.gov.in; www.epfindia.nic.in

No. Coord./1(1)2010/Notification u/s 16(2)

Dated: 07.09.2015

To

24366

7 SEP 2015

All Addl. Central P.F. Commissioners (Zone)

All Regional P.F. Commissioners/ OICs (Regional Office/SRO)

Sub: Applicability of EPF & MP Act due to non extension of exemption under section 16(2) of the Act to certain classes of Establishments - reg.

Sir,

The Central Government in exercise of its power under section 16(2) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 exempted from the operations of the Act to certain establishments fulfilling terms & conditions as specified in Notification No. S.O. 1431 dated 14.05.2010 (copy enclosed) upto 31.03.2015.

2. The Central Government has decided not to extend the grant of exemption to these establishments and, consequently, all such establishments have come under the purview of the Act w.e.f. 01.04.2015.

3. You are now therefore directed to extend the social security benefits under the Act to all eligible employees of such establishments w.e.f. 01.04.2015 and take necessary actions with regard to ensuring compliance with the provisions of the Act by all such establishments.

(Authority: MOL&E letter No.S-35014/1/2015-SS.II dated 20.08.2015)

Yours faithfully,

Encl: As above

(K.L. Taneja)

Additional Central PF Commissioner-I (Compliance)

[भाग II—खंड 3(ii)]

भारत का राजपत्र : मई 29, 2010/ज्येष्ठ 8, 1932

2947

3. बरातें कि सरकार जब कभी उचित समझे सूट को रद्द करने तथा/अथवा आशोधित करने का अधिकार सुरक्षित रखती है।

[फा.सं. एस-35014/1/2010-एस एस-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 14th May, 2010

S.O. 1431.—In exercise of the powers conferred by sub-section (2) of section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), The Central Government, being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860), or under any other corresponding law for the time being in force it is necessary and expedient so to do, hereby exempts the following class of establishments from the operation of the said Act for a period upto the 31st March, 2015 with effect from the 1st April, 2010.

- (a) those being wholly financed by the grants-in-aid received from the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments subject to the condition that grants-in-aid does not include any amount for the purpose of meeting the liability of the employer towards the

employers' contribution to the provident fund; or

- (b) those being run by public, religious or charitable trusts or endowments (including maths, temples, gurudwaras, wakfs, churches, synagogues, agiaries or other places of public religious workshop) or societies and Trusts for religious or charitable or other public purposes and notified as such by the Central Government under the Income Tax Act, 1961 (43 of 1961).

2. Provided that if such class of establishments run any university, any college, any school, any scientific institution, any institution in which research education, imparting knowledge or training is carried on against charges or fees from the students, or run any hospital, nursing home or clinic in which any medical treatment or procedure is carried on against charges or fees from the patients, such activity shall not be exempted from the operation of the first mentioned Act.

3. Provided that the Government reserves the right to revoke and/or modify the exemption as and when it is deemed fit.

[F. No. S-35014/1/2010-SS-II]

S. D. XAVIER, Under Secy.





Headquarters Office
Employees' State Insurance Corporation
(ISO 9001-2008 certified)
Panchdeep Bhawan, CIG Road, New Delhi-110002

No.E-13/12/09/2015-PR

Dated: 17th July, 2015

Press Release

Covering all the Construction Workers under ESI Scheme

ESIC is now going to cover the Construction site Workers under the ESI Scheme thereby enabling them to avail benefits of complete medical care (from primary to tertiary medical care), as well as a range of cash benefits in times of exigencies of employment injury, death, disablement, maternity and unemployment. The construction workers are considered to be part of un-organized sector, but keeping in view the fact that they are highly prone to accidents and sickness etc., the Central Government has decided to go ahead for extending the coverage of ESIC's social security to them.

Construction activity has been covered by the ESIC under Sec. 1(5) treating them as commercial establishment. The coverage under ESIC to a construction unit will be extended u/s 2(12) also, if in any part of the construction unit, manufacturing process, as defined under Factory Act, is carried on.

Now, the ESI Corporation is going ahead with coverage of construction workers. It may also be noted that the State Govts. of Delhi and Karnataka have earlier requested ESIC for extending its coverage to construction site workers.

-----XXXX-----



Punishment of dismissal from service on account of misconduct of slapping a colleague, during duty, is shockingly disproportionate. A lump sum monetary compensation is appropriate in lieu of reinstatement considering the factors like length of service, last drawn wages, age of superannuation, nature of misconduct, past records, to meet the ends of justice.

Supreme Court of India- Talukdar Singh Vs. Tata Engineering & Locomotive Co., Ltd., - 2015 - III - LLJ - 536 (SC)

The contract between principal employer & Contractor is found to be sham & nominal, rather a camouflage, the employees' engaged through contractor, working for the principal employer continuously for a long time, would in reality, be the employees of the principal employer.

Bombay High Court - Goa MRF Employees Union Vs. ICARUS Food & Farm & Others - 2015 - LLR - 974

An establishment granted exemption under Section 17 (1) of the EPF Act, 1952, is also liable to pay damages under Section 14-B of the Act and interest under Section 7Q of the Act for delayed deposit of the amount towards EPF contributions of Pension Fund & Insurance Fund as contained in Pension Scheme and Insurance Scheme.

Calcutta High Court - Budge Budge Co., Ltd., Vs. Union of India & Others - 2015 (146) FLR 262

In the absence of any provisions in the Certified Standing Orders of the Employer, the delinquent employee will not be having any right to be assisted by an outsider in the Domestic Enquiry proceedings. Domestic Enquiry will be wholly arbitrary and illegal if the Enquiry Officer is not an officer superior to the delinquent employee or against the norms specified in the certified standing orders.

Allahabad High Court - Hotel Yamuna View Ltd., Vs. Presiding Officer - Indl. Tribunal - 2015 (145) FLR 611

Termination of services of the workman is illegal if the employer fails to bring any positive evidence to prove the justified cause of termination of services of the employee. Retrenchment on account of closure of a unit or branch or department is illegal if the employer fails to produce any positive evidence to prove the same.

Himachal Pradesh High Court – Director, Telecom Project Vs. Neelam Chadha & another – 2015 – LLR – 936

For Coverage under ESI Act, 1948, the Employees must be employed for wages or in connection with the work of the factory. The engagement of casual workers for 2 – 3 days cannot be treated as employees for coverage under Section 2 (9) of the ESI Act, 1948.

Punjab & Haryana High Court – ESIC & Others Vs. Parminder Singh – 2015 – LLR – 954

The strongest factor
for success is
self-esteem: Believing
you can do it, believing
you deserve it, believing
you will get it.





COMPLIANCE CHECKLIST

List of Registers to be Maintained Under Various Labour Laws

| Sl. No. | Act | Frequency | Principle Employer ----> |
|---------|-----------|-----------|---|
| 1 | S & E Act | MONTHLY | Register of advance , Deduction, Damages and Loss fine - Form - P |
| 2 | S & E Act | MONTHLY | Register of Employment for Shop and Establishment Form - Q |
| 3 | S & E Act | MONTHLY | Register of Wages - Form - R |
| 4 | S & E Act | MONTHLY | Notice of Daily Hours of Work, Rest Interval Weekly Holiday Form - S |
| 5 | S & E Act | MONTHLY | Wages slip/Leave card Return - Form - T |
| 6 | LWF | MONTHLY | Labour Welfare Fund register - Form - B |
| 7 | Min Wages | MONTHLY | Register of Fines- Form - 1 |
| 8 | Min Wages | MONTHLY | Deduction and Damages- Form - II |
| 9 | Min Wages | MONTHLY | Overtime register- Form - IV |
| 10 | S&E Act | MONTHLY | Whether minimum leave entitled / availed as per Shops & Establishment Rules |
| 11 | S.A.ACT | MONTHLY | Maintenance of Registers - Form - 1 |
| 12 | P.S.ACT | MONTHLY | Maintenance of Registers - Form - 1 |
| 13 | M.B.ACT | MONTHLY | Maintenance of Registers - Form - A |
| 14 | M.B.ACT | MONTHLY | Whether any maternity Benefit and maternity Bonus paid to the eligible women employee for the month |
| 15 | E.R.ACT | MONTHLY | Maintenance of Registers - Form - D |
| 16 | N.F.H.ACT | ONGOING | Maintenance of Registers - Form - VI |
| 17 | P.W. ACT | MONTHLY | Register of Fines – Form - I |
| 18 | P.W. ACT | MONTHLY | Deduction and Damages - Form - II |
| 19 | P.W. ACT | MONTHLY | Register of Advances - Form - III |
| 20 | P.W. ACT | MONTHLY | Notice of Rate of Wages- Form - VI |
| 21 | EPF ACT | MONTHLY | EPF Challan on or before 15 th of Succeeding Month |
| 22 | ESI ACT | MONTHLY | ESI Challan on or before 21 st of Succeeding Month |

NOTICE BOARD DISPLAY COPY

| | | | |
|----|-------------|---------|---|
| 23 | MA.NO.BO | ONGOING | Abstract of the Maternity Benefit Act – FORM - J |
| 24 | S & E Act | ONGOING | Notice of Daily Hours of Work, Rest Interval Weekly Holiday – FORM - S |
| 25 | GRA. NO. BO | ONGOING | Abstract of the Gratuity Act – FORM - U |
| 26 | P.W.NO.BO | ONGOING | Abstract of the Payment of Wages Act - FORM - V |
| 27 | M.W. NO.BO | ONGOING | Abstract of the Minimum Wages Act - FORM - X |
| 28 | N.F.H.ACT | ONGOING | Display of list of Holidays under National and Festival Holiday Act – FORM- V |
| 29 | P.W. ACT | ONGOING | Notice of Rate of Wages under Payment of Wages Act Form – VI |
| 30 | CL NO.BO | ONGOING | Abstract of the Contract Labour Act - Rule -79 |
| 31 | GRA.ACT | ONGOING | Display of Notice - Authorized by the employer to receive Notice - Rule - 4 |
| 32 | Min Wages | ONGOING | Inspectors Details- under the payment of minimum wages Act – Rule - 22(10) |
| 33 | N.F.H.ACT | ONGOING | Proceeding number received from Labour department- under the National and Festival Holidays Act – FORM - III |
| 34 | Min Wages | ONGOING | Notices required to be displayed at work site, under Minimum Wages Act, showing rates of wages, hours of work, wage periods, date of payment of unpaid wages, Name and addresses of inspector in English and in a local language - Rule 10 of Annexure - A |
| 35 | S & E Act | ONGOING | Displayed in Entrance of Company - COMPANY NAME BOARD IN TAMIL & ENGLISH |

DUE DATE FOR FILLING OF RETURNS – 30.09.2015

| ACT | FREQUENCY | DETAILS |
|-----------------------|------------------|---|
| PROFESSION TAX | HALF-YEARLY | To be paid along with Company Tax Rs.1000/-per half-yearly |

Disclaimer

You are receiving this communiqué either because you have interacted with us on business or because you're usual contact with us thinks you may find this interesting. This is for private circulation only and a compilation of already published relevant material for the ease of use and remembrance. This is not an advertisement or any form of solicitation. If you do not wish to receive this newsletter, please just reply 'Unsubscribe'.

THANK YOU

Labor Law Compliance

With a holistic approach to risk management, labour law compliance, statutory compliance and their adherence we go that extra mile to ensure that your processes are backed by our superior support.



V & M ASSOCIATES

(Advocates & Solicitors)

**NEW NO.13, OLD NO.7, FIRST FLOOR,
4TH MAIN ROAD, OFFICERS COLONY,
ADAMPAKKAM, CHENNAI 600 088**

PHONE: 044 – 4353 6455

E.mail: madhavs@vmlegalassociates.com

www.vmlegalassociates.com