

# V&M ASSOCIATES ADVOCATES & SOLICITORS

NEWS LETTER
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# Editorial Board

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# FROM THE EDITOR'S DESK

#### Big Learning from the Bull Taming

It is hard to conclude that the non-adherence to Supreme Court guidelines that led to the ban on *jallikattu* during 2014 or the added item of Bull in the schedule or the non-profit pro animal organisation representation or the support of Animal Welfare movement or some activist, exactly who is responsible for .... Though there are multiple views and theories but really nothing has been established ...but the events in connections with that occurred had created exclusive pages in the History of the country.

In depth study of every line of the page shall help us to learn a big lesson, may be the sudden eruption of emotionally driven gathering progressively grown big from few supporters in the name of culture and the spread to other major cities connecting across various section of groups or the strategic stand of political parties or the position of celebrities, the approach of the governments or the tactful cowed management of Police or the sensational update of media or supportive response of the general public, the management lessons are more for all the practicing managers to adopt.

We need to understand the Focus of the heterogeneous population towards one goal and facilitate the workforce towards the achievement of the annual goal of the company and make as a team eliminating all the disagreements. The second important learning should be passively managing the perception as positive, primarily towards the customers and finally the list of risk from the diversified unity for a simple cause especially when the floor level workforce joins.

It is essential for us to know that even a simple cause can erupt globally therefor it is important for the practicing managers to have an eye on attention to details with their own alert system.

We at **V & M Associates** has a support desk on managing crisis and setting process in place and it is requested to take the professional assistance of our consulting advisor who can provide culturally a customized solutions for your need at your desk.





## Amendment to the Tamil Nadu Industrial Disputes Rules.

[G.O. Ms. No. 242, Labour and Employment (D2), 8th December 2016, கார்த்திகை 23, துன்முகி, திருவள்ளுவர் ஆண்டு—2047.]

No. SRO A-4/2017.—In exercise of the powers conferred by sub-section (1) of Section 38 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Industrial Disputes Rules, 1958, the draft of the same having been previously published as required by the said sub-section (1) of Section 38 of the said Act.

In the said Rules, in rule 70, after sub-rule (2), the following sub-rule shall be inserted, 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".

P. AMUDHA, Secretary to Government.

### MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 20th January, 2017

G.S.R. 62(E).—Whereas draft rules further to amend the Employees' State Insurance (Central) Rules, 1950 were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) vide number G.S.R. 958(E), dated the 6<sup>th</sup> October, 2016, as required under sub-section (1) of section 95 of the Employees' State Insurance Act, 1948(34 of 1948), inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of thirty days from the date on which the copies of the Gazette containing the said notification was published were made available to the public;

And whereas, copies of the said Gazette were made available to the public on the 6th October, 2016;

And whereas, no objections and suggestions were received from persons in respect of the said rules;

Now, therefore, in exercise of the powers conferred by section 95 of the Employees' State Insurance Act, 1948(34 of 1948), the Central Government after consultation with the Employees' State Insurance Corporation, hereby makes the following rules further to amend the Employees' State Insurance (Central) Rules, 1950, namely:-

- Short title and commencement.- (1) These rules may be called the Employees' State Insurance (Central)
  Amendment Rules, 2017.
  - (2) They shall come into force on the date of their publication in the Gazette.
- 2. In the Employees' State Insurance (Central) Rules, 1950,-
- (a) in rule 2, after clause (6), the following clause shall be inserted, namely:-
- '(6A) "insured woman" means a woman who is or was an employee in respect of whom contribution is or were payable under the Act and who is by reason thereof, entitled to any of the benefits provided under the Act and shall include--
  - a commissioning mother who as biological mother wishes to have a child and prefers to get embryo implanted in any other woman;
  - (ii) a woman who legally adopts a child of upto three months of age,';
- (b) in rule 56, in sub-rule (2),--
  - for the words "twelve weeks of which not more than six weeks", the words "twenty-six weeks of which not more than eight weeks" shall be substituted;
  - (ii) after the first proviso, the following provisos shall be inserted, namely:--

"Provided further that the insured woman shall be entitled to twelve weeks of maternity benefit from the date the child is handed over to the commissioning mother after birth or adopting mother, as the case may be:

Provided also that the insured woman having two or more than two surviving children shall be entitled to receive maternity benefits during a period of twelve weeks of which not more than six weeks shall precede the expected date of confinement.".

[F.No.S-38012/02/2016-SS-I]

RAJEEV ARORA, Jt. Secy.

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THE GAZETTE OF INDIA: EXTRAORDINARY

[PART II-SEC. 3(ii)]

### MINISTRY OF LABOUR AND EMPLOYMENT

#### NOTIFICATION

New Delhi, the 22nd September, 2016

S. O. 3035(E).—In exercise of the powers conferred by clause (a) of sub-section (3) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby directs to make the following amendment in the notification of the Government of India in the Ministry of Labour and Employment number S.O. 1433(E) dated the 29th May, 2015 published in the Gazette of India, Extraordinary, Part II. section 3, sub-section (ii) dated the 29th May, 2015, namely:—

In the said notification, after the opening paragraph, in the Table, against Category (i) relating to the Category/Sub-Category "Government Securities and Related Investments", for the entries in the third column relating to "Percentage amount to be invested", the following entries shall be substituted with effect from the 17th day of March, 2016, namely:—

"Minimum 45 per cent and up to 65 per cent".

[F. No. G-20031/1/2007-SS-II(Vol-II)]

R. K. GUPTA, Jt. Secy.

Note: The principal notification was published in the Gazette of India. Extraordinary. Part II, Section 3, Sub-section (ii) vide number S.O. 1433(E) dated the 29th May, 2015.

#### NOTIFICATION

New Delhi, the 2nd November, 2016

G.S.R.1036(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:-

- This Scheme may be called the Employees' Pension (Sixth Amendment) Scheme, 2016.
  - (2) It shall come into force from the date of its publication in the Official Gazette.
- 2. In the Employees' Pension Scheme, 1995, in paragraph 43A, in sub-paragraph (1), in clause (viiia), after sub-clause (b), the following proviso shall be inserted, namely:-

"Provided that the worker who is a Nepalese national on account of Treaty of Peace and Friendship of 1950 and the worker who is a Bhutanese national on account of India-Bhutan Friendship Treaty of 2007, shall be deemed to be an Indian worker."

> [F. No. S-35011/1/2011-SS-II] R. K. GUPTA, Jt. Secy.

# MINISTRY OF LABOUR AND EMPLOYMENT

#### NOTIFICATION

New Delhi, the 11th November, 2016

G.S.R.1065(E).—In exercise of the powers conferred by section 5 read with sub-section (1) of section 7 of 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 (Sixth Amendment) Scheme, 2016.
  - (2) It shall come into effect from the date of its publication in the Official Gazette.
- 2. In the Employees' Provident Funds Scheme, 1952, in paragraph 72, in sub-paragraph (6),-
  - for the words "ceased to be employed", the words "retired from service after attaining age of fifty-five years or migrated abroad permanently" shall be substituted;
  - (b) the words "or transfer, as the case may be" shall be omitted;
  - (c) after the proviso, the following new proviso shall be inserted, namely:-

"Provided further that if any amount becoming due to a member, as a result of supplementary contributions on account of litigation or default by the establishment or a claim which has been settled but is received back undelivered not attributable to the member, shall not be transferred to the inoperative account."

[F. No. G-20031/1/2016-SS-II]

R. K. GUPTA, Jt. Secy.

# MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 30th December, 2016

G.S.R. 1190(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 (Seventh Amendment) Scheme, 2016.
- (2) It shall come into force on the 1<sup>st</sup> day of January, 2017 and shall cease to operate on the 31<sup>st</sup> day of March, 2017, except as respects things done or omitted to be done before such cessation.
- In the Employees' Provident Funds Scheme, 1952, after paragraph 82, the following paragraph shall be inserted, namely:—

"82A. Special provision in respect of Employees' Enrolment Campaign, 2017.—(1) The Employees' Enrolment Campaign, 2017 shall come into force on the 1<sup>st</sup> day of January, 2017 and shall cease to operate on the 31<sup>st</sup> day of March, 2017.

- (2) Every employer who has failed to comply with the provisions of this Scheme in relation to membership of employees and contribution thereto to the Fund, shall furnish a declaration in such Form as may be specified by the Central Provident Fund Commissioner, in respect of membership of the employees, who were required or entitled to become members of the Fund for the period beginning the 1<sup>st</sup> day of April, 2009 and ending the 31<sup>st</sup> day of December, 2016 but were not enrolled as members for any reason, to the Regional Provident Fund Commissioner.
- (3) The employer shall, within fifteen days from the date of furnishing the declaration referred to in sub-paragraph (2), remit the employer's contribution payable in accordance with the provisions of this Scheme and the employee's contribution deducted from the employee's wages along with interest payable in accordance with section 7Q of the Act and damages:

Provided that employer shall not be required to pay the employee's contribution if the same has not been deducted from the wages of the employee.

- (4) The employer shall, after complying with sub-paragraph (2) and sub-paragraph (3), file a return in such form as may be specified by the Central Provident Fund Commissioner, to the Regional Provident Fund Commissioner.
- (5) The employer shall specify the date of eligibility in respect of each employee for membership in the declaration referred to in sub-paragraph (2):

Provided that such declaration shall be valid only in respect of employees who are alive as on the 1<sup>st</sup> day of January, 2017 and no proceedings under section 7A of the Act or under paragraph 26B of this Scheme or under paragraph 8 of the Employees' Pension Scheme, 1995 have been initiated against their establishment or employer, as the case may be, to determine the eligibility for membership of such employees.

- (6) If the employer fails to remit the contribution, interest and damages payable by him as referred to in sub-paragraph (3), then, the declaration sent by the employer under sub-paragraph (2) shall be deemed to have not been made by such employer under this Scheme.
- (7) Where a declaration under sub-paragraph (2) has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed to have not been made under this Scheme and the person making such declaration shall be liable to penal action in accordance with the provisions of the Act and the Schemes made thereunder.
- (8) The exceptions and modifications subject to which the provisions of this Scheme shall apply, in relation to the employees' whose membership have been declared under sub-paragraph (2) as per the Employees' Enrolment Campaign, 2017, shall be as follows, namely:—
  - (a) in paragraph 30, after sub-paragraph (1), the following proviso shall be inserted, namely:-

"Provided that, for the purpose of increasing coverage and extension of benefits under the Act and Schemes made thereunder, the member's contribution is waived under Employees' Enrolment Campaign, 2017 for the period beginning the 1<sup>st</sup> day of April, 2009 and ending the 31<sup>st</sup> day of December, 2016:

Provided further that such waiver shall be applicable only if the member's contribution has not been recovered from such member's wages.".

(b) in paragraph 32-A, in sub-paragraph (1), for the Table, the following Table shall be substituted, namely:—

#### TABLE

(Applicable for remittances in respect of valid declarations under Employees' Enrolment Campaign, 2017)

Period of default	Rate of damages	
(1)	(2)	
Between the 1 <sup>st</sup> day of April, 2009 to the 31 <sup>st</sup> day of December, 2016	One rupee per annum.".	

(c) for paragraph 39, the following paragraph shall be substituted, namely:—

"39. Fixation of administrative charges.—The administrative charges payable under Employees' Enrolment Campaign, 2017 for the period 1<sup>st</sup> April, 2009 to the 31<sup>st</sup> December, 2016 under sub-paragraph (1) of paragraph 38 shall be nil."

[F. No. S-35012/13/2016-SS-II]

R. K. GUPTA, Jt. Secy.

## MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 2nd November, 2016

G.S.R.1035(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) This Scheme may be called the Employees' Provident Funds (Fifth 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 83, in sub-paragraph (2), in clause (ja), after sub-clause (b), the following proviso shall be inserted, namely:-

"Provided that the worker who is a Nepalese national on account of Treaty of Peace and Friendship of 1950 and the worker who is a Bhutanese national on account of India-Bhutan Friendship Treaty of 2007, shall be deemed to be an Indian worker."

[F. No. S-35011/1/2011-SS-II]
R. K. GUPTA, Jt. Secv.

# My boss told me to have a good day...



So I went home.





As per provisions of Employees' Compensation Act, 1923, the finding on nature of injury and percentage of disability is a pure question of fact. Percentage of permanent disability needs to be assessed only by a qualified medical practitioner.

Supreme Court of India - Golla Rajanna Vs. The Divisional Manager and Another - 2017 LLR 1

Incentive is in fact a genuine production bonus under a genuine scheme – it has to be excluded from the calculation of "basic wages" for the purpose of PF contribution in terms of section 6 read withsection 2 (b) of the Act, Amount of incentive is variable for different workmen – it cannot be part of basic wages for calculation of EPF dues – Whatever is payable in all concerns of the same category and is earned by all permanent employees is included in "Basic wages" but whatever is not payable by all concerns or may not be earned by all employees of the concern is excluded for the purpose of calculation of EPF contributions.

Madras High Court -Poompuhar Shipping Corporation Ltd Vs. RPFC - 2017 LLR 24

Home workers engaged through outside agencies, would be treated as employees of the principal employer, if having any kind of control and supervision over such workers, in any manner, directly or indirectly. It is to be established that he/she is employed and paid wages in or in connection with the work of the factory or establishment, directly or indirectly, in any manner to which the ESI Act applies. Control and supervision of principle employer will be decisive to cover the workers of contractors under ESI

Kerala High Court - RD- ESI Corporation Vs. Thankamma Baby, - 2017 LLR 47

Consuming alcohol during duty is a grave and serious misconduct justifying punishment of dismissal from service. When the delinquent employee is not able to prove his stand by leading cogent evidence and producing relevant documents, he would stand guilty of the charges. Past record also plays of a decisive factor in respect of quantum of punishment.

Karnataka High Court - Mgmt of NWKSRTC Vs. Vasant Jagannatha - 2017 LLR 70

Travelling Allowance, Uniform Allowance, Utility Allowance paid to the employees are covered by the Act and this will form part of the wages if statutory registers and other records maintained by the establishment are produced to the satisfaction of the Court. Non production of statutory registers / records would make the employer liable to pay ESI contributions treating such allowances as part of wages.

Kerala High Court - RD- ESI CorporationVs. UNO Security Services - 2017 LLR 105

Part time employees are not entitled to claim wages equivalent to Full time Employees.

Punjab & Haryana High Court - Davinder Vs. State of Haryana - 2017- LLR 111



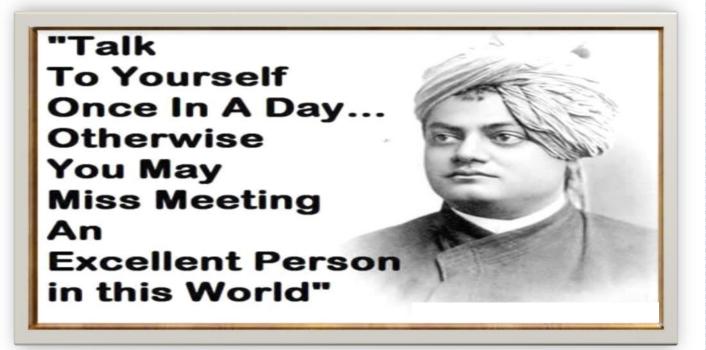
# COMPLIANCE CHECKLIST

## 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 <b>Form - S</b>
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 <b>-Form -1</b>
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 <b>Shops</b> & <b>Establishment</b> Rules
11	S.A.ACT	MONTHLY	Maintenance of Registers - <b>Form - 1</b>
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 – <b>Form - I</b>
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- <b>Form – VI</b>
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

#### NOTICE BOARD DISPLAY COPY

23	MA.NO.BO	ONGOING	Abstract of the Maternity Benefit Act – <b>FORM - J</b>
40	WILLING.BO	Ondoma	Abstract of the Materinty Beliefit Net Politin - 0
24	S & E Act	ONGOING	Notice of Daily Hours of Work, Rest Interval Weekly Holiday - <b>FORM - S</b>
25	GRA. NO. BO	ONGOING	Abstract of the Gratuity Act – <b>FORM - U</b>
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 – <b>FORM- V</b>
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 - <b>Rule - 4</b>
32	Min Wages	ONGOING	Inspectors Details- under the payment of minimum wages Act – <b>Rule - 22(10)</b>
33	N.F.H.ACT	ONGOING	Proceeding number received from Labour department- under the National and Festival Holidays Act <b>-FORM - III</b>
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 - <b>COMPANY NAME BOARD IN TAMIL &amp; ENGLISH</b>





# Employment Exchange Return [Due Date – 31st Jan 2017]

S.No	Act	Frequency	Principle Employer
1	E E Act	Quarterly	To be Submitted to Local Employment Exchange Form ER - 1

## IT, ITES & Software Establishments [Due Date – 31st Jan 2017]

S.No	Act	Frequency	Principle Employer
1	S & E Act	Half Yearly	Self-Certification Half Yearly Return - Form O
2	S & E Act	As And When	Notice of Daily Hours of Work, Rest Interval Weekly Holiday - <b>Form S</b>
3	LWF	Annual	Labour Welfare Fund Annual Return (in applicable month) - <b>Form A</b>
4	Min Wages	Annual	Annual Return - Form III
5	Min Wages	Half Yearly	Self-Certification For Minimum Wages - Form XII
6	C.P.S.W.Act	Half Yearly	Annual return /Half yearly - Form 2
7	C.P.S.W.Act	Annual	Declaration statement under Rule 6(3) of Tamil Nadu Industrial Establishments (Conferment of permanent status) Act-1981
8	P.S.A.Act	Half Yearly	Annual return /Half yearly - Form 2
9	M.B.Act	Half Yearly	Self-Certification Half Yearly Return - Form L
10	M.B.Act	Annual	Annual Return - Form K
11	P.W. Act	Annual	Filing of Annual Return - Form IV Notice of Rate of Wages - Form VI Tamil Nadu Payment of Wages Rules, 1937 - Form VII
12	P.W. Act	Half Yearly	Self-Certification for Payment of Wages - Form VIII
13	Bonus Act	Annual	Bonus Return - Form D
14	GRA.Act	Half Yearly	Self-Certification Half Yearly Return - Form V
15	CLRA Act	Half Yearly	Self-Certification - Half Yearly Return - Form XXX
16	W.C.Act	Annual	Filing of Annual Return - <b>Schedule</b>

Comr	Commercial Establishments (Trading & Marketing) – [Due Date – 31st Jan 2017]			
S.No	Act	Frequency	Principle Employer	
1	S & E Act	As And When	Notice of Daily Hours of Work, Rest Interval Weekly Holiday - <b>Form S</b>	
2	LWF	Annual	Labour Welfare Fund Annual Return (in applicable month) - <b>Form A</b>	
3	Min Wages	Annual	Annual Return - Form III	
4	C.P.S.W.Act	Half Yearly	Annual return / Half yearly - Form No. 2	
5	C.P.S.W.Act	Annual	Declaration statement under Rule 6(3) of Tamil Nadu Industrial Establishments (Conferment of permanent status) Act-1981	
6	P.S.A.Act	Half Yearly	Annual return /Half yearly - Form 2	
7	M.B.Act	Annual	Annual Return - <b>Form K</b>	
8	P.W. Act	Annual	Filing of Annual Return - <b>Form IV</b>	
9	P.W. Act	Annual	Notice of Rate of Wages - Form VI	
10	P.W. Act	Annual	Tamil Nadu Payment of Wages Rules, 1937 - Form VII	
11	Bonus Act	Annual	Bonus Return - Form D	
12	W.C.Act	Annual	Filing of Annual Return - <b>Schedule</b>	

### For Factories – [Due Date – 31st Jan 2017]

S.No	Act	Frequency	Principle Employer
1	LWF	Annual	Labour Welfare Fund Annual Return (in applicable month) - <b>Form A</b>
2	LWF	Quarterly	Register of fines and unpaid accumulation - Form C
3	C.P.S.W.Act	Half Yearly	Annual return /Half yearly - Form No. 2
4	P.S.A.Act	Half Yearly	Annual return /Half yearly - Form 2
5	P.W. Act	Annual	Notice of Rate of Wages - Form VI
6	P.W. Act	Annual	Tamil Nadu Payment of Wages Rules, 1937 - Form VII
7	Fact. Act	Annual	Prescribed under Rule 76, The Tamil Nadu Factories Rules 1950 – <b>Form No. 11</b>
8	Fact. Act	Annual	Prescribed under clause (2) of rule 100 of the Tamil Nadu Factories Rules 1950 - <b>Form No. 22</b> (Combined Annual Returns for the year ending 31st December)

#### **Disclaimer**

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## **V & M ASSOCIATES**

(Advocates & Solicitors)

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