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DECIDE

It is essential for us to learn from the Legislators, be it Mamtha Jib emerges as one of the strongest regional leaders, through her scale of victory combined with the fact that she does not need any one's support. Jayalalithaa Madam has not only made the history and also survived the antiincumbency, which had persisted in Tamil Nadu for decades. The factors helped her are alliance of poor leadership and winning the trust of ground level people.

The most important learning are the Regional parties continue to be strong, the electorate now like to give full majorities and voters can see through the sham coalitions. Taking a direct clues from the above are (a) Make the regional/ field level / operator level team strong, (b) provide the support full and (c) keep the distance from sham teams to make the performance goal achievable.

Besides from the above it is important for us to note that Half-a-million young men and women gave their all for civil services examination that offers less than a one in 400 chance of success. Interestingly we need to note that toppers often don't score more than 50% that means full efforts resulting half of the results may be mathematically, disproportionate but administratively keep the person on the TOP., which is an absolute message for every managers to give their all in every transactions and even they reach fifty percent which can make it as hundred plus.

In the last issue we had discussed about the cost of Non-Performers and now we present the case relates to an application filled by K Ramesha, who worked as a senior service programmer for HCL Technologies Limited. He had been on probation for a year and his service was confirmed on February 26, 2010. His salary was revised and he was also given certificate of appreciation in the following years and who had been asked to resign on the grounds of PIP – popularly known as Performance Improvement Programme otherwise terminated from the services on the grounds of Performance

VOLUME – 3 ISSUE –25

It is to be noted that a Chennai court has quashed the dismissal of a software engineer and ordered HCL to reinstate him with full salary, back wages and seniority on the ground that software engineers are workmen enjoying statutory protections. "It cannot be denied that the job of an engineer in a software company involves skills and technical knowledge. Therefore, it can be easily concluded that the job of a software engineer can be termed as skilled or technical one," said first additional labour court presiding officer Sri. S Nambirajan.

This is not the first time a Chennai Court says that the High Court of Madras had given an interim stay on a Private Company's order of Termination which was brought under a writ jurisdictions through an Act of Absolute Legal Mischief during the month of Jan 2015 almost a year later another judgment.

Besides all the above, needless to state the confusions on the Medical Entrance Examination NEET from the order of Apex Court to the States legislators and the Central Ministers.

What does it shows? – Lack of trained resource personnel to manage absence of documentations and continue to operate in isolation. It is essential for all the practicing managers to deal every transaction with an absolute care and take the professional support of dedicated advisory consulting firms like V & M Associates, run by experts and bring the winning discipline of leaders with a commitment not to loose on the grounds of "equity theory" and be on your strong stand of legality which are enacted or amended for the benefit of all the stakeholders of the system on the scale of fairness to render justice

Considering the International exposure of Clients and the associated Economic growth due to I T Industry we at V & M Associates designed and operating a dedicated Free Advisory Services Desk to deal with the documentations of such issues and request you to not to have hesitation to call us.



Happy Reading

Editor in Chief...

VOLUME – 3 ISSUE –25



Law Updates

New PF Facility Launched For Easy Balance Transfer: Your 10-Point Guide

Many employees forget to transfer the balance from their previous provident fund (PF) accounts when they change jobs. Some of them even withdraw the money from PF account. Since PF is meant for one's retirement years, financial experts suggest that the accumulated savings should not be withdrawn during one's working years. To encourage employees consolidate multiple accounts, Employees' Provident Fund Organisation (EPFO) has launched a special drive called "One Employee-One EPF Account".

Here is a 10-point cheat-sheet:

1. EPFO has set up a special portal for the "One Employee-One EPF Account" drive. Under this drive EPFO will actively help those who want to transfer the balance from their past PF accounts to current PF account which is linked to universal account number (UAN).

2. You need to enter your activated UAN along with your current UAN-linked PF number and mobile number registered with the EPFO.

3. Both your UAN and PF number is mentioned on your salary slip. If your UAN is already activated, you will be directed to the next page after you enter One-Time-Password (OTP) that you will receive on filling up the details.

4. Then you will be asked to enter the details of your past PF numbers that you want to be transferred to your current PF account. Up to 10 past PF numbers can be added under this facility.

5. The numbers provided by you are sent to EPFO offices in which your past PF money was deposited. The offices will in turn get in touch with the employers. After the employer verifies the PF claim, the transfer will be done.

6. The EPFO regional office will get in touch with you in case you face any problem after filing PF balance transfer request.

7. Although the facility to transfer PF balance online existed earlier, it could be used if the details of the previous PF accounts are available in the EPFO database and the employers have digital signatures.

8. The retirement fund body has been advising subscribers to link all their PF account numbers with the Universal Account Number (UAN). With the enactment of the Aadhaar Act, 2016, EPFO is seeking to make Aadhaar the primary identifier for consolidating PF accounts.

VOLUME – 3 ISSUE –25

9. The UAN was launched in October 2014 to enable members have continuity in their PF membership on change in jobs. The UAN remains portable throughout the lifetime of an employee. All active subscribers have been allotted a UAN which needs to be linked to Aadhaar, PAN and bank account.

10. Employee contributes 12 per cent of basic salary to PF. The employer too has to contribute the same amount towards Employees' Provident Fund as its share.



Government considering low-cost housing scheme for EPFO subscribers

Government is working on a scheme to provide low-cost housing for retirement fund body EPFO's over five crore subscribers, Parliament was informed Monday.

"Government is exploring the possibility for providing a suitable low-cost housing scheme for subscribers of Employees' Pension Fund. It is in preliminary discussion stage," Labour Minister Bandaru Dattatreya said in a written reply to Lok Sabha.

The minister was replying to a question whether the government or the EPFO has introduced/proposes to introduce a scheme to allow its subscribers to pledge their future PF contribution to buy low-cost houses.

Last year, the proposal was also listed on the agenda of the meeting of the Employees' Provident Fund Organisation's EPFO trustees meeting on September 16.

The proposal was to allow its subscribers to pledge their future PF contribution to buy low-cost houses. A report of the expert committee on housing facility for the subscribers was also presented to the trustees for their perusal.

The committee has unanimously recommended a scheme to facilitate subscribers to buy houses where they will get an advance from their PF accumulation and will be allowed to pledge their future PF contribution as EMI (Equated Monthly Installment) payment.

Under the proposed scheme, there will be tripartite agreement with member, bank/housing agency and EPFO for pledging future PF contributions as EMI payment.

The panel had suggested that the subscribers will purchase a dwelling unit with loans from bank or housing finance companies and hypothecation of property in favour of the latter.

It was suggested the benefits under the scheme of Ministry of Housing and Urban Poverty Alleviation can also be extended to the beneficiaries of the scheme.

However, the panel had suggested this scheme for low income formal workers who are EPFO subscribers and could not buy a house during their entire service period.

VOLUME - 3 ISSUE -25



Employees' Provident Fund Organisation (श्रम एवं रोजगार मंत्रालय, आरत सरकार) (Ministry of Labourd: Employment, Govt. Of India) मुख्य कार्यालय/Head Office

अविष्य निधि अवन, 14, श्रीकाण्जी कामा प्रवेश, नई दिल्ली - 110 066. Bhavishya Nidhi Bhawan, 14-Bhikaiji Cama Place, New Delhi-110066 www.epfindia.gov.inwww.epfindia.nic.in Telephone: 011-26196239 Fax: 011-26173022

No: WSU/17(4)1999/F

To

Date: 04.05.2016

0 4 MAY 2016

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

Subject:Revision of Electronic Challan-cum-Return (ECR) beyond one year. Reference: Head Office circular No. WSU/17(4)2014/F/468 dt. 13.04.2015

Sir/Madam,

Please refer to the above said subject.

 In this regard, it has since been decided that all cases of revision of ECR beyond one year shall be accepted with the approval of ACC (Zone). ACC (Zone) may examine the facts and circumstances of each case with regard to the revision of return so that payments are made to the genuine beneficiaries.

 However, cases for revision of ECR upto a period of 6 months may be accepted with the approval of APFC. Similarly, for the revision of ECR beyond 6 months and upto one year may continue to be accepted with the approval of RPFC-II (F&A) in case of RO and RPFC-II/OIC in case of SRO.

This has approval of Central P.F. Commissioner.

Yours faithfully,

(Sanjay Kumar RPFC-I(F&A)

VOLUME - 3 ISSUE -25



HEAD QUARTERS OFFICE EMPLOYEE'S STATE INSURANCE CORPORATION PANCH DEEP BHAWAN, CIG MARG, NEW DELHI 110002 Websitu: WWW.esic.in Tel. 011-23231675

No.P-11/12/Policy/02/2016-Rev-II

Date: 08.04.2016

MEMORANDUM

Sub: Calculation of interest on delayed payment of contribution

Interest on delayed payment of regular contribution and contribution payable on the (omitted) wages pointed out in the inspection report /or on the amount of contribution determined u/s 45A is being claimed differently in terms of HQ Office vide letter No T-11/11-10/86/Ins-III dated 27.03.1986.

The matter has been re-examined. Henceforth the interest on omitted wages shall be claimed in the same manner as claiming interest on regular contribution u/s 39(5) of the ESI Act read with the Regulations 31. The *bonafide* impression of employer, whether remunerations paid to a worker in a covered unit constitute 'wages' u/s 2(22) of the ESI Act or not, does not absolve the employer from the liability of paying the interest on the delayed payment of contribution.

The inspection report, to the extent feasible, should contain the wage period in which such wages have been paid. However if the contribution has been claimed on pro-rata basis due to insufficient records made available to ascertain the wage period either during inspection or during the proceedings for determination of contribution u/s 45A or due to limitation five years for determining contribution u/s 45A, the same criteria may be followed for claiming the interest on contribution. The instruction shall take effect from the date of its issue, in supersession of the instruction in the matter contained in the revenue manual, i.e. any claim of interest raised subsequent to issue of this OM shall be as per this OM. The OM dated 27.03.1986 referred to above stands withdrawn.

This issues with the approval of the Director General and concurrence of Finance & Accounts on file No. 8-NZ/GGN(69)/1/2014-CAIN Strict compliance to be ensured by all the concerned.

----- Ioint Director (Rev

FKG Sm

All Regional Directors/SRO/DO in-charges/JD/DD/AD(Fin &Ajytit) 8/4/16

Copy to: WCM- For uploading on website



MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 19th May, 2016

G.S.R. 533(E).—In exercise of the powers conferred by section 6A 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' Pension Scheme, 1995, namely :—

1. (1) This Scheme may be called the Employees' Pension (Third Amendment) Scheme, 2016.

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

 In the Employees' Pension Scheme, 1995 (hereinafter referred as the principal scheme), in paragraph 12, for the proviso to sub-paragraph (8), the following proviso shall be substituted, namely:—

"Provided that if the member does not take up an employment coverable under this Scheme and has rendered less than ten years eligible service on the date of exit, but dies before attaining the age of fifty-eight years and before a continuous period of thirty-six months has elapsed during which contributions have not been received in respect of the member in the Pension Fund, the amount of contributions received in his case shall be converted into a monthly widow pension or children pension and the widow pension in such cases shall be calculated at the scale laid down in Table 'C' and the children pension at 25 per cent thereof for each child (upto two):

Provided further that if there is no widow, then the orphan pension shall be payable at the rate of 75 per cent of the amount which would have been payable as a widow pension subject to the provisions of the paragraph 16.

Provided also that if the member does not take up an employment coverable under this Scheme and has rendered less than ten years eligible service on the date of exit, but dies before attaining the age of fifty-eight years after a continuous period of thirty-six months has elapsed during which contributions have not been received in respect of the member in the Pension Fund, the family shall be entitled to benefits under paragraph 14.".

[No. R-15011/2/2016-SS-II]

MANISH KUMAR GUPTA, Jt. Secy.

Note: The Employees' Pension Scheme, 1995 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification number G.S.R. 748(E) dated 16th November, 1995 and was lastly amended vide notification number G.S.R. 440(E) dated 25.04.2016.

26

TAMIL NADU GOVERNMENT GAZETTE

[Part III—Sec. 1(a)

NOTIFICATIONS BY GOVERNMENT

LABOUR AND EMPLOYMENT DEPARTMENT

Amendment to the Tamil Nadu Industrial Disputes Rules.

[G.O. Ms. No. 115, Labour and Employment (D2), 13th April 2016, Panguni 31, Manmadha, Thiruvalluvar Aandu-2047.]

No. SRO A-9/2016.—The following draft of an amendment to the Tamil Nadu Industrial Disputes Rules, 1958 which it is proposed to make in exercise of the powers conferred by Section 38 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), is hereby published for information of all persons likely to be affected thereby as required by sub-section (1) of Section 38 of the said Act.

2. Notice is hereby given that the draft amendment will be taken into consideration on or after the expiry of two months from the date of the publication of this Notification in the *Tamil Nadu Government Gazette*, and that any objection or suggestion, which may be received from any person, with respect thereto, before the expiry of the aforesaid period will be considered by the Government of Tamil Nadu. Objections and suggestions should be addressed to the Secretary to Government, Labour and Employment Department, Secretariat, Chennai-800 009, through the Commissioner of Labour, Teynampet, Chennai-600 006.

DRAFT AMENDMENT

In the said rules, in rule 70, after sub-rule (2), the following sub-rule shall be added, namely:-

"(3) Where a party applies for a copy of orders in Inter-alia Application Petitions and who is a workman or workmen or trade union representing the workman or workmen as the case may be, he shall be provided with a copy of such orders at free of cost".

> KUMAR JAYANT, Principal Secretary to Government.

VOLUME - 3 ISSUE -25

Dated:12.04.2016



EMPLOYEES' STATE INSURANCE CORPORATION INFORMATION COMMUNICATION TECHNOLOGY DIVISION, Headquarters office Extn., Express Building, BSZ Marg, Ground Floor, New Delhi-02 An ISO Certified office: 9001:2008, (WEBSITE: www.esic.nic.in), PH: 011-23701358

Email: sanjay.sinha@esic.in

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

To,

The Regional Directors/Directors/Joint Directors I/C Regional Offices/Sub Regional Offices / Divisional Offices D(M)Delhi/D(M)Noida/SSMCs/SMCs/MSs ESI Model Hospital

Sub: Implementation of Aadhaar based authentication of beneficiaries under ESI, Act.

Sir/Madam,

With reference to the discussion held on the subject cited above in Video Conference dated 11th April, 2016 which was attended by all Regional Directors/Joint Directors I want to draw your attention to this office earlier communications of even No. dated 8th December, 2015 (Website SI. No. 927/2015), 16th March, 2016 (Website SI. No. 1229/2016) and 22rd March, 2016 (Website SI. No. 1233/2016) which comprehensively cover the subject. However, as per request of some offices, the salient features are being recapitulated here below:

- The Temporary Identity Certificate (TIC) has been renamed as e-Pehchan Card. In respect of Insured Persons who have fed their Aadhaar numbers in the ESIC Database, this will serve as Permanent Identity Card in lieu of Biometric Pehchan Card and the Insured Person will not be required to get enrolled for Biometric Pehchan Card.
- In case the Biometric Aadhaar number is not fed, the e-Pehchan Card will only be temporary
 and IP and his/her family will not be entitled for treatment beyond 30 days of registration. For
 getting medical treatment beyond 30 days either the Aadhaar no. of the IP and his/her family
 are to be entered in the ESIC Data Base or the IP has to get a Biometric Pehchan Card by
 visiting any Pehchan Camp.
- In case the Aadhaar No. of the IP is not entered, then he will have to carry any Govt issued Photo Identity Card along with e-Pehchan card for getting the treatment. In case of family member, if the Aadhaar number is not entered, a Govt. issued Photo Identity Card will have to be produced for getting the treatment.
- The Aadhaar based authentication of beneficiaries under ESI Act is in addition to the Biometric Penchan Card based authentication. In case IP is not willing to share the Aadhaar number he may be advised to visit a Penchan Camp.

These changes may be brought to the notice of the employers and I.Ps.

Yours faithfully (SANJAY SINHA DIRECTOR (ICT)

VOLUME - 3 ISSUE -25



कर्मचारी भविष्य निधि संगठन

(श्रम प्रवं होलगर) मंत्रालय, भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

(Ministry of Labour & Employment, Govt. of India) मुख्य कार्यालय / Head Office धविषय निधि भवन, 14-भोकानो कामा प्लेस, नई दिल्ली-110 066. Bhavishva Nidhi Bhawan, 14, Bhikaiji Cama Place, New Deihi - 110 066.

No. C-III/4/3(157)S.C(Construction Workers)2014/HQ/Pt.II

Dated:1st April,2016

A 1 APR 2016

All ACCs(Political States) All RPFCs –I(Regional Offices) All RPFCs II/OIC(Sub-regional Offices)

Subject: Monitoring of coverage of construction workers – Observing the Months of April 2016 & May 2016 as "Compliance for construction workers" monthsregarding

Sir.

The matter of coverage of construction workers under the EPF & MP Act 1952 is being monitored at the highest level in Government and is an area of utmost concern. On the issue, assurances have also been given to Parliament that the coverage of construction workers will be fully secured and the number of construction workers covered shall be doubled.

However, in spite of repeated instructions, performance in this work area is still below expectations. Therefore it has been decided that the months of April, May & June 2016 shall be observed as "Compliance for Construction Workers" months.

Accordingly, as already reiterated time and again vide various circulars, the work may be accorded top priority and taken up in right earnest duly engaging the stakewholders including various trade unions and other associations/bodies, Building & Construction Workers Welfare Board in the State etc. The matter also needs to be followed up with the Principal Secretary/Secretary Labour in respective States. Also, the recent facility provided for capturing details of contracts awarded by the principal employer needs to be utilized to ensure full compliance in respect of contractual employees also.

Since the coverage of construction workers needs to be at least doubled, the officewise targets have been worked out reflecting the minimum number of construction workers which must be enrolled in respect of individual RO/SRO by the end of 30th June, 2016 without fail.

To ensure immediate action at operational levels and effective monitoring at supervisory levels, a check list of major actions to be taken by OICs of RO/SRO is enclosed herewith. The actions listed in the check list shall be completed by 29th April, 2016 and the

Contd...2

VOLUME – 3 ISSUE –25

check list duly filled in and signed by the OIC of RO/SRO shall be submitted to Zonal ACCs who shall take further follow up action from their end so as to achieve the given target.

As the progress needs to be monitored at short intervals for initiating necessary follow up action, a monthly progress report may be sent to the Head Office by the respective Zonal ACC, the format of which is enclosed. The first monthly report as on 29th April, 2016 may be submitted on or before 6th May, 2016 and the second monthly report as on 31st May, 2016 may be submitted on or before 8th June, 2016, 3rd monthly report as on 30th June 2016 may be submitted on or before 8th July, 2016. Only the consolidated report from Zonal ACC shall be accepted at Head Office and OICs of ROs/SROs must not send any report directly to Head Office.

It is once again reiterated that OIC, SRO shall be fully responsible for attaining the target for his office whereas OIC, RO shall be responsible not only for attaining the target for his office but also for proper supervision of SROs under his jurisdiction for achievement of this target. The overall supervisory responsibility shall lie with the Zonal ACC.

(This issues with the approval of Central Provident Fund Commissioner)

Yours faithfully,

Encl. As above.

Navayou Tulk

(M. NARAYANAPPA) ADDITIONAL CENTRAL P.F. COMMISSIONER

	VOLUME – 3 ISSUE –25
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VOLUME - 3 ISSUE -25



COMPLIANCE CHECKLIST

S1. 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 15th of Succeeding Month
22	ESI ACT	MONTHLY	ESI Challan on or before 21st of Succeeding Month

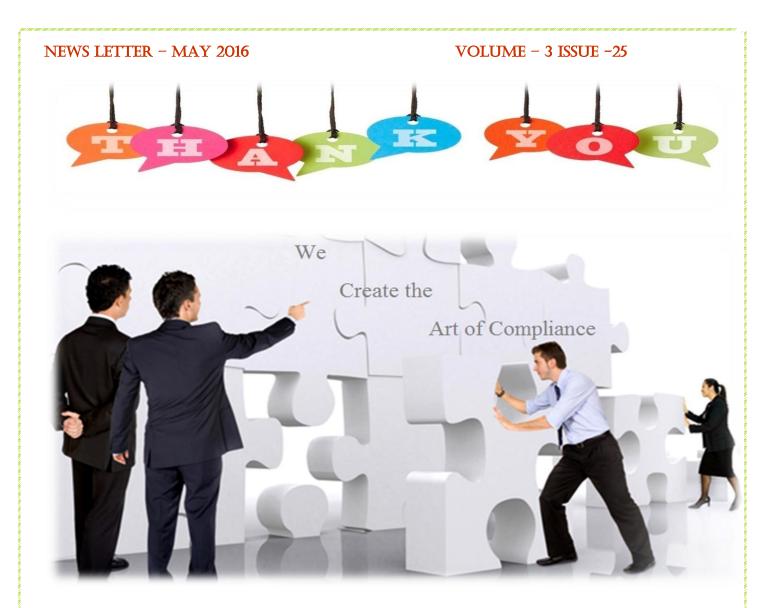
VOLUME - 3 ISSUE -25

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

NOTICE BOARD DISPLAY COPY

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V & M Associates

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