

**NEWSLETTER**

**AUGUST 2017**

**V&M ASSOCIATES**



**ONE**

**TEAM DIVERSIFIED**

**ACTIVITIES**

## **In This Issue**



## **Service Offered**

- ◆ Start -Up Support
- ◆ Labour Law Consulting
- ◆ Court Representations
- ◆ Arbitration
- ◆ Registration Of Establishments
- ◆ Labour Law Audits & Due Diligence Audit
- ◆ Contractors' Compliance Monitoring
- ◆ Handling Of Disciplinary Proceedings
- ◆ Conducting Domestic Enquiry
- ◆ Handling of Union / IR Issues

## **Editorial Board**

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

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

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

## 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.

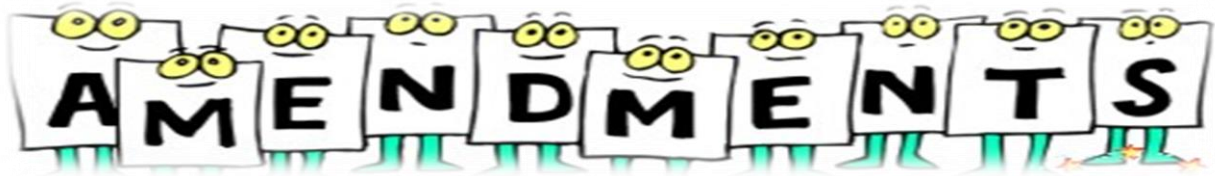
The Partners and members of the Firm are senior professionals with several years of experience behind them. Some of our senior founding partners rendered their services in the Capacity of Regulating Authorities with judiciary powers for state & Federal Government. The practicing team is supported by 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.



**SUBMISSION OF AADHAAR AS IDENTITY DOCUMENTS BY MEMBER OF EPF, 1995**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Submission-of-Aadhaar-as-identity-document-by-member-of-EPS-1995-2.pdf>.

**CHANGE IN DATE OF BIRTH OF EMPLOYEES PENSION FUND MEMBERS**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Change-in-Date-of-Birth-of-Employees-Pension-Fund-Members-2.pdf>.

**THE CODE ON WAGES, 2017**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/The-Code-on-Wages-2017.pdf>.

**NOMINATION UNDER PAYMENT OF WAGES RULES -2009**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Nomination-under-Payment-of-Wages-rules-2009.pdf>.

**CLARIFICATION REGARDING UNSKILLED/SEMISKILLED WORKERS UNDER PMRPY SCHEME**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Clarification->

**DRAFT AMENDMENT TO THE TAMIL NADU LEGAL METROLOGY (ENFORCEMENT) RULES AND TAMIL NADU FACTORIES RULES**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Draft-Amendment-to-the-Tamil-Nadu-Legal-Metrology-Enforcement-Rules-and-Tamil-Nadu-Factories-Rules.pdf>.

**EMPLOYMENT OF WOMEN IN HARYANA FACTORIES DURING NIGHT SHIFTS**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Employment-Of-Women-In-Haryana-Factories-During-Night-Shifts.pdf>.

**EPF APPELLATE TRIBUNAL (PROCEDURE) RULES 1997**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/EPF-Appellate-Tribunal-procedure-Rules-1997.pdf>.

**COMPOSITE CLAIM FORM FOR DEATH CASE TO REPLACE ERSTWHILE FORM NO. 20,10D & 5-IF – REVISED CLAIM FORM THEREOF**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Composite-Claim-Form-for-Death-Case-to-replace-erstwhile-Form-No.-2010D-5-IF-%E2%80%93-Revised->

**WITHDRAWAL UNDER PARAGRAPH 68-BD OF EPF SCHEME, 1952 TO FACILITATE HOUSING NEEDS OF THE PF MEMBERS**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Withdrawal-under-paragraph-68-BD-of-EPF-Scheme-1952-to-facilitate-housing-needs-of-the-PF-members.pdf>.

**REVISION OF REFERRAL NORMS IN CASE OF DIRECT ADMISSION OF ESI BENEFICIARIES TO TIE UP HOSPITAL, CLARIFICATION**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Revision-of-Referral-Norms-in-Case-of-Direct-Admission-of-ESIC-Beneficiaries.pdf>.

**MAHARASHTRA SHOP & ESTABLISHMENT ACT 2017**

<http://vmlegalassociates.com/vmlegal/wp-content/uploads/2017/08/Maharashtra-Shop-Establishment-Act-2017.pdf>.



## New Case Law

Slight variation in nature of work cannot be brushed aside the similarity – There has to be a substantial difference between the nature of work to justify the difference in wages of permanent employee and contractor's employee.

### ***Supreme Court of India – Chemical Mazdoor Panchayat Vs. Indian Oil Corporation Ltd., - 2017 LLR 785***

If the employer makes delay in implementing the award or making payment of the awarded amount, the Court can impose interest upon the employer.

### ***Supreme Court of India – James Karunakaran Vs. AGM., SBI Zonal Office, Madurai - 2017 LLR 785***

Fixed term employee cannot be reinstated. When the appointment was on short term vacancy for fixed period of 3 months, clearly indicating that appointment does not confer any right for continuance on regular appointment, hence in such cases compliance of Section 25F of the ID Act is not required.

### ***Madhya Pradesh High Court – ESI Corporation Vs.C.G.I.T cum Labour Court – 2017 LLR 808***

Any person employed for wages in connection with work of the establishment, either directly or through contractor but not apprentice engaged under the Apprentices Act, or under the Standing Orders of the establishment is an employee under Section 2 (f) of the Employees' Provident Funds and Misc. Provisions Act. Without Identification of beneficiaries, liability of payment of EPF dues is not sustainable – EPF dues for faceless and nameless or unknown persons is not sustainable – EPF Authority is not empowered to direct an employer to make compliance of any other Act including Bonus Act, Apprentice Act, Minimum Wages Act etc.,

### ***Madhya Pradesh High Court – Force Motors Vs. EPFO , Indore – 2017 LLR 879***

The law is well settled that the burden of proof lies on the employer to prove the factum of gainful employment by the employee through oral and documentary evidence and not otherwise. Without doing so, shifting the burden to the workman cannot be accepted. Fixing of onus on the workman by the Industrial Tribunal is contrary to the principles laid down by the Supreme Court of India.

### ***Madras High Court – K.RajuVs.Labour Court Trichy and Another – 2017 LLR 890 – 2017 – II CLR 484***

# 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 - <b>Form - P</b>
2	S & E Act	MONTHLY	Register of Employment for Shop and Establishment <b>Form - Q</b>
3	S & E Act	MONTHLY	Register of Wages - <b>Form - R</b>
4	S & E Act	MONTHLY	Notice of Daily Hours of Work, Rest Interval Weekly Holiday <b>Form - S</b>
5	S & E Act	MONTHLY	Wages slip/Leave card Return - <b>Form - T</b>
6	LWF	MONTHLY	Labour Welfare Fund register - <b>Form - B</b>
7	Min Wages	MONTHLY	Register of Fines- <b>Form - 1</b>
8	Min Wages	MONTHLY	Deduction and Damages- <b>Form - II</b>
9	Min Wages	MONTHLY	Overtime register- <b>Form - IV</b>
10	S&E Act	MONTHLY	Whether minimum leave entitled / availed as per <b>Shops &amp; Establishment</b> Rules
11	S.A.ACT	MONTHLY	Maintenance of Registers - <b>Form - 1</b>
12	P.S.ACT	MONTHLY	Maintenance of Registers - <b>Form - 1</b>
13	M.B.ACT	MONTHLY	Maintenance of Registers - <b>Form - A</b>
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 - <b>Form - D</b>
16	N.F.H.ACT	ONGOING	Maintenance of Registers - <b>Form - VI</b>
17	P.W. ACT	MONTHLY	Register of Fines – <b>Form - I</b>
18	P.W. ACT	MONTHLY	Deduction and Damages - <b>Form - II</b>
19	P.W. ACT	MONTHLY	Register of Advances - <b>Form - III</b>
20	P.W. ACT	MONTHLY	Notice of Rate of Wages- <b>Form - VI</b>
21	EPF ACT	MONTHLY	EPF Challan on or before 15 <sup>th</sup> of Succeeding Month
22	ESI ACT	MONTHLY	ESI Challan on or before 15 <sup>th</sup> of Succeeding Month

**NOTICE BOARD DISPLAY COPY**

1	MA.NO.BO	ONGOING	Abstract of the Maternity Benefit Act – <b>FORM - J</b>
2	S & E Act	ONGOING	Notice of Daily Hours of Work, Rest Interval Weekly Holiday – <b>FORM - S</b>
3	GRA. NO. BO	ONGOING	Abstract of the Gratuity Act – <b>FORM - U</b>
4	P.W.NO.BO	ONGOING	Abstract of the Payment of Wages Act - <b>FORM - V</b>
5	M.W. NO.BO	ONGOING	Abstract of the Minimum Wages Act - <b>FORM - X</b>
6	N.F.H.ACT	ONGOING	Display of list of Holidays under National and Festival Holiday Act – <b>FORM- V</b>
7	P.W. ACT	ONGOING	Notice of Rate of Wages under Payment of Wages Act <b>Form – VI</b>
8	CL NO.BO	ONGOING	Abstract of the Contract Labour Act - <b>Rule -79</b>
9	GRA.ACT	ONGOING	Display of Notice - Authorized by the employer to receive Notice - <b>Rule - 4</b>
10	Min Wages	ONGOING	Inspectors Details- under the payment of minimum wages Act – <b>Rule - 22(10)</b>
11	N.F.H.ACT	ONGOING	Proceeding number received from Labour department- under the National and Festival Holidays Act – <b>FORM - III</b>
12	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 – <b>Rule 10 of Annexure - A</b>
13	S €& E Act	ONGOING	Displayed in Entrance of Company - COMPANY NAME BOARD IN TAMIL & ENGLISH
14	SHW	ONGOING	Abstract of the Sexual Harassment of Women At Workplace (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013
15	SHW	ONGOING	List of Internal Complaints Committee members available and Displayed in the notice board.

**Monthly Return [Due Date – 31st August 2017]**

S.No	Act	Frequency	Principle Employer
1	SE Act	Monthly	<b>To be Submitted Form - S to the Labour Department as and when any change in the employees strength</b>

**Disclaimer**

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**V & M Associates**

(Advocates & Solicitors)

No.13/7, F-1 1st Floor, 4<sup>th</sup> Main Road, Officers Colony,  
Adambakkam,  
Chennai-600 088,

Office: 044-43536455, Mobile: +91 9940082347

E-mail: madhavs@vmlegalassociates.com