

ONE TEAM

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ACTIVITIES



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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.

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FROM THE EDITOR'S DESK

From the Editor's Desk:

Wake-up Call from **Nation's Time Keeper (HMT)** - to make Performance as Non Negotiable Discipline:

Be it an analytical report on **Moody's** Modi's Mood or **Dahaka** pressure for Madam Hassina or a Million Vote in **Myanmar** the Managers must continue to be on the constant move...with high order of adoptability and some emotive techniques to localize the priorities at the site of operations. It is true that time never waited for we have moved in to a **Brand New Year**, at the close of the **Financial Year** with the running templates for the new **Business Plans**.

When we read the news that it is Time up for **HMT watches to wind down after 53 years** with the approval of Cabinet Committee on Economic Affairs during last month in the same page we also read **Titian Watches Launches Smart Watches** in India to enable phone facilities, a company with **25 years** of proven record in sales of **13 million** watches every year and run at the rate of one watch being **sold per 3 seconds**.

The time keeper of Nation HMT had no time to look into the Performance Failure, Broken financials, Pushing Market and the unseen bosses lived happily and finally put into rest in peace. This is the clear business case study for every manager to understand the power of performance and orient every employee towards specific time bound goals and make "**Performance**" to be read with the Privacy Policy of the company aligning to the individual there should be a smart way to evaluate.

The **Golden standards** are reset through **Golden Monetization Scheme** and **Sovereign** steps forward to Guarantee, may be to bring back the Golden Period. It is a time for the practicing managers to keep the non-core business yet essential to business activities to a **Time Trusted Partner** like **V & M Associates** and form a self-support drive towards **Molding Performing Managers (MPM)** in a structured manner to have sustained growth and to make **Hybrid Managers (HM)** with multi tasking ability and high order adoptability and work towards the Transformation of Mission

We at **V & M Associates** constantly work towards making better thinking place for the managers by taking their high pressure low end day busters in the form of inspection, audit, compliances with some or other regulators across the country. We make an appeal to get the space you won and well deserved by sharing the unseen spot in your daily transactions to make hassle free high way drive.

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RECENT LABOUR LAW SCENARIOS

Labour Ministry to trim companies EPFO coverage threshold to 10 workers

The proposal to reduce the threshold was approved by the EPFO's apex decision making body the Central Board of Trustees, headed by the Labour Minister, on July 5, 2008.

In a bid to provide social security to additional 50 lakh workers under retirement fund body EPFO, the Labour Ministry has decided to halve the threshold for coverage of firms to 10 workers through an executive order.

At present, it is mandatory under the Employees' Provident Fund and Miscellaneous Provisions Act for firms having 20 or more workers to subscribe to social security schemes run by the Employees' Provident Fund Organisation (EPFO).

The Labour Ministry wants to reduce the threshold to 10 workers through an executive order.

This move will bring over 50 lakh additional formal sector workers under the net of social security schemes run by the EPFO,

"It was also included in the proposed amendments to the EPF & MP Act. There is a provision for changing threshold limit through a notification after giving two months' notice for consultations."

Labour Ministry has planned to go ahead with such amendments in the labour laws which does not require approval from the Parliament.

By first week of the next month will give notice for consultations.

The threshold can be changed by April or May 2016.

The proposal to reduce the threshold was approved by the EPFO's apex decision making body the Central Board of Trustees, headed by the Labour Minister, on July 5, 2008.

But it could not be implemented so far.

The social security benefits provided under the Employees State Insurance Corporation (ESIC) Act are already applicable to the establishments having employment of 10 or above.

Therefore, the reduction of threshold for EPFO would have brought the parity with ESI Act with regard to coverage and would have helped in unifying social security efforts of the Government.

The move will also help channelizing the registration of establishments and members of both ESIC and EPFO.

CHANGES IN MAHARSHTRA

In an important reform to boost labour hiring in Maharashtra, the state government has extended the hiring limit for labour contractors to more than 20 labourers without seeking permission from the Labour Commissioner. The move, announced by the state government without much fanfare, now gives the liberty to labour contractors to hire 50 labourers from

the earlier 20 without needing to go to the Labour Commissioner for registration and other associated clearances.

Apart from hiking the limit for labour contractors, Maharashtra government also took some important decisions to cut the Mumbai police powers under the Maharashtra Police Act 1951.

Faced with a number of complaints from Hoteliers and Eatery establishment about the time-consuming and corruption-prone process of getting a Police permission to start an eatery, bar, liquor shop (permit rooms) lodging rooms, the state has now decided that no police permission would be needed to start such establishments henceforth.

“Even starting a lodging room, or constructing swimming pools, required police permission, this involved unnecessary delays and paper work. The actual job of regulation comes under the local municipal body , so the police clearance was just causing work to slow down,” said a top state government official.

So, from now on if anyone wants to open an eatery he would need permission from the Brihanmumbai Municipal Corporation (BMC) and not from the Police .

Under the `Ease of doing Business' initiative, Maharashtra Chief Minister Devendra Fadnavis has been doing a review of the several archaic regulations that the state believes were hindering development, government officials said more such reforms are in the pipe line.

Credit: - Economics Time & Times of India

Draft Model Shops and Establishments (Regulation of Employment and Conditions of Services) Act 2015- High lights

Draft Model Shops and Establishments (Regulation of Employment and Conditions of Services) Act 2015- High lights

The Government has framed a new model law that would allow

- Cinema Halls,
- Restaurants,
- Shops,
- Banks

and other such workplaces to be open 24/7.

The law would also enable women to work during the night in such offices with mandatory cab services and other workplace facilities for them.

The government has put in public domain a draft Cabinet note on **Model Shops and Establishments (Regulation of Employment and Conditions of Services) Act 2015** for inviting comments from various Ministries and government departments.

This will act as an advisory to the state governments which will have the option to either adopt this model law or make changes to it according to their local needs.

Union Labour Secretary Shankar Aggarwal told -

“All shops and establishments, not covered under the Factories Act, such as malls, cinema halls or an information technology firm may be open 24X7 and allowed to work 365 days in a year. We will issue an advisory to the states, which will not require approval from the Parliament, and it is up to them to take it up or make changes,”

For this the shops and establishments will need to take permission from local bodies related to other laws.

The draft law proposes to cover all premises, barring factories, or shops with work related to printing, banking, insurance, stocks and shares, brokerage or theatres, cinema and “any other public amusement” which is currently not covered under the Factories Act 1948. All such units which employ 10 or more workers are proposed to come under this Act.

For the first time, godowns, warehouses or workplace related to packaging activities are proposed to be covered under the law, as per the draft model Act.

This will bring many **e-commerce companies under the labour law rule-books** as many of these companies face problems while operating godowns in various states.

Why Stay at Retrospective effect on Bonus

There are large number of queries about obligation of the employers (establishments) to pay additional bonus for the year 2014-15. Hence it become imperative to know the current status of the amendment particularly its retrospective effect.

The Kerala High Court in United Planters’ Association of Southern India and another vs. Union of India, vide Writ Petition(C) No.3025/2016(C) dated 27.1.2016 and also by Karnataka High Court in Karnataka Employers Association and another, Writ Petition No.5272 & 5311/2016 dated 2.2.2016 have stayed the Amendment to the Payment of Bonus Act to the extent it gives the retrospective effect from 1.4.2014.

It is pertinent to state that any order passed in a writ petition by any High Court questioning the constitutional validity of a Parliamentary Act whether interim or final, keeping in view the provisions contained in Clause (2) of Art.226 of the Constitution of India, it will have effect throughout the territory of India. In this context it is pertinent to refer to the judgment of Supreme Court in M/s. Kusum Ingots and Alloys Ltd. vs. Union of India and another, AIR 2004 SC 2321 wherein it has been held that :

“The Court must have the requisite territorial jurisdiction. An order passed on writ petition questioning the constitutionality of a Parliamentary Act, whether interim or final, keeping in view the provisions contained in clause (2) of Art.226 of the Constitution of India, will have effect throughout the territory of India subject, of course, to the applicability of the Act.”

The Labour Office of Madhya Pradesh, Karnataka, & Allahabad has followed the above rulings and issued the instructions that **no retrospective effect will be given to the amendment till the subject matter is finally decided.**

Uniform Minimum Wages - Center will pass bill for minimum wages_

- Union Minister of State for Labour and Employment Bandaru Dattatreya says it will benefit 40 crore employees in organized sector with uniform wage
- Hints at hiking the salary limit from Rs 15,000 to Rs 25,000 to ensure ESI benefits
Tirupati: Center will introduce a bill in the ensuing Parliament session for approval of providing a uniform minimum wages to 40 crore employees engaged in the country, said Union Minister of State for Labour and Employment Bandaru Dattatreya. He said this after inspecting the Rs 110 crore regional ESI hospital which is coming up Tirupati, on Saturday, the Union Minister said the bill proposed to hike and ensure uniform minimum wage to all the unorganised sector employees for their welfare.

EPF WITHDRAWAL WITHOUT EMPLOYER SIGNATURE

Ref: HO circular dated 01.12.2015 :-

The new UAN based claim forms NO 19,10C & Form 31. The employees whose Aadhar Number and Bank details have been seeded as KYC and have been duly verified by the employer using digital signature and the details in form 11 have been completed, will now be able to use these UAN based new claim forms. These UAN based claim forms do not require attestation by the employer, the member can directly submit the claim form to the concerned jurisdictional EPF office. There are three prerequisite conditions which must be fulfilled before submitting these new UAN based claim forms

- a) The AADHAR number and the bank account number of the employee are seeded as KYC and is digitally verified by the employer.
- b) All the details of the employee are available in Form No 11 (New).
- c) A cancelled cheque containing the name of the employee, bank account number and IFS code is attached with the claim form.

All other employees not fulfilling the above conditions shall continue to submit their claims for withdrawals in existing Form No 19, 10C & Form 31.

It is requested to please ensure proper KYC seeding and UAN activation in order to make this move successful. It is also requested to publicise this new facility among your employees.

UAN based PF withdrawal claim form NO 19 , 10C and 31 .



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THE GAZETTE OF INDIA : EXTRAORDINARY

[PART II--SEC. 3(7)]

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 20th January, 2016

G.S.R. 93(E).—In exercise of the powers conferred by section 5 read with sub-section (1) of section 7 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Provident Fund Scheme, 1952, namely :—

1. (1) This Scheme may be called the Employees Provident Funds (Third Amendment) Scheme, 2015.

(2) It shall come into force from the date of its publication in the Official Gazette.

2. In the Employees Provident Funds Scheme, 1952, in paragraph 22A, for the words, letters and figures "carrying the maximum scale of pay of Rs. [14,300-18,300]", the words "equivalent to Joint Secretary to the Government of India" shall be substituted.

[F. No. A-12034/22/2015-SS.1]

MANISH KUMAR GUPTA, Jt. Secy.

Note: The Employees' Provident Funds Scheme, 1952 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), with notification number S.R.O. 1309 dated the 2nd September, 1952 and was lastly amended vide notification number G.S.R. 666(E), dated the 27th August, 2015.

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 14th January, 2016.

G.S.R 25(E).—In exercise of the powers conferred by section 5 read with sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Provident Funds Scheme, 1952, namely:—

1. (1) This Scheme may be called the Employees' Provident Funds (Amendment) Scheme, 2016.
(2) It shall come into force from the date of its publication in the Official Gazette.
2. In the Employees' Provident Funds Scheme, 1952, in paragraph 72, in sub-paragraph (5), after clause (f), the following proviso shall be inserted, namely :-

“Provided that notwithstanding anything contained in this sub-paragraph, the Central Provident Fund Commissioner may permit a member to submit his claim, in such form and manner, and on such terms and conditions as may be specified by him in this regard, directly to the Commissioner.”

[F. No. S-35012/6/2015-SS.II]

MANISH GUPTA, Jt. Secy.

Note: The Employees' Provident Funds Scheme, 1952 was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), vide notification number S.R.O. 1509 and lastly amended vide notification number G.S.R. 666(E) dated the 27th August, 2015.



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation

(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
 (Ministry of Labour & Employment, Govt. Of India)
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 Telephone: 011-26172685 Fax: 011-26173022

No. WSU/44(2)97/Administrative Charges/23682

Date: 29 FEB 2016

To

29 FEB 2016

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

Sub: Notification on Incentive Refund Scheme for employers for providing Universal Account Number (UAN) with 100% seeded KYC to all its employees in the EPF Scheme, 1952.

Sir/Madam,

Please find enclosed copy of Notification No. S.O.443(E) dated 10th February, 2016 on Incentive Refund Scheme for employers for providing Universal Account Number (UAN) with 100% seeded KYC to all its employees in the EPF Scheme, 1952.

The Incentive Refund Scheme shall be in operation for one year beginning from **1st January, 2016 to 31st December, 2016** (i.e. for the quarters beginning January, 2016, April, 2016, July, 2016 & October, 2016).

Yours faithfully,

Encl: As above

(Dr. V.P. Singh)
 Addl. GPFC (F&A)

Copy to:

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 19th February, 2016

G.S.R. 158(E).— In exercise of the powers conferred by section 5, read with sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Provident Funds Scheme, 1952, namely :—

1. (1) This Scheme may be called the Employees Provident Funds (Amendment) Scheme, 2016.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme), in paragraph 26A, in sub-paragraph (1), the Explanation shall be omitted.

3. In paragraph 68-NN of the said Scheme, for the figures and word "54 years" the figures and word "57 years" shall be substituted.

4. After paragraph 68-NNN of the said Scheme, the following new paragraph shall be inserted, namely :-

"68-MNN. Option for withdrawal on cessation of employment.-

(1) The Central Board, or where so authorised by the Central Board, the Commissioner, or any officer subordinate to him, may, on an application made by a member in such form as may be specified, authorise payment to him from his provident fund account not exceeding his own total contribution including interest thereon up to the date the payment has been authorised on ceasing to be an employee in any establishment to which the Act applies.

(2) The member making an application for withdrawal under sub-paragraph (1) shall not be employed in any factory or other establishment, to which the Act applies, for a continuous period of not less than two months immediately preceding the date on which such application is made :

Provided that the requirement of two months' period referred to in sub-paragraph (2) shall not apply in cases of female members resigning from the services of the establishment for the purpose of getting married or on account of pregnancy or child birth."

5. In paragraph 68-O of the said Scheme, for the figures, letters and word "68-N and 68-NN" the figures, letters and word "68-N, 68-NN, 68-MNN and 68-MNNN" shall be substituted.

6. In paragraph 69 of the said Scheme, -

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[भाग II-खण्ड 3 (i)]

भारत का राजपत्र : असाधारण

3

- (a) for the figures and word "55 years" wherever they occur, the figures and word "58 years" shall be substituted;
- (b) in sub-paragraph (1), clause (e) shall be omitted; and
- (c) sub-paragraphs (2) and (5) shall be omitted.

[F. No. S-35012/5/2015-SS-II]

MANISH GUPTA, Jt. Secy.

Note.-The Employees' Provident Funds Scheme, 1952 was published in the Gazette of India, Part II, Section 3, Sub-section (i) vide notification number S.R.O. 1509 dated the 2nd September, 1952 and was lastly amended vide notification number G.S.R. 25(E) dated the 14th January, 2016.



CASE LAW UPDATE



When the misconduct reflects that the delinquent employee has committed the same for his personal gains causing loss to his employer or the employee loses the confidence of the employer, the nature of misconduct would be grave and serious. Punishment of dismissal from service is justified if the Management has lost confidence upon delinquent employee due to his grave and serious misconduct.

Supreme Court of India – U P State Road Transport Corporation & Another Vs. Gopal Shukula - 2016 – LLR – 113

Assessment of EPF contributions without identification of members in whose account the PF due is to be credited is prohibited by circular dated. 30.11.2012 issued by the Ministry. An order passed by the EPF Authorities determining the EPF contributions, without identification of beneficiaries, is not sustainable

Gauhati High Court – BSNL , Assam Vs. Central Board of Trustees, EPFO, - 2016 – LLR – 201

Unauthorised absence is a grave and serious misconduct since it causes dislocation of work, resulting into financial loss and indiscipline. An employer may lose confidence upon the workman on account of his habitual unauthorised absence.

Madras High Court – Mohamed Manzoor Ali Vs. Tamil Nadu State Transport Corporation Ltd., Kumbakonam, - 2016 – LLR – 182

In case of conflict of period of probation between appointment letter and the Model Standing Order, the latter will prevail over the formal since the Model Standing Orders have the binding force.

Bombay High Court – Wika Instruments India Private Limite Vs. Swati U. Nowgaonkar – 2016 – LLR 209

When the workman admits her signature on her resignation letter as well on the receipt of payment confirming receipt of full and final dues, she cannot later on say that she has been illegally terminated from her service.

Punjab and Haryana High Court – Maya Devi Vs. Presiding Officer & Another – 2016 – LLR - 191



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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