

LECTURE 11

EPF, ETF AND GRATUITY ACTS

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LEARNING OUTCOMES

On successful completion of this lesson, the learner will be able to:

- LO1:** Understand what are EPF, ETF and Gratuity and why.
- LO2:** Discuss the concept of Social Security of the workforce as a part of public policy and social legislations.
- LO3:** Discuss the legal provisions on Employees' Provident Fund.
- LO4:** Discuss the legal provisions on Employees' Trust Fund.
- LO5:** Discuss the legal provisions on Payment of Gratuity.

WHAT ARE EPF,ETF AND GRATUITY?

- **EPF:** Employees' Provident Fund is a mandatory retirement scheme for the private and semi government sector employees who do not enjoy pension benefits.
- **ETF:** Employees' Trust Fund is a long-term investment plan that is established by the employer for the benefit of all employees who work in covered employments.
- **Gratuity:** A lump sum amount paid by the employer to the employee as a token of appreciation for his/her service provided to the company.

WHY EPF,ETF AND GRATUITY?

- To ensure employees' social security against certain risks to which they could be exposed.
- These risks impair the ability of working man to support himself and his dependents in health and decency.
- **Social Security** means the security of an income to take the place of earnings when they are interrupted by certain risks.

EMPLOYEES' PROVIDENT FUND (EPF)

Employees' Provident Fund Act No. 15 of 1958

➤ PURPOSE

To establish a provident fund for the benefit of certain classes of employees and provide provisions for related matters.

COVERAGE

Employees' Provident Fund Act No. 15 of 1958

- **PART I:** Establishment and membership of EPF
- **PART II:** Covered employments and contributions
- **PART III:** Benefit
- **PART IV:** Approved EPFs and contributory pension schemes
- **PART V:** Determination of claims
- **PART VI:** General

ADMINISTRATION OF EPF

Who is in charge of the EPF Act?

- Except as otherwise provided in this Act, the Commissioner of Labour shall be in charge of the general administration of this Act.

Who is the governing body of EPF?

- Department of Labour, No. 41, Kirula Road, Colombo 5, Sri Lanka.
URL: <http://www.labourdept.gov.lk>

ESTABLISHMENT OF EPF

How should a business be registered in the EPF?

- On recruitment of the first employee and before the expiry of 14 days.
- The employer must complete the “D” form in duplicate and post under registered cover to the District Labour Office or directly to the Commissioner of Labour.
- The Commissioner of Labour will promptly send to the employer a registered number with an English letter denoting his administrative district code.
- What are the other relevant forms:
 - Registration of individual members (Forms A, B, H)
 - Informing employee's contributions to the Central Bank (Form C)

MEMBERSHIP

How does an employee become a member of the EPF?

- When an employee first becomes liable to pay contributions to the Fund.
- He shall then become a member of the Fund and continue to be a member of the Fund so long as there is any sum to the credit of his individual account in the Fund.
- **All the employees other than employees in Government and Local Government services are eligible to become members of this fund.**

COVERED EMPLOYMENTS

What employments are covered by the EPF Act?

- Any employment in the Private Sector and Government Corporations (whose capital or a part of whose capital is provided by the Government) are declared to be a covered employment.
- **Any establishment irrespective of the type or the category of employment becomes legally liable for payment of contributions to the Employees' Provident Fund on recruitment of even a single employee.**

EMPLOYMENTS NOT COVERED (1)

What employments are not covered by the EPF Act?

To treat as not being a covered employment or to disregard –

- (i) **Employment under a person** who employs less than a prescribed minimum number of employees; and
- (ii) Employment of a person in the service or for the purposes of the trade or business, or as a partner of that **person's spouse**.

EMPLOYMENTS NOT COVERED (2)

Examples:

- (i) A social service organization providing technical training for minor offenders, deaf and blind.
- (ii) A charity organization with less than ten (10) employees.
- (iii) Household employees: housekeepers, maids, babysitters, gardeners, and others who work in or around your private residence as your employees.

COVERED EMPLOYEES (1)

Employees to whom EPF Act applies?

- All employees in the private institutions and Government Corporations.
- Non permanent employees of Government and local Government Institutions.
- Even if one single outside employee is engaged in a family business, then the single outside employee together with the other family members employed by the establishment.
- Only the Directors or Partners work in establishments where they receive salaries or allowances.

Irrespective to the employment status

COVERED EMPLOYEES (2)

Other categories of employees to whom EPF Act applies?

- Those serving in some establishment, even if the person is in receipt of a pension.
- School children above the age of 16 years, employed after school hours.
- Those serving in a different organization while being employed in another establishment.
- Those employees who travel from place to place instead of engaging in a desk job.
- Those engaged for a limited time in job with a short duration.
- Those engaged in employment once more, after receipt of refund of benefits.
- Those coming from abroad and engage in employment locally.

EMPLOYEE CONTRIBUTION

What is the contribution of an employee to the fund?

- An employee, in respect of each month during which he/she works, be liable to pay a contribution of an amount equal to 8% of total earnings to the Fund.
- Contributions should be calculated in respect of **total earnings** of the employee such as;
 - Salary, earnings or charges; Cost of living allowance; Special living allowance or any other similar allowance; Holiday pay; Monetary value of cooked or uncooked food; Food allowance; Any other remuneration that may be prescribed.

8% per month from employee's total monthly earnings

EMPLOYER CONTRIBUTION

What is the contribution of an employer to the fund?

- The employer of every employee, in respect of each month, be liable to pay to the Fund on or before the last day of the succeeding month, a contribution of an amount equal to 12% of such employee's total earnings from that employment during that month.

12% per month from employee's total monthly earnings
Surcharges apply for the delay

INTEREST ON CONTRIBUTIONS

What is the minimum rate of interest on contributions?

- Interest at such rate, not less than 2.5% per annum, as may from time to time be fixed by the Monetary Board shall be paid on the amount standing to the credit of the individual account of each member of the Fund as at the thirty-first day of December in that year.

Not less than 2.5% per annum on the amount in each member account as at 31st December each year.

AMALGAMATION OF EPF ACCOUNTS

How should an EPF account be amalgamated with a new account in a different establishment?

- There is no need to fill afresh, forms “A”, “B” & “H” for an employee who joined a new establishment after serving in a different establishment.
- For amalgamation of accounts, form “G” has to be perfected and forwarded to the labour office of the locality together with the “B” card of the former establishment.

WHEN CAN YOU CLAIM REFUND OF EPF

➤ **A member of the Fund shall be paid the total amount as soon as may be practicable –**

- (a) A member reaches retirement age and ceases the employment.
- (b) A member, being a female, ceases employment in consequence of marriage.
- (c) Cessation of employment due to a permanent and total incapacity for work.
- (d) Cessation of employment on leaving to a foreign country for permanent residency.
- (e) A member ceases to be employed in a covered employment and takes up pensionable employment.
- (f) When government institutions become corporations, closure of corporations, and retrenchment of excess staff, nationalization, and resignation consequent on conversion into companies.

APPLICATIONS TO REFUND OF EPF

How do you apply to refund of benefits from the EPF, if eligible to claim?

- Forward form K and the last served employer certification in part II of the form together with “B” certificate to the Commissioner of Labour (EPF).
- When forwarding the application, write the name and address of the applicant in the postcard attached to the application. The postcard will be returned as an acknowledgement of receipt of the application with a reference number assigned to the employee.

NOMINEES FOR BENEFITS

- A member of the Fund has the right to appoint one or more nominees to whom the amount lying to the credit of such member's individual account shall be paid in the event of his death.
- In the event of a member's death and if there is only one appointed nominee, then the total amount be paid to the appointed nominee. If there are two or more appointed nominees, then the amount be divided among those appointed nominees in equal shares.

EMPLOYEES' TRUST FUND (ETF)

Employees' Trust Fund Act No. 46 of 1980

➤ PURPOSE

To provide provisions to establish Employees' Trust Fund and provide provisions for related matters.

COVERAGE

Employees' Trust Fund Act No. 46 of 1980

- **PART I:** Establishment ETF Board
- **PART II:** Membership and contributions
- **PART III:** Administration and determination of claims
- **PART IV:** Staff of the board
- **PART V:** Miscellaneous

ETF BOARD

➤ **The Board shall consist of the following nine members appointed by the Minister:-**

- (a) Four members nominated by the Minister;
- (b) One member nominated by the Minister in charge of the subject of Finance;
- (c) One member nominated by the Minister in charge of the subject of Trade;
- (d) One member nominated by the Employers Federation of Ceylon; and
- (e) Two members nominated by the Minister in consultation with the executive of every trade union having more than 100,000 members.

COVERED EMPLOYERS

- All employers in public sector institutions whose employees are not eligible to the Govt. Pension Scheme.
- All employers in the private sector irrespective of the no. of employees employed.
- All employers in public and private sector who are maintaining approved Provident Fund accounts for their employees.

MEMBERSHIP

- When an employer first becomes liable under the provisions of this Act to contribute to the Fund in respect of any employee employed by such employer, such employee shall then become a member of the Fund and continue to be a member of the Fund as long as there is any sum to the credit of his individual account in the Fund.

MEMBERS' RIGHT

- It shall be a condition of any employee's right to any moneys under the provisions of this Part of this Act that he or any person on his behalf makes a claim thereto in the prescribed manner.

CONTRIBUTION BY EMPLOYER

- The employer of every employee to whom this Act applies shall, in respect of each month during which such employee is employed by such employer, be liable to pay in respect of such employee, to the Fund, on or before the last day of the succeeding month, a contribution of an amount equal to 3% of the total earnings of such employee from his employment under such employer during that month.

3% per month from employee's total monthly earnings

CONTRIBUTION BY SELF EMPLOYED PERSON

- Where a self employed person becomes a member of the Fund under the provisions of the act, he shall in respect of each month pay on or before the last day of the succeeding month a contribution of an amount equal to twenty-five rupees or a multiple thereof, so however that the amount of the monthly contribution shall be constant during the calendar year.

TOTAL EARNINGS PER EMPLOYEE

The Total earnings should include the following:

- Salary, wages or Fees
- Cost of Living allowance, Special Living allowance and other similar allowances.
- The cash value of cooked or uncooked food supplied by the Employer to the Employee
- Food allowance
- Any other kinds of remuneration (Eg. commissions)

INTEREST ON CONTRIBUTION

- Interest at such rate, not less than 3%, as may from time to time be fixed by the Board shall be paid for each year on the amount standing to the credit of the individual account of each member of the Fund as at the thirty-first day of December in that year.

PAYMENT OF BENEFITS

- The amount standing to the credit of any employee in his individual account shall be payable by the Board to such employee on the termination of his employment.
- No moneys lying to the credit of the individual account of any member of the Fund shall be paid until the expiry of a period of two years from the date of establishment of the Fund. (Not applicable any more)

WITHDRAWAL OF BENEFITS

➤ The Five-Year Rule:

A member of the Fund shall not be entitled to withdraw any sum standing to his credit in his individual account more than once in a period of five years except –

- (a) where a member is **over sixty years of age**; or
- (b) where a member satisfies the Board by documentary evidence, that he is due to **leave Sri Lanka with the intention of not returning to Sri Lanka or for permanent residence abroad.**

BENEFITS ON DEATH OF EMPLOYEE

- On the death of any employee, the sum standing to his credit in his individual account shall be paid to his nominee.
- If there shall be no nominee, such sum shall be paid to the executor of the last will or the administrator of the estate of such employee or to the heirs of such employee.

NOMINATION FOR BENEFITS

- A member of the Fund may at any time nominate any person or persons to whom the amount standing to the credit of the individual account of such member in the Fund may be paid in the event of his death.
- A member of the Fund may at any time revoke any nomination made by him.

PAYMENT OF GRATUITY

Payment of Gratuity Act No. 12 of 1983

➤ PURPOSE

To provide provisions for the payment of gratuity by employers to their employees and provide provisions for related matters.

COVERAGE

Payment of Gratuity Act No. 12 of 1983

- **PART I:** Employers liability to pay gratuity to workmen
- **PART II:** Payment of gratuity after termination of work
- **PART III:** General

EMPLOYERS' LIABILITY

- Every employer who has employed a workman on lands that vested in the Land Reform Commission for a period of not less than five completed years is liable to pay gratuity to such workman on termination of employment or death of a workman.

PAYMENT OF GRATUITY

- Every employer who has employed a workman who is entitled for gratuity is liable to pay gratuity to such workman within a period of thirty days from the date of termination of his employment or death of a workman.

RATE OF GRATUITY PAYMENT (1)

➤ For a workman employed as a labourer:

- (a) Shall be entitled to the payment of a gratuity in a sum equivalent to fourteen days wage or salary for each year of completed service prior to the commencement of his liability to contribute to the Employees' Provident Fund computed at the rate of wage or salary paid or that would have been paid to such workman in the month of November, 1959.

RATE OF GRATUITY PAYMENT (2)

For a workman employed in any capacity other than as a labourer:

(b) A workman shall be entitled to the payment of a gratuity, computed at the rate of a sum equivalent to one month's gross wage or salary of that workman for each year of completed service.

RATE OF GRATUITY PAYMENT (3)

For a workman employed in any industry

(c) Half a month's wage or salary for each year of completed service, computed at the rate of wage or salary last drawn by the workman, in the case of a monthly rated workman.

- In the case of any other workman, fourteen days' wage or salary for each year of completed service computed at the rate of wage or salary last drawn by that workman

RATE OF SURCHARGE

If the gratuity has been in arrears for:

- A period not exceeding one month from the due date, a surcharge of 10% of the sum due as gratuity;
- A period exceeding one month but not exceeding three months from the due date, a surcharge of 15% of the sum due as gratuity;
- A period exceeding three months but not exceeding six months from the due date, a surcharge of 20% of the sum due as gratuity;
- A period exceeding six months but not exceeding twelve months from the due date a surcharge of 25% of the sum due as gratuity;
- A period exceeding twelve months from the due date, a surcharge of 30% of the sum due as gratuity.

SUMMARY

- EPF, ETF and Gratuity are some savings to assure social security of employees which can be used when employees are no longer fit to work or at the retirement.
- **Employees' Provident Fund Act No. 15 of 1958** provides legal provisions on establishing and managing the EPF with the monthly regular contributions of both employers (12% of the employee's monthly total earnings) and employees (8% of the employee's monthly total earnings) mainly covering employees working in private and semi government sector organizations.
- **Employees' Trust Fund Act No. 46 of 1980** provides legal provisions on establishing and managing the ETF with the monthly regular contribution of employers (3% of the employee's monthly total earnings) covering all employees working in any sector.
- **Payment of Gratuity Act No. 12 of 1983** provides legal provisions on gratuity amount for employees who have worked more than 5 years continuously in the same workplace in any sector.

END OF LECTURES

RECOMMENDED READING

- Handbook of Employees' Provident Fund

<https://epf.lk/wp-content/uploads/2017/06/employeehandbook.pdf>

- Labour Code of Sri Lanka:

http://www.labourdept.gov.lk/index.php?option=com_content&id=65&Itemid=86&lang=en

- Employees' Provident Fund

http://www.labourdept.gov.lk/images/PDF_upload/Chapter05/1_employees_provident_fund_i.pdf

- Employees' Trust Fund

http://www.labourdept.gov.lk/images/PDF_upload/Chapter05/5_employees_trust_fund_i.pdf

- Payment of Gratuity

http://www.labourdept.gov.lk/images/PDF_upload/Chapter05/8_payment_of_gratuty.pdf