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- ✍ **Recent Labour Law Scenarios**
- ✍ **Amendments & Notifications**
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FALL OF A “KING” LIKE A DEAD “FISH”

...Transformation of non compliances to willful defaulter...

, **Vijay Mallya** known for successful bidding in auction be it the **Sword of Tippu** Sultan or the **belongings of Mahatma** and had the style of brining back to our country from London Auction Houses, despite any controversies now he is there at London and his Kingfisher Houses are under Auction Hammer. Every other Banks , agencies forums are competing each other to bring him back from London the nearing climax of the true story of a “**King**”, fallen like a **dead “fish”**.

Though the flamboyance stories of him with his style were viral prior to the electronic postings , he was keen to build a new image for Indian Corporate as a Chairman of United Breweries he had active role in, high stake acquisitions, Berger Paints, Best & Crompton, Mangalore Chemicals & Fertilizers, Asian age, Cinie Blitz, Shaw Wallace etc . He owned India’s biggest liquor company, private jet, an Airbus, many other companies riches and then in the year 2005 the launch of kingfisher airline as a gift to his son on his birthday promising “**King of good times**” to all brought the start of bad time to his 60 companies with the turnover of 11 Billion USD.

It is to be noted that few non compliances, nonpayment to the statutory liabilities brought a major turbulence and become a carcinogen malignantly leading to terminal systemic disorder. In the year 2012, Kingfisher Airlines was grounded, leaving its employees with unpaid salaries. The company had allegedly not deposited its employees’ provident fund to the government and had run losses in excess of Rs 4,000 crore in 2012-13. Its accumulated losses ran into Rs 16,023 crore, while its net worth fell to a negative Rs 12,919 crore at the end of March 2013. In April 2015, Mumbai International Airport Private Limited (MIAL) sold Mallya’s personal aircraft (its registration number, VT-VJM, matches his initials) for Rs 22 lakh to recover airport dues of the grounded airline.

As trouble mounted, Kingfisher Airlines was chased by the service tax department over non-payment of service tax of over Rs 115 crore. The department seized eight aircraft and helicopters of the company, including Mallya’s prized Airbus A319, which it now plans to auction. On March 7 this year, the service tax department moved the Bombay High Court, asking for impounding of Mallya’s passport and seeking his presence in the ongoing court case. The airlines had also defaulted on crediting over Rs 372 crore of Income Tax deducted at source from employees.

It is essential for the practicing managers like us to study the difference between Vijay Mallya who lost Rs.10,000 Crore and the insight Air India Loss of Rs.30,000 crore. We are sensitive for the loss of bank money in the case of Vijay Mallya and raise our voice where as silent in the case of Air India Loss the public taxpayer’s money. Why are we especially the media is not holding the people responsible managing Air India Accountable like the way we hold Vijay Mallya as rightly asked **by Mr. Pai former Chief Financial Officer & H R Head of Infosys.**

Many including the media can blame Mallya for mismanagement for business losses but not it’s the time for practicing managers associated with him how there were responsible in supporting the decision making process and other compliances or compliance based payment related issues, prior to share their part.

It is the right time for all managers and leaders to understand the rising cost of Non compliance and start retaining the right Compliance services professional firms. We at **V & M Associates** fully understand the regulatory risk and provide budgetary solutions for the corporate.

V & M Associates wishes you all a happy Business Budgets & Plans and a break through FY 2016-2017 by the grace of Almighty

For **V & M Associates Newsletter**
Editor in Chief

RECENT CHANGES IN EPF ACT

Latest EPF Withdrawal Rules w.e.f 10th Feb 2016

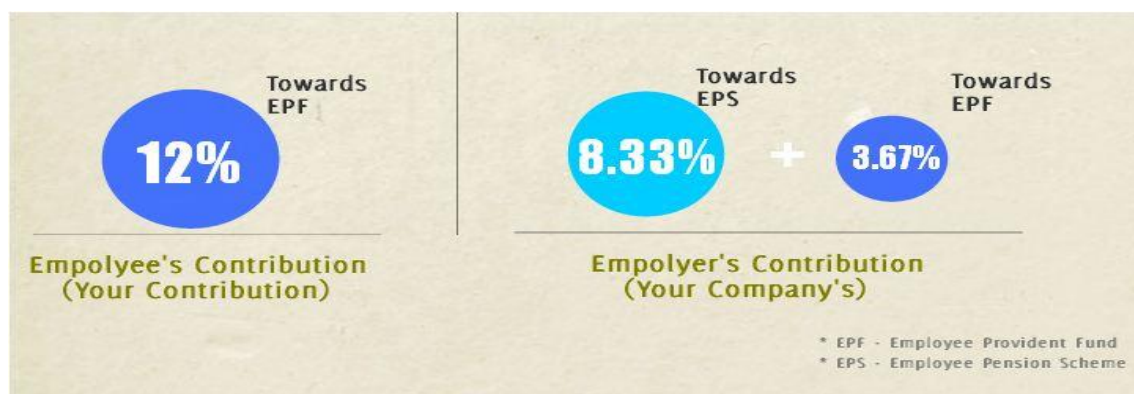
The Ministry of Labour and Employment, Government of India, has recently made a few amendments in the Employees' Provident Fund Scheme, 1952 (*PF Scheme*). These guidelines are mainly related to 'early withdrawals' from Provident Fund & provisions related to PF withdrawals. These latest EPF withdrawal rules are effective from **10th February, 2016**.

Amendments are related to;

- **Full EPF balance cannot be withdrawn before attaining the Retirement Age.**
- **Continuity of EPF membership.**
- **Increase in Age limit to withdraw 90% of PF balance.**
- **Partial withdrawal of EPF amount on Resignation.**
- **Increase of retirement age.**

Full EPF balance cannot be withdrawn(limit on early PF withdrawals)

- **Existing rule:** The EPF members (employees) can withdraw the full EPF balance after 60 days of unemployment. (The EPF balance consists of employee's contributions + employer's contributions + interest amounts. Every month 12% of your "salary" is contributed towards EPF account.)
- **New Rule:** The EPF members cannot withdraw full PF amount before attaining the age of retirement. The maximum withdrawal on cessation of employment cannot exceed an amount aggregating employee's own contribution and interest accrued thereon. You can withdraw your contributions + interest portion only. The employer's portion can be withdrawn after attaining the retirement age (58 years).



- **Continuity of your EPF membership**
 - **Existing rule:** If an employee withdraws full EPF amount after resigning from the job, his/her PF membership is deemed to be terminated. That means he/she is not a member of EPF scheme after the full withdrawal.
 - **New Rule:** An employee can only withdraw his share on resigning from the job. You cannot withdraw full EPF amount before attaining the retirement age. So, you will still be the member of

EPF even if you cease to be an employee of an EPF covered establishment. We believe that concept of ‘In-operative EPF a/c ‘may cease to exist.

• Retirement **Age**

- **Existing rule:** The retirement age is considered as 55 years.
- **New Rule:** The age of retirement has now been increased from 55 to 58 years.

• EPF **Withdrawal provisions**

- **Existing rule:** You (employee) can withdraw the full PF amount on retirement from service (55 years) or on cessation of employment and not being employed for at least 60 days.
- **New rule:** As discussed above, the retirement age has now been increased from 55 to 58 years and the option of full EPF withdrawal on resignation will not be allowed. You can withdraw your contributions + interest portion only.

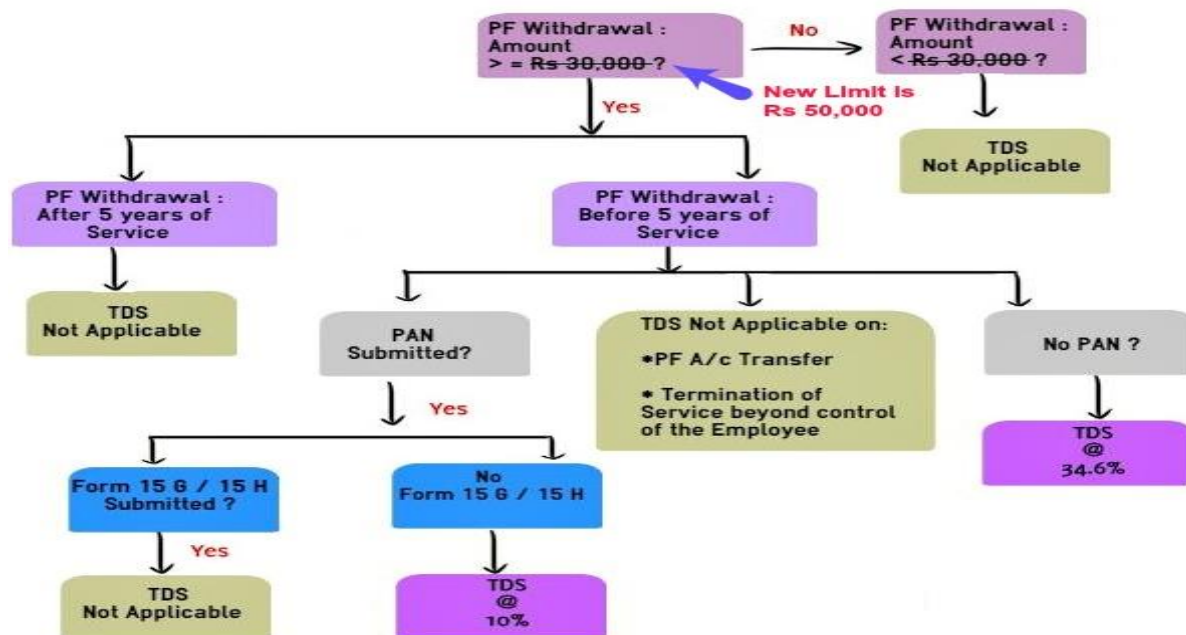
• **90% of EPF balance**

- **Existing rule:** You can withdraw up to 90% of your entire PF balance (employee share + employer share) on attaining 54 years of age or within one year before actual retirement, whichever is later.
- **New rule:** You would now be able to avail this option only on attaining the age of 57 years. The age has now been increased from the current 54 years to 57 years.

Your EPF contributions / savings are meant for your retirement. Dipping into the corpus before you retire prevents your money to gain from the power of compounding.

These new rules may FORCE you to accumulate a portion of your PF fund till you attain the retirement age. Besides above new rules, kindly note that the withdrawals from the EPF within five years of joining are taxable.

TDS on EPF Balance Withdrawal : New Rules / Guidelines



TDS has been made applicable if one withdraws PF within 5 years. (Budget 2016 update: In case of payment of accumulated balance due to an employee in EPF, the TDS limit is being raised from Rs 30,000 to Rs 50,000. So, TDS is not applicable if the PF withdrawal amount is less than Rs 50,000.)

**Employee PF Exemption Agreement Between India and Australia
Employees' Provident Fund Organisation**

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

Head Office

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

File No IWU/7(2)2009/Australia/Vol -I/24955 Dated-16.03.201

To,

All Additional CPFCs (Zones)

All Regional PF Commissioner, ROs and SROs

Subject : **Social Security Agreement between the Republic of India and Australia**

Sir,

In pursuance to the Social Security Agreement (SSA) signed with Australia the Government of India has now notified vide order No O1-11012/12/2012-EP-II (Vol -III) dated 14-01-2016 that the above Agreement has entered into force with effect from 01-01-2016. The text of the Agreement is available on the official website of EPFO, www.epfindia.gov.in

EPFO INVESTMENT

EPFO wants nod to invest Rs.11,000 Crore in Government bonds. EPFO is sitting on the surplus funds but has cited losses on its investment in PSU bonds and weak stock markets to argue for relaxation in limit so that the money can be invested in state development loans during the remaining two weeks of the current financial year.

Apprentices Act, 1961: Further Developments

Over the past year, the Government has taken up several initiatives to promote skill development in the country. In addition to amending The Apprentices Act, 1961, the Government has also brought about amendments to the Apprenticeship Rules, 1992 and launched a National Web Portal for Apprenticeship Training as a part of its drive towards achieving efficient implementation of the law related to apprentices.

The Government has taken up several initiatives to promote skill development in the country with a view to improving the employability of new entrants into the work force and providing them with better job opportunities. In this connection, over the past year, there have been several developments in the law related to apprentices, leading to an increase in the interest and discussions around this topic. The developments are as follows:

- (a) The Apprentices Act, 1961 (**Apprentices Act**) was amended in December 2014 by the Apprentices (Amendment) Act, 2014 (**Amendment Act**);
- (b) Corresponding amendments were also introduced in the Apprenticeship Rules, 1992 (**Apprenticeship Rules**) in June 2015, by the Apprenticeship (Amendment) Rules, 2015 (**Amendment Rules**); and
- (c) In September 2015, the Government launched the National Web Portal for Apprenticeship Training (**National Portal**) to facilitate the movement of processes under the Apprentices Act to an online forum. Employers are now required to obtain a registration on the National Portal and also upload data related to number of employees, nature of technical activities etc.

HIGHLIGHTS OF THE AMENDMENT RULES

(a) Number of apprentices

An employer falling under the purview of the Apprentices Act, and who has 40 or more employees, is now obligated to appoint between 2.5% to 10% of the average strength of the workforce in the preceding financial year as apprentices for each financial year. Interestingly, contract workers are also included to calculate the strength of the workforce.

Further, establishments are required to disclose the number of apprentices they intend to engage in each quarter.

(b) Engaging apprentices from Scheduled Castes, Scheduled Tribes and Other Backward Classes in designated trades

(c) Introduction of optional trades

or to the amendments, employers could only engage apprentices in 'designated trades' which are specifically notified, such as carpentry, data preparation and computer software, programming and systems administrative assistant, etc. Now, in addition to the designated trades, an employer can also engage apprentices in an 'optional trade' i.e. a trade or a field which has not already been 'designated'. For apprentices engaged in an optional trade, the employer has more flexibility to decide the duration of the apprenticeship (subject to certain parameters set out in the Amendment Rules), identify the proposed syllabus for training these apprentices, etc.

(d) Inclusion of non-engineering apprentices and related discrepancies

Prior to the Amendment Act and the Amendment Rules, graduate or technician apprentices only included individuals holding (or undergoing training to hold) a degree or diploma in engineering or technology. The scope has now been expanded to include even non-engineering degree holders and diploma holders.

However, it is relevant to note that, unlike in the case of engineering degree and diploma holders (for whom the Government reimburses the employer for 50% of the minimum stipend), the Government will not contribute towards the stipend for such non-engineering degree holders and diploma holders. Further, there is no clarity yet on the exact qualifications or designated trades for such apprentices.

In light of the increased focus on this legislation, it is important for employers to assess their compliance status, since there may soon be a greater shift towards implementation.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Stay order passed by the Madras High Court regarding Payment of Bonus Act 1965

The interim order passed by the high Court in WMP NO.6177 of 2016 in WP No. 6958 of 2016 on 25.02.2016, granting interim stay of the retrospective effect of the amendment to the Payment of Bonus Act 1965.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)
Thursday, the Twenty Fifth day of February Two Thousand Sixteen
PRESENT
THE HON'BLE MR.JUSTICE R.SUDHAKAR
and
THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
WMP No.6177 of 2016
in WP No.6958 of 2016
1 THE EMPLOYERS FEDERATION OF [PETITIONERS]
SOUTHERN INDIA, REP.BY ITS SECRETARY GENERAL,
A-9, SECOND FLOOR, "AROSHREE APARTMENTS",
NO.10, VAIDYA RAMAN STREET, T.NAGAR,
CHENNAI-600 017.
2 THE KCP LIMITED,
REP.BY ITS EXECUTIVE PRESIDENT
(HRD & SERVICES), RAMAKRISHNA BUILDINGS,
2, DR.P.V.CHERIAN CRESCENT,
CHENNAI-600 008.
3 RANE ENGINE VALVE LTD., REP.BY
DY GENERAL MANAGER-HRD,
R.R.TOWER V-LEVEL IV PLOT NO.33-A, (SOUTH PHASE),
DEVELOPED PLOT AT THIRU-VI-KA-INDUSTRIAL ESTATE,
EKKADUTHANGAL, CHENNAI-600 032.
4 SUNDARAM CLAYTON LIMITED,
REP.BY ITS EXECUTIVE VICE PRESIDENT
(FINANCE), JAYALAKSHMI ESTATES,
29,HADDOWS ROAD, CHENNAI-600 006.
5 SUNDARAM AUTO COMPONENTS LTD.,
REP.BY ITS AUTHORISED SIGNATORY,
JAYALAKSHMI ESTATES, 29, HADDOWS ROAD,
CHENNAI-600 006.
6 SUNDARAM BRAKE LININGS LIMITED
REP.BY ITS CHIEF FINANCIAL OFFICER
AND COMPANY SECRETARY,
PADI, CHENNAI-600 050.

7 CARBORANDUM UNIVERSAL LIMITED,
REP. BY ITS GENERAL MANAGER-HR,
3RD FLOOR, PARRY HOUSE, 43, MOORE STREET,
CHENNAI-600 001.

8 CHOIA BUSINESS SERVICES LTD.,
REP. BY ITS AUTHORISED SIGNATORY,
DARE HOUSE, NO.2, NSC BOSE ROAD,
PARRYS, CHENNAI-600 001.

9 CHOLAMANDALAM INVESTMENT &
FINANCE COMPANY LIMITED, REP. BY ITS
AUTHORISED SIGNATORY, DARE HOUSE,
NO.2, NSC BOSE ROAD,
PARRYS, CHENNAI-600 001.

10 TUBE INVESTMENTS OF INDIA LTD.
REP. BY ITS VP-LEGAL & COMPANY SECRETARY, 3RD
FLOOR, DARE HOUSE, 234, NSC BOSE ROAD,
CHENNAI-600 001.

1 THE GOVERNMENT OF INDIA, [RESPONDENTS]
REP. BY THE SECRETARY,
MINISTRY OF LAW AND JUSTICE,
4TH FLOOR, A-WING, SHASTRI BHAVAN,
NEW DELHI-110 001.

2 UNION OF INDIA,
REP. BY THE SECRETARY TO GOVERNMENT,
MINISTRY OF LABOUR & EMPLOYMENT,
SHRAM SAKTHI BHAVAN,
RAFI MARG, NEW DELHI-110 001.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay the operation and implementation of the Payment of Bonus (Amendment) Act 2015, Act No.6 of 2016, pending WP.No.6958 of 2016.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.A.L.SOMAYAGI ADVOCATE GENERAL for M/S.T.S.GOPALAN AND CO., Advocate for the petitioner the court made the following order:-

(Order of the Court was made by R.SUDHAKAR, J.)

This petition is filed to stay the implementation of the Payment of Bonus (Amendment) Act, 2015, Act No.6 of 2016, pending disposal of the Writ Petition.

2. Challenging the retrospective amendment to the Payment of Bonus Act increasing the minimum wages by linking to the wage ceiling fixed under Section 12, the Writ Petition has been filed.

3. Learned Advocate General appearing for the petitioners submits that the Act has been notified on 01.01.2016 giving retrospective effect, with effect from 01.04.2014. He further submits that the bonus payable for the period 2014-2015 has already been paid by all the employers and the statutory time for payment of bonus had expired when the Act was notified. He also submits that since financial implication is involved, reopening of the same would not be in the interest of the employers. He also submits that the amendment has been challenged before the Kerala High Court, Karnataka High Court and Allahabad High Court, wherein an order of interim stay has been granted.

4. We have perused the Orders passed by the Kerala High Court dated 27.01.2016 in W.P.(C) No.3025 of 2016 and the Karnataka High Court dated 02.02.2016 in W.P.No.5272 of 2016 and 5311 of 2016.

5. Taking into consideration the involvement of financial implication in this matter and the order passed by the other High Courts, there will be an order of interim stay insofar as it provides for implementation of the Act with retrospective effect with regard to payment of bonus.

Notice to respondents returnable in four weeks. Private notice is also permitted.

-sd/-
25/02/2016

/ TRUE COPY /

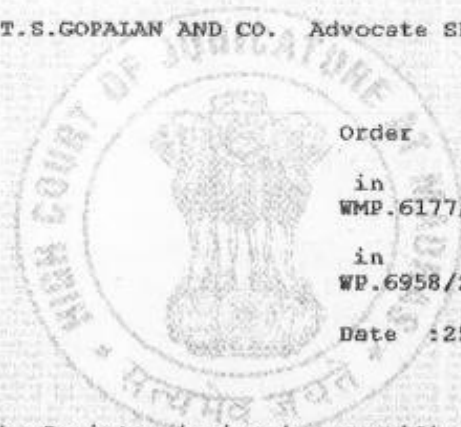
VLR Chandrasekhar 29/2/16
Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY
GOVERNMENT OF INDIA,
MINISTRY OF LAW AND JUSTICE,
4TH FLOOR, A-WING, SHASTRI BHAWAN,
NEW DELHI-110 001.

2 THE SECRETARY TO GOVERNMENT
UNION OF INDIA, , MINISTRY OF LABOUR &
EMPLOYMENT, ENHRAM SAKTHI BHAVAN, RAFI MARG,
NEW DELHI-110 001.

+ / C.C. to M/S.T.S.GOPALAN AND CO. Advocate SR.NO.2819



Order

in
WMP.6177/2016

in
WP.6958/2016

Date :25/02/2016

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
VS 29.02.2016



Fax: 011-26177827



कर्मचारी भविष्य निधि संगठन
(श्रम मंत्रालय भारत सरकार)

Web Circulation only

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

मुख्य कार्यालय / Head Quarters

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

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

No.Coord/3(1)2015/Amendment Scheme/

Dated: 23.02.2016

40761

25 FEB 2016

To

The Addl.C.P.F.Cs (Zones),
All Regional P.F.Commissioners,
In-charge of Regions/SRO,

Subject : Copy of Gazette Notification No.G.S.R.158 (E) for amendment in Paragraph 68NN, 68 O and 69 and introduction of new paragraph 68 NNNN in the Employees Provident Fund Scheme 1952. - regarding.

Sir,

Please find attached herewith a copy of Gazette notification No.G.S.R.158 (E) for amendment in Paragraph 68NN, 68 O and 69 and introduction of new paragraph 68 NNNN in the Employees Provident Fund Scheme 1952 for information and necessary action.

Yours faithfully,

Enclosure: As above.

(Jagdish Mohan)

Addl.Central P.F.Commissioner-I(Coordination)

Copy to :

1. ACC(HQ)(RB)/ACC(HQ)HR/FA&CAO/CVO for information and necessary action.
2. All ACCs in Head Office for information and necessary action.
3. Director, NATRSS.
4. All RPFCs in Head Office for information.
5. Director (Audit)/DD (Audit)/ AD (Audit) /Zonal Audit Parties
6. All Zonal DD (Vigilance)
7. RPFC-II(NDC) with request to upload the same on EPFO website.
8. DD(OL) for providing Hindi version.
9. PS to CPFC for information.

MINISTRY OF LABUOR AND EMPLOYMENT
NOTIFICATION

New Delhi, the 10th 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-NNNN. 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-NNN and 68-NNNN" shall be substituted.

6. In paragraph 69 of the said Scheme,-

[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.



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation

(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
(Ministry of Labour & Employment, Govt. Of India)
मुख्य कार्यालय / Head Office

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

In Tamil Nadu Shops and Establishments to open on all 365 days of the year

G.O.Ms.No.55, Labour and Employment (K2), 25th February 2016]

No. II(2)/LE/242/2016.—In exercise of the powers conferred by Section 6 of the Tamil Nadu Shop and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947), the Governor of Tamil Nadu hereby exempts all the shops and establishments from the provision of sub – section (1) of Section 11 of the said Act, and permits all the shops and, establishment in Tamil Nadu to keep open on all 365 days of the year initially for a period of one year, in public interest with effect on and from the date of publication of this Notification in the *Tamil Nadu Government Gazette*, subject to the following conditions, namely:-

1. Every employee shall be given one day holiday in a week on rotation basis, and the details of every employee shall be provided in 'Form S' and shall be exhibited by the employer in a conspicuous place in the shops.
2. Every employer shall exhibit details of the employees who are on holiday / leave, on daily basis, in a conspicuous place in the shops.
3. The wages including overtime wages of the employees shall be credited to their savings bank account.
4. An employer shall not require or allow any person employed to work therein for more than eight hours in any day and forty eight hours in any week and the period of work including over time shall not exceed ten hours in any day and fifty four hours in a week.
5. If employees are found working on any holiday or after normal duty hours without proper indent of overtime, penal action will be initiate against the employer/manager as laid down in the Tamil Nadu Shop and Establishments Act, 1947 and the Tamil Nadu Shops an Establishments Rules, 1948.
6. Women employees shall not be required to work beyond 8.00 p.m. on any day in normal circumstances.
7. Transport arrangements shall be provided to the women employee who work in shifts. A notice to this effect shall be exhibited at the main entrance of the shops indicating the availability of transport.
8. The employees shall be provided with rest room, wash room, safety lockers and other basic amenities.
9. Every employer employing women employees shall constitute Complaints Committee against sexual harassment of women and the committee shall be operative.
10. The above said terms and conditions shall betreated and implemented in addition to those provisons specified in the Act.
11. In case of violation of any statutory provision or anyof the above terms and conditions noticed by the inspector or otherwise, penal action will be initiated against the employer/manager as laid down in the Tamil Nadu Shops and Establishments Act, 1947 and the Tamil Nadu Shops and Establishments Rules, 1948.
12. The exemption shall remain in operation initially fora period of one year from the date of publication of notification in the *Tamil Nadu Government Gazette* unless it is revoked.



कर्मचारी भविष्य निधि संगठन
(श्रम एवं रोजगार विभाग, भारत सरकार)
EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour & Employment, Govt. of India)
मुख्य कार्यालय / Head Office
भविष्य निधि भवन, 14-भिकाजी कामा प्लेस, नई दिल्ली-110 066.
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi – 110 066.

Central Analysis & Intelligence Unit

No: CAIU/011(33)2015/HQ

Date:

To

2415
Addl. Central PF Commissioners (Zones),
In-charge of Regional Office/Sub-Regional Offices,

07 MAR 2016

Sub: - Coverage of contact workers under EPF & MP Act, 1952 – reg.

Madam/Sir,

The issue of coverage of contract workers has been flagged as an area of top most concern and priority by the Government of India. Number of instructions have been issued by EPFO Head Office in recent past to ensure that all eligible workers are brought under the ambit of EPF & MP Act, 1952. The action plan has hitherto been to ensure that

- All the agencies and contractors to whom the work is outsourced are covered under the Act;
- All the personnel supplied by the agencies and contractors are extended benefits of provident fund etc; and
- All the personnel engaged get eligible benefits commensurate to the wage they get.

Considering that our aim is to reach out to the last employee, the data collection from different sources itself requires serious and constant efforts. In this endeavor to collect the intelligent and actionable information, to facilitate the work of field offices, a software has been developed through which a login has been provided to both the category of establishments-principal employers- those which are registered with EPFO and those which are not registered with EPFO like the Government Departments. After authentication through One Time Password (OTP), the principal employer can enter details of contractor and work order, which will be segregated PIN code wise and will go to the respective portal of SRO/RO and can be viewed online, as and when updated.

When this information is uploaded in the system, CAIU, HO shall have the option to view it while this shall originally be reflected in the login of the RO/SRO. The RO/SRO can verify with the respective database of covered establishments whether the particular contractor establishments is already registered and its compliance position. There after RO/SRO can decide/shall have option

- To allocate inspection to particular inspector
- Define time limits for inspection

- (c) Option for uploading of reports in particular format
- (d) Reason for late uploading of reports
- (e) Reason for Pendency in uploading of reports
- (f) Coverage status of establishment (Already Covered, New Coverage)
- (g) No. of new employees covered if any
- (h) Remarks/Comments by APFC/RPFC-II to indicate the satisfaction level of report.
- (i) In case the satisfaction level is below certain limit, inspection has to redone and reports to be uploaded again by EO.

At this instant the Head Office is not making any intervention/giving remarks or observations after the work order is uploaded by the principal employer. The field offices need to check compliance under the EPF & MP Act, 1952 vis-à-vis the individual work orders in the back drop of office records available and decide if inspection is required. In case inspection is deemed required, separate permission may be sought from CAIU giving details as per the instructions already invogue for seeking permission for inspection.

CAIU, HO shall monitor the performance of RO/SRO and have the option to provide its own remarks/directions subsequently.

CPFC has already written DO letters to major Principal employers to avail this facility and it is possible that some of them might contact you in this regard.

In view of the above, all the Regional PF commissioners, Incharge of Regional & Sub Regional Offices are advised to ensure that this facility is properly utilized and to ensure that all eligible workers working through contractors are enrolled. The facility is available through official website of EPFO (<http://www.epfindia.gov.in> →For Employers →For Principal Employers) or at http://www.epfindia.com/site_en/Principal_Employer.php. The individual login id for respective offices shall be mailed shortly.

For any technical clarification, Shri Dinesh Dharni, Deputy Director (IS) and Shri Randhir Kumar, APFC (CAIU), may be contacted at Telephone No. 011/26163245 dk.dharni@epfindia.gov.in and 011/26714171 email id randhir.kumar@epfindia.gov.in respectively .

Yours faithfully,



(M. Narayanappa)

Addl. Central PF Commissioner-I (CAIU)

CASE LAW UPDATE



Awarding back wages for the period when the industry had become non-functional is not justified. When an industry had become non-functional, awarding retrenchment compensation with consequential benefits is appropriate in lieu of reinstatement.

Supreme Court of India – The Management of Narendra & Company Vs. The Workmen of Narendra & Company – 2016 LLR 225

Reducing accident compensation without reasons is unsustainable. As per provisions of the Act, “ in the course of the employment” mean ‘ in the course of the work which the workman is employed to do and incidental to it’. “Arising out of employment” mean ‘during the course of employment’. If it is reasonable to believe that the workman would not have suffered the injury if not engaged on the work, the injury, suffered by the workman, would be out of and in the course of employment.

Supreme Court of India – Jaya Biswal&Orthers Vs. IFFCO TOKIO General Insurance Company Ltd., – 2016 LLR 295

An employee, enjoying a status of an Officer in the industrial establishment, receiving salary more than the prescribed limits, performing duties of supervisory nature, is not a ‘workman’ under section 2(s) of the Industrial Disputes Act, 1947.

Gujarat High Court – Essar Project Ltd., Vs. N.D.Jagdishwara – 2016 LLR 249

An employee is entitled to payment of Gratuity under the Payment of Gratuity Act, 1972 as and when he completes 5 years in continuous service irrespective of his being temporary or permanent in his post.

Bombay High Court – Balvant Mohan BadveVs. Ahmednagar Municipal Corporation – 2016 LLR 305

An undertaking between workman and Management, if admitted before the Court, will be a valid and forceful evidence for decision of the case. Termination of services of a workman is justified if he was issued a proper charge-sheet, enquiry was conducted, he participated in the enquiry, charges for absence from duty for 114 days were proved against him.

Punjab and Haryana High Court – Rishi Kumar Vs. Presiding Officer and Others – 2016 LLR 236

Once a workman completes 240 days of service in a calendar year, preceding the date of his termination from service, the onus shifts upon the Management to prove that his services were terminated as per provisions of applicable law and failure thereof on the part of the Management would make the workman entitled to reinstatement with back wages.

Delhi High Court – Municipal Corporation of Delhi Vs. Rishi Pal Singh – 2016 LLR 265



COMPLIANCE CHECKLIST

List of Registers to be Maintained Under Various Labour Laws

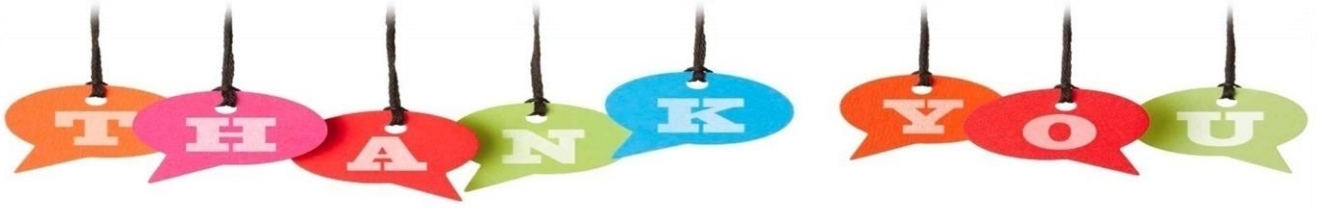
Sl. No.	Act	Frequency	Principle Employer ---->
1	S & E Act	MONTHLY	Register of advance , Deduction, Damages and Loss fine - Form – P
2	S & E Act	MONTHLY	Register of Employment for Shop and Establishment Form – Q
3	S & E Act	MONTHLY	Register of Wages - Form – R
4	S & E Act	MONTHLY	Notice of Daily Hours 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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