

Our Services



- ❧ **LABOUR LAW COMPLIANCE AUDIT**
- ❧ **EMPLOYMENT LITIGATIONS AND DISPUTE RESOLUTION**
- ❧ **DRAFTING AND CONVEYANCE OF LEGAL DOCUMENTS AND REGISTRATION SERVICES**
- ❧ **ARBITRATION, CONCILIATION & MEDIATIONS**
- ❧ **CRIMINAL DEFENSE AND CRISIS MANAGEMENT**
- ❧ **LITIGATIONS**



Editorial Board

S.S.MADHAVAN, M.A., MBA., BL.,

R.R.RAVINDARAN, M.A., MBA., BL.,

P.NEHRU, B.SC., BL.,



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About Us



V & M Associates is a full service Law Firm with offices at Chennai, Bombay and associate Lawyers in most of major cities of the country. The main office of the Firm is in Chennai, conveniently located close to the International & Domestic Airport and it is easily accessible from all parts of the City.

The Partners and members of the Firm are senior professionals with several years of experience behind them. Some of our senior founding partners rendered their services in the Capacity of Regulating Authorities with judiciary powers for state & Federal Government. The practicing team is supported by the Economic Legislative Experts like Chartered Accountants, Company Secretaries, & Management Cost Accountants, besides has the team of able assisting trained Para legal workforce. They bring the highest level of professional service to clients along with the traditions of the profession, integrity and undisputed ethical practices. Members of the Firm are in absolute alignment with the work-culture of Global Law firms as well as with an ability of meeting the expectations of large corporate clients. The Firm has amongst its client's multi nationals, Industrial Houses with huge workforce, Information Technology companies, Leading Software Houses, ITES Companies and most admired leading Indian corporations.

V & M Associates has developed a high specialization in the field of Legal & Management Business Advisory services, providing 360 degree of scale with the 3 Dimensional approaches on client centric customized, consulting services of to all kind of Corporate Houses. Our **Corporate Law Services** is a team of highly qualified and experienced lawyers, who offer effective services to our clients by combining broad knowledge of corporate law matters with experience in key sub disciplines, with the ability to identify potential issues and develop real-time, practical solutions to a wide variety of client concerns.

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From the *desk*
of the *Editor*

**TIME TO RECALL THE CONTRIBUTIONS OF CORPORATE MAKING PROUD
MOVEMENTS OF FREE INDIA...**

RE -IMAGINE the power of Traders and the Magicians behind in the name of Managers or Leaders ...

Indian subcontinent was outpost by some European traders during 17th century. It was again slaved by British through their trading outfit - East India Company, ending up an establishment of local kingdom in India during 18th century. It was a high order complex mechanism of understanding regulatory norms of “Trade to Rule or Rule to Trade. The unbearable trouble felt by millions of fellow Indians gave birth to instant leaders at all levels to fight for liberation. There were lead volunteers across the country connecting through emotions with no calls, pagers, mails, mobiles, twits, or instant messaging apps. The high bonding “Emotive Auto Connect” created an Eco system for Emerging Global Leaders like **Gandhi ji**. There are many regional leaders followed **Mahatma** from various states with all the barriers, be it Sri. **Chidambaram Pillai** of extreme south or **Rabindranath** of Eastern Border or the poor poet **Mahakavi Bharathi** from tiny village or an born Aristocrat of North **Nehruji..** They all agreed to work for one cause and achieve one **GOAL – FREEE INDIA**. The small team had become a National wide with International support energizing everyone to perform their role and finally achieved - **FREE INDIA**.

The “The Community of Trading was the first cause to lend the space to step British” though there had been many other factors or big time strategy still it is to be remembered that many Traders extended warm welcome to them. May be keeping in the scar in the mind, the small time Traders of our Country had emerged as Global Players and Conquered the Business World. Across the Globe be it an European Union country, or East African Country, or South East Asian Country or Break away neighboring nation, do not close their day without an Indian Flavor.

It is all started through Information Technology Revolution, the IT workforce made a performance mutiny similar to the revolt of Indian in the year 1817 Mutiny got the attention of the world through their dedication and the same was enchased through the right leaders to the current undisputed status of Indian Big Corporate competing and Challenging global leaders and the Indian Managers really in the Top of Corporate World, who is behind the success and all celebrations.....

IT's YOU AS A “PRACTISING MANAGER” & YOUR TEAM MEMBERS AS PERFORMERS

It is a time to celebrate, enjoy and treat on the occasion of 70th Independence day, where the Corporate World had really delivered the **PRIDE TO EVERY INDIAN**

V & M Associates joins you in Saluting the Leaders of our Nation who fought for freedom and also wish to Dedicate the” Corporate Success Global” to every Business Leaders emerged from us and to all practicing Mangers

V & M Associates dedicates its commitment to compliance on this National Celebration Day and assures “risk free day” for the clients with humble pranam.



The EPFO is in the process of development and implementation of next version of UAN

Subject: Sub: Introduction of new version of ECR- urgent requirement for completion of cases pending with employer for confirmation of first time / previous employment - Regarding.

EPFO is in the process of development and implementation of next version of UAN whereby Universal Account Number of EPF member is to be obtained / linked with the present employment by the employer before filing ECR. In the current process the employer is to declare the first time employment of member to obtain his new UAN or link the UAN or previous member ID in case the new employee has previous EPF membership. This happens after the employer has submitted the ECR. The system identifies the new member IDs in the present ECR viz-a-viz previous ECR and pushes the same to employer portal for declaration.

The proposed process under UAN 2.0 requires the allotment of UAN upfront and the ECR can be filed only in case of such members where UAN has either been allotted to member or the previous UAN has been linked to his present employment.

Despite repeated efforts it is seen that the pending tasks were not completed by the employers. The detailed process flow for completion of cases pending with employer for confirmation of first time / previous employment is available at www.epfindia.gov.in>>UAN Services>>Process flow for portability & first time employment.

As the implementation of revised ECR requires the contributing members should have UAN, failing which, the employer would not be able to remit the dues in respect of these members.

Your immediate attention and cooperation is therefore very much called for in completing the pending cases **before 15-9-2016**.

This item of work may be accorded **TOP PRIORITY**.



Sl.No.402 of circular segment 2014-15) which stipulates the following.

Attention is drawn to the amendments in proviso to sub para 2 of para 3 and clause (a) Para 6 of EPS 1995 with effect from 01.09.2014, whereby the wage ceiling has been increased from Rs.6500 to Rs.15000. Moreover, the fresh members (except Transfer-in cases) who have joined on or after 01.09.2014, and whose wages exceed Rs.15,000/- are not eligible for EPS membership. In this regard, attention is drawn to the EPFO, Head Office, circular (website circular Sl.No.402 of circular segment 2014-15) which stipulates the following.

http://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2014-2015/Acturial_WageCeiling_7738.pdf

As EPS will henceforth apply only to EPF members whose pay at the time of becoming PF member is not more than Rs.15,000/- per month on or after 01.09.2014 the entire employer and employee contributions shall remain in PF and no diversion to EPS shall be made for all new members on or after 01.09.2014 having salary more than Rs.15,000/- at the time of joining. This must be ensured as any negligence on this issue may lead to unwarranted litigations.

However, it is noted that certain employers are still restricting the EPS contributions to Rs.6,500/- (instead of Rs.15,000/-) or erroneously enrolling the 'Fresh Members' (with wages above Rs.15,000) under the EPS 1995.

It is therefore requested to ensure the following:

- (A) Identify and furnish the list of such cases, if any where erroneous EPS contributions have been made as stated above.
- (B) Ensure that no diversion towards EPS contributions are made henceforth in respect of above mentioned category of members (i.e., New members joining on or after 01.09.2014 and whose wages exceeds Rs.15,000/-p.m.) Those who are already members of EPS are joining in your establishment can continue to contribution to EPS.
- (C) Also please take note that the wage ceiling has been enhanced from Rs.6,500/- to Rs.15,000/- (Both EPF & EPS) with effect from 01.09.2014 and the contributions (EPF & EPS) are not to be restricted to Rs.6,500/-
- (D) Employers may also approach APFC (Accounts) immediately, for any assistance/clarifications in this regard.
- (E) Top most priority may please be accorded as any lapse in this regard will amount to contravention of scheme provisions and result in serious implications / invoking of penal provisions.

Regional Office, Tambaram.

No claim form has to be accepted without UAN

With effect from 01.01.2016 onwards, no claim form has to be accepted without UAN. UAN activation and seeding of KYCs (BANK, AADHAAR, and PAN) are important and mandatory. Therefore, all the employers hereby directed to ensure the following while submitting the Claim Forms to this office.

All the Claim Forms should have UAN number and Mobile Number.

UAN should be activated with the member mobile number.

KYCs (BANK, AADHAR, PAN) are seeded with UAN and the same are digitally approved by the employer.

UAN should be activated and approved KYCs (BANK, AADHAR, and PAN) for seeking corrections in Members Name, Father Name and Date of Birth by submitting joint declaration.

UAN related work has become mandatory for the employers and directions have been issued under the Para 78(3) of EPF Scheme vide EPFO Web Circular Sl.No.180 dated 22.06.2015.

www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2015-2016/Coord_KYC_11388.pdf

Employer of the establishment is directed to carry out the above instructions. Failure to adhere to the directions will amount to non-compliance and the defaulting establishment shall be liable for action as per the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 and the Schemes framed there under.

For any assistance regarding activation of UAN and seeding of KYCs, please contact this office UAN Helpdesk and the Contact telephone Numbers: 2226 2251, 2226 2287 and 2226 5332 (EDP).





कर्मचारी भविष्य निधि संगठन/ **EMPLOYEES' PROVIDENT FUND**

ORGANISATION (श्रम एवं रोजगार मंत्रालय, भारत सरकार/ MINISTRY OF LABOUR AND EMPLOYMENT, GOVT. OF INDIA) क्षेत्रीय कार्यालय/ Regional Office 37, Royapettah High Road, Chennai – 600 014

No. CHN/COORD/UAN helpdesk/ 2016

Dated: 25.08.2016

Urgent / Top Priority

Sub: Delinking of wrongly linked UAN – Regarding.

EPFO is in the process of introduction of revised version of UAN and ECR which is expected to be commenced shortly. In this regard it becomes very important that all cases where member IDs has been wrongly linked to the UAN of other members are identified and delinked. Such cases are required to be taken up with the EPFO Head Office immediately.

It is therefore requested that the details of cases, where wrong linking of member IDs with UAN of other members have occurred, in respect of your establishment, may be furnished before 1-9-2016 as per the following format, to enable this office to proceed further.

Name of member	Member ID	UAN wrongly linked	Remarks
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Your urgent cooperation is very much called for.

Yours faithfully,
Regional P.F Commissioner
RO, Chennai



Sub: Enhancement of wage Ceiling under the ESI Act, 1948 – Meeting Stakeholders- Reg

As per Instructions from ESIC Headquarters Office, New Delhi a meeting of stakeholders via Employer and Employer Associations will be conducted at conference hall of sub regional office, ESI Corporation, Coimbatore on 22.08.2016, 3.00PM.

The agenda of the meeting will be to discuss labour the proposal for enhancement of wage ceiling for coverage of employees under the ESI act, 1948, from Rs.15, 000/- to Rs.25,000/-

You are requested to take active participation in the meeting and provide your valuable feedback and suggestions, verbally and also in written form for competition and forwarding to the ESI Headquarters office, New Delhi.



PANCHDEEP BHAWAN, CIG MARG, NEW DELHI-110002

An ISO Certified office: 9001:2008, (WEBSITE: www.esic.nic.in).

No.G-32/11/6/172/2015-ISD (UIDAI)

Dated: 3rd August, 2016

To,

The Regional Director/Directors/Joint Director (I/C)
All Regional/Sub-Regional Offices

Subject:- Implementation of Aadhar based authentication of beneficiaries under ESI Act.

Sir,


Please refer to this office letter of even No. dated 12-04-2016 and 21-07-2016 whereby the salient features regarding the implementation of Aadhar based authentication of beneficiaries under ESI Act were circulated. The discussions during VC held on this issue on 22-7-2016 may also be referred to when it was emphasized that wide publicity may be given regarding the facility of e-Pehchan Card on seeding of Aadhar numbers.

In this respect, it is once again highlighted that Aadhar based e-Pehchan Card has been introduced to replace the biometric based Pehchan Card in the ESIC. The enrollment for biometric based Pehchan Card requires the visit of Insured Persons and his family members to an online Pehchan Camp for capturing the biometrics and photographs of the Insured Person and family members after which the Pehchan Card is printed and delivered to the IP. In comparison the issue of Aadhar based e-Pehchan Card is a very simple process and hence all Regional Offices and Sub-Regional Offices are requested to encourage the issue of Aadhar based e-Pehchan cards and enrollment for biometric basis Pehchan Card should be discouraged. Please note that that biometric Pehchan Cards is also having a financial implication due to the cost of the consumables like Printer Cartridges, Blank Cards etc.

It is also requested that intensive campaigns may be undertaken to give wide publicity to this initiative and the Employers' Associations and Trade Unions may be apprised of this through Suidha Samagams and Employers, Employees

Meets. Mailers may also be sent to them. Further all the Staff of the Field Offices specially those working in the Branch Offices should be informed that all the Employers, IPs and their family members who visit the Regional Offices, Sub Regional Offices and Branch Offices are invariably informed about this initiative. Similarly, all the Insured Persons and their family members who visit the Branch Offices for enrolling for bio-metric based Pehchan Card should be informed about the advantages of the Aadhaar based ePehchan Card. In case they are having the Aadhar Cards the Aadhar numbers should be seeded in the IP data base. In case they are not having Aadhar Cards they should be encouraged to visit the nearest Aadhar Camp

Yours faithfully,


(SANJAY SINHA)
DIRECTOR (ICT) 3/8/16

The Best Sentence By Swami Vivekananda...



"Take Risks In Your Life"

If You Win, You Can Lead!

If You Loose, You Can Guide!

Part II-Section 3(i)

THE GAZETTE OF INDIA
EXTRAORDINARY
MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION
New Delhi, the 25th July, 2016.

Date: 25th July 2016

G.S.R. 720(E).—The following draft of certain rules further to amend the Employees' State Insurance (Central) Rules, 1950, which the Central Government, after consulting the Employees' State Insurance Corporation, proposes to make in exercise of the powers conferred by section 95 of the Employees' State Insurance Act, 1948 (34 of 1948), is hereby published as required by sub-section (1) of the said section for information of all persons likely to be affected thereby and notice is hereby given that the said draft rules will be taken into consideration after thirty days from the date on which the copies of the Official Gazette in which this notification is published, are made available to the public;

Objections and suggestions, if any, may be addressed to Shri Ajay Malik, Under Secretary, Ministry of Labour and Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.

The Objections or suggestions, which may be received from any person in respect of the said draft rules within the period specified above, will be considered by the Central Government.

DRAFT RULES

- (1) These rules may be called the Employees' State Insurance (Central) Amendment Rules, 2016.
- (2) They shall come into force on the date of this final publication in the Official Gazette.
- (3) In the Employees' State Insurance (Central) Rules, 1950;

(a) Rule "51-(A)" shall be renumbered as rule "51A";

(b) After sub-rule (2) of rule 51A as so renumbered the following new rule shall be inserted, namely:-

"51B. In areas where the Act is implemented for the first time, the rates of employer's and employee's contribution for the initial twenty-four months from the date of implementation shall be as under:-

- (a) Employer's contribution - A sum (rounded to the next higher rupee) equal to three per cent. of the wages payable to an employee; and
- (b) Employee's contribution - A sum (rounded to next higher rupee) equal to one per cent. of the wages payable to an employee.

Provided that on completion of twenty-four months from the date of notification of the Act, the rate of contribution as provided under rule 51 shall be applicable".

[F. No. S-38012/01/2016-SS-I]
RAJEEV ARORA, Jt. Secy.

Note : The principal rules were published in the Gazette of India vide notification number S.R.O. 212 dated the 22nd June, 1950 and lastly amended vide notification number G.S.R. 598(E) dated the 14th June, 2016.

Hon'ble Minister of State (Independent Charge)
for Labour & Employment, Government of India

ESI BENEFICIARIES

**Link your Pehchan Card with Aadhaar Card
Avail Medical Benefit with ease**

ESIC Launches e - Pehchan Card

- Aadhaar Numbers of self and family can be linked online to the IP Numbers by the employers, or by the staff of Branch Offices/ Dispensaries of ESI Corporation, or directly by the Insured Persons through IP Portal link available on website www.esic.in
- All the Insured Persons whose Aadhaar Numbers are linked to the IP Numbers at the time of registration or subsequently will be issued e-Pehchan Card by the employers, which can be used as Permanent Identity Card for availing medical benefits till the eligibility for medical benefit exists.
- In case the Aadhaar Number are not linked to the IP Numbers at the time of registration or subsequently, Insured Persons and their family members will have to get enrolled for Biometric Pehchan Card by visiting any Pehchan Camp within 30 days from the registration otherwise medical benefit will be stopped
- Those Insured Persons, whose Aadhaar Numbers are not linked to their IP Numbers, will have to carry any Govt. issued Photo Identity Card along with e-Pehchan Card for getting treatment facilities in ESI Hospitals and Dispensaries.



श्रम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार (Government of India)
Website: www.Labour.gov.in



कर्मचारी राज्य बीमा निगम
Employees' State Insurance Corporation
Panchdeep Bhawan, C.I.G. Marg, New Delhi-110002
Website: www.esic.nic.in, www.esic.in, www.esichospitals.gov.in

For more details, contact the nearest ESIC Office or log in to
website: www.esic.nic.in, www.esic.in, www.esichospitals.gov.in or call Toll Free No. 1800-11-2526

MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION

New Delhi, the 4th August, 2016

G.S.R.764(E).— The following draft of certain rules further to amend the Industrial Employment (Standing Orders) Central Rules, 1946 which the Central Government proposes to make, in exercise of the powers conferred by section 15 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), is hereby published as required under sub-section (1) of the said section for information of all persons likely to be affected thereby and notice is hereby given that the said draft rules will be taken up for consideration after the expiry of thirty days from the date on which the copies of the Gazette of India in which this notification is published are made available to the public:

Objections or suggestions, if any, may be addressed to the Joint Secretary, Ministry of Labour and Employment (Industrial Relations Policy Legal Section), Shram Shakti Bhavan, Rafi Marg, New Delhi-110001;

The objections or suggestions which may be received from any person with respect to the said draft rules before the expiry of the aforesaid period from the date of publication of this notification in the Official Gazette, shall be considered by the Central Government.

DRAFT RULES

1. (1) These rules may be called the Industrial Employment (Standing Orders) Central (Amendment) Rules, 2016.
(2) They shall come into force on the date of their final publication in the Official Gazette.
2. In the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), in the Schedule, in item 1, for the word “*badlis*” occurring at the end, the words “*badlis or fixed term employment workmen in apparel manufacturing sector*” shall be substituted.
3. In the Industrial Employment (Standing Orders) Central Rules, 1946,-
 - (a) in rule 5, after item (6) and the entries relating thereto, the following item shall be inserted, namely:-
“*(6A) Number of fixed term employment workmen in apparel manufacturing sector;*”;
 - (b) in Schedule 1,—
 - (i) in paragraph 2,—
 - (A) in sub-paragraph (a), after item (3) and the entry relating thereto, the following item shall be inserted, namely:-
“*(3A) fixed term employment workmen in apparel manufacturing sector;*”;
 - (B) after sub-paragraph (g), the following sub-paragraph shall be inserted, namely:-
“(h) A “fixed term employment workman in apparel manufacturing sector” is a workman who has been engaged on the basis of contract of employment for a fixed period. However, his working hours, wages, allowances and other benefits shall not be less than that of a permanent workman. He shall also be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying period of employment required in the statute.”;

(ii) in paragraph 13, for sub-paragraph (2), the following sub-paragraph shall be substituted, namely:-

“(2) Subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947), no temporary workman whether monthly rated, weekly rated or piece rated, and no probationer or *badli* or fixed term employment workman in apparel manufacturing sector, as a result of non-renewal of contract or employment or on its expiry, shall be entitled to any notice or pay *in lieu* thereof, if his services are terminated:

Provided that the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14.”;

(c) in Schedule 1A,—

(i) in paragraph 3,—

(A) in sub-paragraph (a), after item (vi) and the entries relating thereto, the following item shall be inserted, namely:-

“(vii) fixed term employment workmen in apparel manufacturing sector.”;

(B) after sub-paragraph (g), the following sub-paragraph shall be inserted, namely:-

“(h) A “fixed term employment workman in apparel manufacturing sector” is a workman who has been engaged on the basis of contract of employment for a fixed period. However, his working hours, wages, allowances and other benefits shall not be less than that of a permanent workman. He shall also be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying period of employment required in the statute.”;

(ii) in paragraph 13, in sub-paragraph (b), for the portion beginning with “Subject to the provisions” and ending with “and *badli* workmen.”, the following shall be substituted, namely:-

“(b) Subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947),—

(i) no notice of termination of employment shall be necessary in the case of temporary and *badli* workmen;

(ii) no workman employed on fixed term employment basis in apparel manufacturing sector as a result of non-renewal of contract or employment or on its expiry, shall be entitled to any notice or pay *in lieu* thereof, if his services are terminated.”.

[No. S-12011/1/2016-IR(PL)]

RAJEEV ARORA, Jt. Secy.

Note.— The principal rules were published in the Gazette of India vide notification number I R 11 (37) dated the 18th



कर्मचारी भविष्य निधि संगठन
 श्रम मंत्रालय भारत सरकार
 Employees' Provident Fund Organisation
 (Ministry of Labour, Govt. Of India)
 भविष्य निधि भवन, 14 - भीकाजी कामा प्लेस, नई दिल्ली - 110066
Bhavishya Nidhi Bhawan, 14- Bhikaji Cama Place, New Delhi - 110066
www.epfindia.gov.in, www.epfindia.nic.in

No. C-II/Misc./2/06/EZ/Ex./Vol-II

Date :-

To

05 AUG 2016

All Additional CPFCs (Zones),
 All RPFCs of ROs/SROs.

Subject : Exemption under Section 17(1)(a) of the EPF & MP Act, 1952 and under Para 27A of the EPF Scheme, 1952 - Regarding.

Sir,

References are being received in the Head Office seeking clarification whether Income Tax Recognition Order is one of the requisite documents to be submitted by the establishments seeking grant of exemption from operation of the EPF Scheme, 1952.

2. Vide Head Office circular No. C-II/Misc./2/06/EZ/Ex./79520-79690 dated 28.12.2007, on the subject cited above, elaborate guidelines to be followed by the field offices for processing proposals for grant of exemption of the establishments from operation of the EPF Scheme, 1952 and forwarding the same to the Head Office had been issued. The aforesaid circular is available on the official website of EPFO at serial No. 20 under Office Orders / Circulars (Old Circulars). Paragraph 8. of the aforesaid circular mentions the essential information/documents/certificates which should accompany an exemption proposal forwarded to Head Office. Point No. (xiii) of paragraph 8. of the circular mentions Income Tax Recognition Order as one of the essential documents (for Provident Funds which came into existence before 31.03.2008).

3. The issue has been examined and it is felt that benefits of Income Tax provisions can be availed only after the Trust is recognized by the Income Tax authorities, and EPF authorities are concerned only with the benefits available under the EPF & MP Act, 1952 and the Schemes framed thereunder. However, if the Trust does not get recognition under Income Tax Act after grant of exemption, then the employees of the establishment will be getting overall less benefits as compared to employees of un-exempted establishments. Therefore, in order to remove difficulties and also to ensure that overall benefits to the employees of the exempted establishments are not less favourable, it is clarified that henceforth instructions contained in paragraph 8. of the aforesaid Head Office circular dated 28.12.2007 stands modified to the extent that point No. (xiii) of paragraph 8. of the circular may please be considered as omitted. Other things remain the same.

4. In view of above, henceforth, field offices will not ask the establishments seeking grant of exemption from the operation of the EPF Scheme, 1952 to furnish of copy of Income Tax Recognition Order as an essential document to be submitted with proposals for grant of exemption. However, immediately after grant of exemption by the appropriate Government, the establishment should get recognition from the Income Tax authorities for its Trust.

Yours faithfully,



एम्प्लॉयर्स प्रोविडेंट फंड ऑर्गनाइजेशन

श्रम मंत्रालय भारत सरकार

Employees' Provident Fund Organisation

(Ministry of Labour, Govt. Of India)

भविष्य निधि भवन नई दिल्ली, भीकाजी कामा प्लेस-14, 110066

BhavishyaNidhiBhawan, 14- Bhikaji Cama Place, New Delhi - 110066

www.epfindia.gov.in, www.epfindia.nic.in

No. C-Ex/32(27)07/WB/EX/EZ / 8848

Dated:-

04 AUG 2016

04 AUG 2016

To

All Additional CPFCs (Zones),
All RPFCs of ROs/SROs.

**Subject : Clarification regarding online filing of returns by Exempted/Relaxed Establishments -
Regarding**

Sir,

A reference has been received from a field office where branch/unit of an exempted establishment is covered under Section 1(3)(a) of the EPF & MP Act, 1952 instead of being covered under Section 2A as a branch and the main exempted establishment is covered under a different RO/SRO. Both the branch and the main establishment are filing online returns reflecting the same notification and the main establishment is rightly reflecting the branch in its returns. The Regional PF Commissioner concerned has sought necessary guidelines from Head Office to deal with the situation.

2. In the scheme of things planned and prescribed for filing of online returns by exempted/relaxed establishments, only the main establishment exempted/relaxed by order is required to file online returns, the branches/units of such exempted/relaxed establishments are not expected/required to file the online returns. Details of branches/units having separate code or branches/units not having separate codes are being furnished by the main establishment in its returns. If branches/units of exempted establishments are allowed to do so, it will lead to inflated/incorrect figures regarding number of exempted establishments, corpus of PF Trusts, etc. being captured through returns.

3. In view of above, please be clarified where ever a branch/unit of an exempted establishment has been erroneously covered under Section 1(3)(a), instead of having been covered under Section 2A as a branch, necessary corrigendum to coverage letter/note may be issued and establishment details in the establishment master of the office may also please be suitably corrected. Further, link for filing online returns made available to such branches/units of exempted/relaxed establishments should also be withdrawn immediately.



श्रम एवं राजगार मंत्रालय, भारत सरकार
 Ministry of Labour & Employment, Government of India
 भविष्य निधि भवन / Bhavishya Nidhi Bhawan
 14, भीकाजी कामा प्लेस, नई दिल्ली 110066
 14, Bhikaiji Cama Place, New Delhi 110066
www.epfindia.gov.in

No. HRD/12(4)2011/Family Pension/422

Date:-08.08.2016

08 AUG 2016

To,

The All Addl. Central P.F. Commissioner (Zones)
 Addl. CPFC (ASD), Head Office
 All RPFCs in-charge of the Region (Including ZTI)

Sub: - Revision of pension of pre-2006 pensioners- delinking of revised pension from qualifying service of 33 years. – regarding.

Sir/Madam,

In continuation to Head Office letter No. HRD/12(4)2011/Family Pension/338 dated 08.06.2016 regarding revision of pension of Pre-2006 Pensioners, a copy of the Government of India, Ministry of Personnel, Public Grievances & Pension Department of Pension & Pensioners' Welfare OM No.38/37/08/P&W(A) dated 06.04.2016 also received on the above subject is hereby circulated herewith for implementation and necessary action.

2. In accordance with the new guidelines after implementation of the O.M. No.38/37/08-P&PW(A) dated 30.07.2015, the Government has further decided that the revised consolidated pension of pre-2006 pensioners shall not be lower than 50% of the minimum of the pay in the Pay Band & grade pay (wherever applicable) corresponding to the revised pay scale as per fitment table without pro-rata reduction of pension even if they had qualifying service of less than 33 years at the time of retirement. Accordingly, Para 5 of OM of even number dated 28.01.2013 would stand deleted. The arrears of revised pension would be payable with effect from 01.01.2006.

3. I am further directed to convey that the competent Authority has accorded approval for implementation of the guidelines.

4. Accordingly, you are requested to take necessary action for implementation of these guidelines and revise pension accordingly at the earliest and report compliance latest by 26.08.2016.



कर्मचारी भविष्य निधि संगठन

(श्रम एवं रोजगार मंत्रालय, भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

(Ministry of Labour & Employment, Govt. of India)

मुख्य कार्यालय / Head Office

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

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

LC-9(03)2016/CBT/Analysis of Court Cases

Date : 17.08.2016

To

All Additional CPFC(Zones)
Regional P F Commissioner and in-charge of Regions/Sub Regions.

Sub:- Status of Cases related to two years wightage of service to the members with 20 or more years of Pensionable Service under EPS' 1995 - reg.

Sir,

Various communications were received from many ROs/SROs related to the dispute on calculation of pensionable service for granting benefit of two years weightage to the pensioners on completion of 20 years of pensionable service under EPS' 1995. This matter was taken up with the Ministry of Labour and Employment, Govt of India. Ministry has accepted the proposal submitted by EPFO. Accordingly, a circular no. Pension -1/3(4)16/7915 dated 25-07-2016 was circulated by Pension Division of Head Office in this regard.

2. You are therefore, requested to provide information about the instances of closure of litigation on account of allowances of weightage of 2 years(with 20 or more years of pensionable service) in pursuance to the Head Office circular dated 25-07-2016. Detailed report in given table should reach the Head Office within 7 days. This may be given top priority as the report will be placed before the next meeting of the Executive Committee of the Central Board to be held very shortly.

Name of office	No. of cases pending on 2 years weightage of Service issue	Reply filed after issue of Head Office circular no. Pension -13(4)16/7915 dated 25-07-2016	No. of cses disposed after filing of reply after 25-07-2016

(This issues with the approval of ACC(Legal))



(मन्त्रालय श्रम रोजगार, भारत सरकार)
(Ministry of Labour & Employment, Govt. Of India)

मुख्य कार्यालय / Head Office

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

Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066

www.epfindia.gov.in www.epfindia.nic.in

Telephone: 011- 26196239 Fax: 011-26173022

No. WSU/10(1)2011/Changes in MAP/2078

Date: 04 AUG 2016

To

All ACCs (Zones)
All RPFC-Incharge of
ROs/SROs.

Sub: UAN based Claim Form No. 31 (UAN) – Instructions on submission of Declaration Form.

Ref: 1) Head Office circular of even number dated 01.12.2015 (at Sl. No. 522 of 'Office orders & circulars' for 2015-16)
2) Head Office circular of even number dated 04.12.2015 (at Sl. No. 532 of 'Office orders & circulars' for 2015-16)

Sir/Madam,

Please refer to the above said subject.

2. It is clarified that Declaration Form can be accepted in case of UAN based claim form without attestation of the employers. Henceforth, the attestation of employers on the Declaration Form would not be required in case of UAN based Claim Form No. 31(UAN).

3. This has approval of the Central P.F. Commissioner.

Yours faithfully,

Sanjay
(Sanjay Kumar)
RPFC-I (F&A)



(कर्म एवं रोजगार मंत्रालय, भारत सरकार)
 (Ministry of Labour & Employment, Govt. Of India)
 मुख्य कार्यालय / Head Office
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 Telephone: 011-26196239 Fax: 011-26173022

No. WSU/6(1)2016/Finance Bill 2016/IT

Date: 23.08.2016

To

12859

23 AUG 2016

All ACCs (Zones)
 All RPFC/OICs of
 ROs/SROs.

Sub: Deduction of income tax (TDS) on provident fund withdrawal – Instructions thereof.

Ref: 1) Head Office circular No. WSU/6(1)2011/IT/Vol-IV/5931 dt. 21.05.2015 (at Sl. No. 110 of 'Office orders & circulars' for 2015-16)
 2) Head Office circular No. WSU/6(1)2016/Finance Bill 2016/IT/4376 dt 30.05.2016 (at Sl. No. 109 of 'Office orders & circulars' for 2016-17)

Sir/Madam,

Please refer to the above referred circulars of Head Office.

2. In para 5 of Head Office circular dated 21.05.2015 cited at (1) above, it was instructed that in the cases of provident ^{fund} withdrawal (Form-19) wherever TDS has to be deducted @10%, the same may be approved on Form-19 by the APFC (Accounts) and wherever TDS@34.608%, it shall be approved on Form-19 by RPFC level officer.

3. The issue has been reviewed at Head Office and it has been decided that henceforth all the cases of TDS (including 10% as well as 34.608%), in the process of settlement of provident fund claims (Form-19), shall be approved by the concerned approver (AO/APFC) of the claim.

4. This has approval of Central P.F. Commissioner.

Bill No. 216 of 2016

THE FACTORIES (AMENDMENT) BILL, 2016

A

BILL

further to amend the Factories Act, 1948.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

- | | | |
|-------------|---|------------------------------|
| | 1. (1) This Act may be called the Factories (Amendment) Act, 2016. | Short title and commencement |
| 5 | (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | |
| 63 of 1948. | 2. In the Factories Act, 1948 (hereinafter referred to as the principal Act), in section 2, in clause (p), for the words "State Government", the words "Central Government or, as the case may be, the State Government" shall be substituted. | Amendment of section 2. |
| 10 | 3. In section 64 of the principal Act,—
(a) for the words "State Government" wherever they occur, the words "Central Government or, as the case may be, the State Government" shall be substituted;
(b) in sub-section (4), in clause (iv), for the word "fifty", the words "one hundred" shall be substituted; | Amendment of section 64. |

2

- | | | |
|---------------------------|---|---------|
| | (c) in sub-section (5), for the words "Rules made", the words, brackets and figures "Rules made before the commencement of the Factories (Amendment) Act, 2016" shall be substituted. | |
| Amendment of section 65. | 4. In section 65 of the principal Act,—
(a) for the words "State Government" wherever they occur, the words "Central Government or, as the case may be, the State Government" shall be substituted;
(b) in sub-section (3), in clause (iv), for the word "seventy-five", the words "one hundred and fifteen" shall be substituted;
(c) after sub-section (3) and before the <i>Explanation</i> , the following proviso shall be inserted, namely:—
"Provided that the Central Government or the State Government or the Chief Inspector with the prior approval of the State Government, as the case may be, may, by order, further extend the total number of hours of overtime work in any quarter up to one hundred and twenty-five in the public interest." | 5
10 |
| Amendment of section 115. | 5. In section 115 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—
"(2) Every rule made by the Central Government or the State Government under this Act shall be laid, as soon as may be after it is made, before Parliament or, as the case may be, the State Legislature." | 15 |

THE EMPLOYEE'S COMPENSATION (AMENDMENT) BILL, 2016

A

BILL

further to amend the Employee's Compensation Act, 1923.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

	1. (1) This Act may be called the Employee's Compensation (Amendment) Act, 2016.	Short title and commencement.
	(2) It shall come into force on such date as the Central Government may, by notification	
5	in the Official Gazette, appoint.	
8 of 1923.	2. In the Employee's Compensation Act, 1923 (hereinafter referred to as the principal Act), after section 17, the following section shall be inserted, namely:—	Insertion of new section 17A.
	"17A. Every employer shall immediately at the time of employment of an employee, inform the employee of his rights to compensation under this Act, in writing as well as	Duty of employer to inform employee of his rights.
10	through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee."	
	3. In the principal Act, in section 18A, in sub-section (1),—	Amendment of section 18A.
	(i) in clause (d), for the word and figures "section 16.", the words and figures "section 16, or" shall be substituted;	
	(ii) after clause (d), the following clause shall be inserted, namely:—	
	"(e) fails to inform the employee of his rights to compensation as required under section 17A,";	
	(iii) in the long line, for the words "which may extend to five thousand rupees", the words "which shall not be less than fifty thousand rupees but which may extend to	5
	one lakh rupees" shall be substituted.	
Amendment of section 30.	4. In the principal Act, in section 30, in sub-section (1), in the first proviso, for the words "three hundred rupees", the words "ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify" shall be substituted.	10
Omission of section 30A.	5. Section 30A of the principal Act shall be omitted.	

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 30th July, 2016/Shravana 8, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 29th July, 2016, and is hereby published for general information:—

**THE CHILD LABOUR (PROHIBITION AND REGULATION)
AMENDMENT ACT, 2016**
No. 35 OF 2016

[29th July, 2016.]

An Act further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2016. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

61 of 1986. 2. In the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:— Amendment of long title.

“An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.”.

Amendment of short title. 3. In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986”, the words, brackets and figures “the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986” shall be substituted. 61 of 1986.

Amendment of section 2. 4. In section 2 of the principal Act,—
(a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following clause shall be inserted, namely:—

‘(i) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;’;

(b) for clause (ii), the following clause shall be substituted, namely:—

‘(ii) “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more;’.

35 of 2009.

Substitution of new section for section 3. 5. For section 3 of the principal Act, the following section shall be substituted, namely:—

Prohibition of employment of children in any occupation and process. “3. (1) No child shall be employed or permitted to work in any occupation or process.

(2) Nothing in sub-section (1) shall apply where the child,—

(a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;

(b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed:

Provided that no such work under this clause shall effect the school education of the child.

Explanation.—For the purposes of this section, the expression,

(a) “family” in relation to a child, means his mother, father, brother, sister and father’s sister and brother and mother’s sister and brother;

(b) “family enterprise” means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;

(c) “artist” means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2).”.

Insertion of new section 3A.

6. After section 3 of the principal Act, the following section shall be inserted, namely:—

Prohibition of employment of adolescents in certain hazardous occupations and processes.

“3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule:

Provided that the Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under this Act.”.

7. In section 4 of the principal Act, for the words “add any occupation or process to the Schedule”, the words “add to, or, omit from, the Schedule any hazardous occupation or process” shall be substituted. Amendment of section 4.

8. In section 5 of the principal Act,— Amendment of section 5.

(i) in the marginal heading, for the words “Child Labour Technical Advisory Committee”, the words “Technical Advisory Committee” shall be substituted;

(ii) in sub-section (1), for the words “Child Labour Technical Advisory Committee”, the words “Technical Advisory Committee” shall be substituted.

9. In the heading of Part III of the principal Act, for “CHILDREN” substitute “ADOLESCENTS.”. Amendment of Part III.

10. In section 6 of the principal Act, for the word and figure “section 3”, the word, figure and letter “section 3A” shall be substituted. Amendment of section 6.

11. In section 7 of the principal Act, for the word “child”, wherever it occurs, the word “adolescent” shall be substituted. Amendment of section 7.

12. In section 8 of the principal Act, for the word “child”, the word “adolescent” shall be substituted. Amendment of section 8.

13. In section 9 of the principal Act, for the word “child”, at both the places, where it occurs, the word “adolescent” shall be substituted. Amendment of section 9.

14. In section 10 of the principal Act, for the word “child”, at both the places, where it occurs, the word “adolescent” shall be substituted. Amendment of section 10.

15. In section 11 of the principal Act,— Amendment of section 11.

(a) for the word “children”, the word “adolescent” shall be substituted.

(b) for the word “child”, wherever it occurs the word “adolescent” shall be substituted.

16. In section 12 of the principal Act,— Amendment of section 12.

(a) in the marginal heading, for the words and figures "sections 3 and 14" the words, figures and letter "sections 3A and 14" shall be substituted;

OL SECTION 12.

(b) for the words and figures "sections 3 and 14", the words, figures and letter "sections 3A and 14" shall be substituted.

17. In section 13 of the principal Act, for the word "children", wherever it occurs, the word "adolescent" shall be substituted.

Amendment of section 13.

18. In section 14 of the principal Act,—

Amendment of section 14.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

(1A) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A) the parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence."

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Whoever, having been convicted of an offence under section 3 or section 3A commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.

(2A) Notwithstanding anything contained in sub-section (2), the parents or guardian having been convicted of an offence under section 3 or section 3A, commits a like offence afterwards, he shall be punishable with a fine which may extend to ten thousand rupees."

(c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

Insertion of new sections 14A, 14B, 14C and 14D.

19. After section 14 of the principal Act, the following sections shall be inserted, namely:—

Offences to be Cognizable.

"14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.

2 of 1974.

Child and Adolescent Labour Rehabilitation Fund.

14B. (1) The appropriate Government shall constitute a Fund in every district or for two or more districts to be called the Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescent, within the jurisdiction of such district or districts, shall be credited.

(2) The appropriate Government shall credit an amount of fifteen thousand rupees to the Fund for each child or adolescent for whom the fine amount has been credited under sub-section (1).

(3) The amount credited to the Fund under sub-sections (1) and (2) shall be deposited in such banks or invested in such manner, as the appropriate Government may decide.

(4) The amount deposited or invested, as the case may be under sub-section (3), and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, in such manner as may be prescribed.

Explanation:— For the purposes of appropriate Government, the Central Government shall include the Administrator or the Lieutenant Governor of a Union territory under article 239A of the Constitution.

Rehabilita-
tion of
rescued child
or adolescent.

14C. The child or adolescent, who is employed in contravention of the provisions of this Act and rescued, shall be rehabilitated in accordance with the laws for the time being in force.

Compounding
of offences.

14D. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Magistrate may, on the application of the accused person, compound any offence committed for the first time by him, under sub-section (3) of section 14 or any offence committed by an accused person being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.

2 of 1974.

(2) If the accused fails to pay such amount for composition of the offence, then, the proceedings shall be continued against such person in accordance with the provisions of this Act.

(3) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(4) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought in writing, to the notice of the Court in which the prosecution is pending and on the approval of the composition of the offence being given, the person against whom the offence is so compounded, shall be discharged.”.

20. After section 17, the following sections shall be inserted, namely:—

Insertion of
new sections
17A and 17B.

“17A. The appropriate Government may confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

District
Magistrate to
implement
the
provisions.

17B. The appropriate Government shall make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act.”.

Inspection and monitor-
ing.

21. In section 18 of the principal Act, in sub-section (2),—

Amendment
of section 18.

(i) clause (a) shall be relettered as clause (b) thereof and before clause (b), as so relettered, the following clause shall be inserted, namely:—

(a) the conditions and the safety measures under clause (b) of sub-section (2) and other activities under clause (b) to *Explanation* of sub-section (2) of section 3;

(ii) in clause (b), as so relettered, for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted.

(iii) clauses (b), (c) and (d) shall be relettered as clauses (c), (d) and (e) thereof and in clause (c) as so relettered, for the word "child", the word "adolescent" shall be substituted;

(iv) after clause (e), as so relettered, the following clauses shall be inserted, namely:—

(f) the manner of payment of amount to the child or adolescent under sub-section (4) of section 14B;

(g) the manner of composition of the offence and payment of amount to the appropriate Government under sub-section (1) of section section 14D;

(h) the powers to be exercised and the duties to be performed by the officer specified and the local limits within which such powers or duties shall be carried out under section 17A."

6

THE GAZETTE OF INDIA EXTRAORDINARY [PART II— SEC. 1]

Substitution
of new
Schedule for
the Schedule.

22. In the principal Act, for the Schedule, the following Schedule shall be substituted, namely:—

THE SCHEDULE

(See section 3A)

- (1) Mines.
- (2) Inflammable substances or explosives.
- (3) Hazardous process.

Explanation.—For the purposes of this Schedule, "hazardous process" has the meaning assigned to it in clause (cb) of the Factories Act, 1948."

63 of 1948.

DR. G. NARAYANARAJU,
Secretary to the Govt. of India.

MANOJ KUMAR
Digitally signed
by MANOJ
KUMAR
Date: 2016.07.30
23:11:00 +05'30'

CASE LAW UPDATE



When litigation between workman and Management has prolonged spending time in one court to another, wherein, the workman has successfully contested the dispute and reinstatement is not feasible since the company has already been closed, payment of lumpsum compensation to bring peace between the parties is appropriate justice.

Supreme Court of India – 2016 – Universal Glass Vs. Harpal Singh - 2016 - LLR 785

Apartment Owners' Association or Society is not an establishment under section 2 (e) of the CLR Act, 1970. When the Apartment Owners' Association or Society is neither an establishment nor an 'industry' under the Industrial Disputes Act, persons employed by it cannot be characterised as workmen under the Act. Non registration and non-maintenance of records is not violation since Association is not an establishment to be covered under the Act.

Karnataka High Court – Smt.RachanaGopinath&Another Vs. The State of Karnataka – 2016 – LLR – 864

Cases of misconduct by commission of financial irregularities in the books of accounts of the Bank, cannot be handled lightly. Punishment of dismissal from service on account of commission of financial irregularities in the books of accounts is justified.

Jharkhand High Court – Om Prakash Singh Vs. State Bank of India – 2016 LLR – 816

Punishment of dismissal from service imposed upon the delinquent employee who remained absent unauthorised for a long period of about 3 years, is not shockingly disproportionate. Unauthorised long absence is a grave and serious misconduct justifying punishment of dismissal from service.

Calcutta High Court – Some MajhiVs. Coal India Limited – 2016 LLR – 797

An employer can challenge initiation of proceedings by the EPF Authority after a long period on the ground that he has changed his position and if recovery is made after a number of years, the prejudice to him is of an "irretrievable" nature. Employer might claim prejudice upon proof of loss of all relevant records or non-availability of personnel who were, several years ago, in charge of such payments and there is no other way to reconstruct the records or produce evidence.

Punjab and Haryana High Court – The Nakodar Cooperative Sugar Mills Ltd., Vs. EPF Appellate Tribunal and Another – 2016 – LLR 855

Issue of dependency is to be determined considering date of accident and not date of moving application or order of Award of claim. Wife of deceased husband is entitled to claim compensation under the Employees' Compensation Act, 1923, irrespective of the fact that she has remarried or not.

Himachal Pradesh High Court -Bano Devi Vs. Rashilu Devi and Others – 2016 LLR 805

When the Management has not proved gainful employment of the workman, entire back-wages should not be denied to the workman even if charges have been proved against him by holding just and fair enquiry.

Karnataka High Court – Raghavendra Singh Vs. Brinks Arya India Ltd., - 2016 LLR 869

CASES REFERENCE – EPF APPELLATE TRIBUNAL

An order passed without verifying the relevant records and identifying the beneficiaries is liable to be set aside

M/s. N.R.C. Ltd., Vs. Regional PF Commissioner – ATA No.783 (9) 2011 decided on 27.5.2016

An order passed on the basis of report of enforcement officer, without identification of beneficiaries, is not sustainable

Excel Instruments Vs. APFC, Kandivali – ATA No.710 (9) 2014 decided on 16.5.2016

Determination of EPF dues without identification of beneficiaries is not sustainable

M/s.Rewa Chand Bhojwani Academy Vs. APFC, Pune, ATA No.1323 (9) 2014 decided on 16.5.2016

An employer cannot be compelled by EPF authority not to bifurcate minimum wages

M/s.Shlok Hospitality Pvt. Ltd., Vs APFC, Kandivalli – ATA No.862 (9) 2013 decided on 16.5.2016

Employer is liable to pay EPF contributions only on Basic wages and not on all Allowance

M/s.Victor Gaskets India Limited Vs RPFC – ATA No.1314 (9) 2015 decided on 17.5.2016

When clubbing of establishments for coverage under the EPF & MP Act is not sustainable

St.Mary's Church Nursery School Vs.APFC, Pune – ATA No.105 (9) 2015 decided on 18.5.2016



COMPLIANCE CHECKLIST

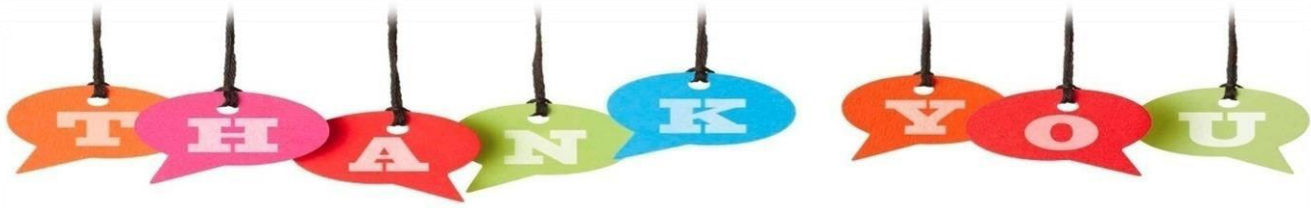
List of Registers to be Maintained Under Various Labour Laws			
Sl. No.	Act	Frequency	Principle Employer ---->
1	S & E Act	MONTHLY	Register of advance , Deduction, Damages and Loss fine - Form - P
2	S & E Act	MONTHLY	Register of Employment for Shop and Establishment Form - Q
3	S & E Act	MONTHLY	Register 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

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