

“HANDBOOK ON LABOUR LAWS”

ORGANISED BY:-



Gurugram Branch of NIRC

2nd Floor, 2A, Pavilion Building, 339/2, behind Hotel VITS Mango,
Behind Hotel Vits Mango, Sector 14, Gurugram, Haryana 122001

1. An overview on Code on Wages 2019 and other codes.
2. Hon’ble Supreme Court Judgement of 28th Feb. 2019 for Basic Wages pf PF.
3. Statutory Compliances under PF and ESI Act along with the latest updates.
4. Details on Provident Fund Benefit Declared under ATMANIRBHAR BHARAT ROJGAR YOJNA by Finance Minister on 12th November, 2020

Webinar Date: - 12th March, 2021

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- Contributed articles on Labour Laws
- Visiting Faculty at Bharatratna Dr. Ambedkar Institute of Management & Legal Research, Mumbai

Acted as faculty for Labour Laws at various Seminars as under:

- ✓ Confederation of Indian Industries (CII) (in this seminar various corporates participate)
 - ✓ Polycab Wires Pvt Ltd
 - ✓ Gammon India Ltd.
 - ✓ 3i-Infotech Limited
 - ✓ Maharashtra State Electricity Distribution Company Ltd
 - ✓ Maharashtra State Power Generation Company Ltd
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 - ✓ Hindustan Unilever Field Services Pvt. Ltd
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 - ✓ Bajaj Electricals Ltd
 - ✓ Anchor Electricals Pvt Ltd (By Panasonic)

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- ✓ Shri Kutchi Advocate's Welfare Association
- ✓ Princeton Academy (in this seminar various corporates participate)
- ✓ Satvam Consulting Pvt. Ltd (in this seminar various corporates participate)
- ✓ Sharp Facility Management Pvt Ltd (in this seminar various corporates participate)
- ✓ STEPS Management Services Pvt. Ltd, UTTARKHAND (in this seminar various corporates participate)
- ✓ IEEMA (Indian Electronics & Electrical Manufacturers Association)
- ✓ Bombay Management Association (BMA)
- ✓ Bombay Master Printers Associations
- ✓ Raishabh Academy Pvt Ltd
- ✓ Shree Vagad Kala Kendra
- ✓ Kutch Corporate Forum
- ✓ Association of System Integrators & Retailers in Technology (ASIRT)
- ✓ Paper Traders Association
- ✓ Smart Edge, Goa
- ✓ Sampat & Mehta (Chartered Accountants)
- ✓ Computer Media Dealers Association, Fort, Mumbai.
- ✓ Ahmedabad Branch of WIRC of ICAI.
- ✓ VAPI Industries Association.
- ✓ VAPI Branch of WIRC of ICAI.
- ✓ Carnival Group
- ✓ Masjid CPE Study Circle of WIRC of ICAI
- ✓ Highway Concessions One Pvt. Ltd.
- ✓ Trade Association of Information Technology (TAIT)
- ✓ Gowalis Industries Association (Vasai, District- Palghar)
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- ✓ The Borivali Diamonds Cutters & Polishers (Owners) Associations.
- ✓ Snacks Food Association of Maharashtra
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- ✓ Pramod Ram Ujagar Tiwari Saket Institute of Management (Kalyan)
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- ✓ V. V Giri National Labour Institute (An Autonomous Body of Ministry of Labour & Employment, Government of India.)
- ✓ Idemitsu Lube India Private Limited
- ✓ Burns & McDonnell (India)
- ✓ Chetana's Institute of Management & Research (CMIR) in association with (SIIOD)
- ✓ Mumbai Port Trust in association with (SIIOD)
- ✓ Anglo Eastern Ship Management (India) Private Limited
- ✓ Meher Distributors Pvt. Ltd.
- ✓ Impresario Handmade Restaurants.
- ✓ Bloomasia Incorporated
- ✓ Lions Club of Bombay Mandvi East
- ✓ Rotary Club of Mumbai Downtown Sealand...
- ✓ Chamber of Small Industry Associations, (COSIA) Nagpur
- ✓ The Gem & Jewellery Export Promotion Council.
- ✓ E.S.I., P.F. & Other Industrial Law Practitioners' Association (EPILPA)....and many more

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Lockdown Period – Payment of Salary / Wages -Benefits under PF and ESI Act

- The Hon'ble Prime Minister of India announced Lockdown due to Covid-19, from 25th March, 2020 to 14th April 2020 popularly known as Lockdown 1.0, Lockdown 2.0 implemented till 03rd May 2020. Lockdown 3.0 implemented till 17th May 2020. Lockdown 4.0 implemented from 31st May, 2020. Lockdown 5.0 announced upto 30th June 2020. Step by Step unlock started all over India from 1st July 2020.
- Due to this Central Government has issued Advisories and Directions under the Disaster Management Act 2005 dealing with several aspects of the pandemic.
- One such order under Section 1 0(2) was issued on 29th March 2020 dealing with the issue of Migrant Peoples, Migrant Workers & for payment of wages to workers.
- Paying salary / wages to employees is a measure against the spread of COVID-19. Without salary / wages, Employees and his family cannot afford House Rent, Healthy Food, Soaps, Sanitizer, other health care products and safety requirements etc.
- The order of MHA has been challenged on several grounds by employers, including on the ground that the Central Government ought to provide employers with a subsidy to meet the wage liability during the period there is no work to meet the liability under the order.
- The Supreme Court will decide on the validity of the Orders under the Disaster Management Act and the scope and impact of the order by the end of July 2020.

Supreme Court Directions about Payment of Wages/ Salary during Covid -19 Lockdown Period on 12th June 2020.

Payment of Wages amid COVID-19: "No industry can survive without workers", Supreme Court asks employers, employees to negotiate.

The Supreme Court today asked employers and employees to negotiate and settle between themselves issues relating to payment of wages amid the COVID-19 lockdown.

In the meanwhile, the Court's earlier order directing that no coercive action be taken against employers with respect to the March 29 notification of the Ministry of Home Affairs (MHA) compelling payment of wages, will continue to operate.

The order was passed by a Bench of **Justices Ashok Bhushan, Sanjay Kishan Kaul and MR Shah.**

Dictating the order, Justice Bhushan said that all issues raised by the petitioners have to be decided together, and not in a piecemeal manner. He went on to say,

"No industry can survive without the workers. Thus employers and employee need to negotiate and settle among themselves. If they are not able to settle it among themselves, they need to approach the concerned labour authorities to sort the issues out..." - Justice Ashok Bhushan

The employers and employees are thus directed to work out whether salary can be paid for 54 days of the COVID-19 lockdown. Such a settlement ought to be without prejudice to the rights of the employers and employees, the Court further said.

The Court also stated that those employers/industries which were working at limited capacity during the lockdown can also enter negotiation. Employees can be allowed to come back to work without prejudice to the ongoing negotiation, it was clarified.

The MHA is now required to file a detailed affidavit on the legality of the March 29 notification by the end of July. The matter will be heard next in the last week of July.

The three-judge Bench reserved its orders on June 4, while directing that no coercive action be taken against employers with respect to the MHA notification.

The Court was hearing a number of petitions including the one filed by Karnataka-based company Ficus Pax, challenging the constitutional validity of the March 20 notification of the Secretary (Labour & Employment) and Clause III of the March 29 notification by the MHA, both of which compelled payment of full wages to workers and employees during the period of lockdown.

The MHA order of March 29 had said that,

"All the employers, be it in the industry or in the shops and commercial establishments shall make payment of wages of their workers at their workplaces, on the due date, without any deduction, for the period their establishments are under closure during the lockdown."

Before the Supreme Court, the MHA had submitted that the March 29 notification was a temporary measure for 54 days.

Attorney General for India KK Venugopal, appearing for the MHA, said, "...people were migrating in crores, they wanted the industries to continue. The notification was to stop the workers which they only would if they are paid."

Advocate Jeetender Gupta, appearing for Ficus Pax, had argued that the Labour Ministry's advisory asking establishments not to terminate employees or reduce their salaries, was not passed under the Disaster Management Act.

Claiming that the company he represents carried out essential services, Gupta said that all in-house workers have been paid salaries. "...but why should I pay the 800 contract workers when no work is happening? There is a separate ESI fund which has 80,000 to 90,000 crores as surplus fund.

Some of the other petitions were by Punjab-based Ludhiana Hand Tools Association, and Advocate Aditya Giri.

Ludhiana Hand Tools Association, through Advocate-on-Record Rajeev M Roy, stated that the March 29 MHA order was violative of Articles 14, 19(1)(g), 265 and 300 of the Constitution, and thus must be "struck down."

Senior Advocate Indira Jaising, appearing in one of the cases, said that the MHA's direction should not be quashed and that workers needed to be paid full wages for the period of the lockdown.

Jaising had primarily argued that the principle of no work no pay is not applicable in the present circumstances, especially when there is lockdown, as the workers cannot work even if they want to.

Opinion on SC Order dated 12-06-2020

PARA 37: - We thus direct following interim measures which can be availed by all

PARA 37 (iii) of SC ORDER READS AS UNDER: -

..... The settlement, if any, as indicated above shall be without prejudice to the rights of employers and employees which is pending adjudication in these writ petitions.

As such it will be open for employees to claim balance payments if SC under final verdict decide to pay full salary then we are liable to pay the balance amount and if decide not to pay then we cannot claim the refund from employees.

In the absence of Union, we need to take signature of every employee and same will not be practically possible. Even for one employee Employers have to follow the process of requesting to concerned labour authorities to conciliate the dispute, who on receiving such request, may call the concerned Employees to appear on a scheduled date for negotiation, conciliation and settlement. In case conciliation fails then reference will have referred to Court. Such dispute cannot decide till SC passes final order. As such employers needs to face litigation with its own cost.

If any type of wages is booked or paid today, then employer will be liable to PF/ESI dues plus Interest and Damages [ESI] as no clarity in the order.

Suggestion: The Order is as interim measures only.

The Order is nothing but unwarranted process imposed on employer instead deciding core issue of validity and legality of the impugned order dated 29/03/20 issued by MHA. Secondly, if every Petitioners settle case then nothing remains to decide by SC.

Even after the settlement, the issue of payment wages is not final and the Employer may have to pay balance amount subsequently. As such in my considered opinion it is advisable to wait till final order without undergoing the tiresome process of settlement.

SHORT NOTES AND LEGAL ANALYSIS FOR IMPLEMENTATION OF THE SUPREME COURT ORDER DATED 12.06.2020

(REF: ORDER DATED 12.06.2010 PRONOUNCED BY THE HON'BLE SUPREME COURT IN THE MATTER OF "FICUS PAX PRIVATE LTD. & ORS. Vs. UNION OF INDIA & ORS., WRIT PETITION (C) DIARY NO. 10983 of 2020)

The COVID-19 crisis declared as a pandemic by the Director-General of the WHO on 11.03.2020. Consequent thereupon, the Indian Government has taken the proactive approach to control the pandemic across the country. Accordingly, the Ministry of Home Affairs ("MHA") has issued an order no. **40-3/2020-DM-I (A) dated 29.03.2020**. Prior to the Order of the MHA (supra), the Ministry of Labour and Employment had also issued a series of letters dated 20.03.2020 &

23.03.2020 in the form of advisories that employers/ industries should not cause reductions of wages or termination of any worker and/or employees during the present COVID crisis. However, probably, realizing that the said advisory was at best only an advisory, without having much legal force but the MHA order (supra) was issued under the aegis of the National Disaster Management Act, 2005 and the non-compliance of which by the stakeholders would attract penal consequences as per Section 51 to 54 of the DM Act, 2005 read along with Section 188 of the IPC, 1908. The relevant portion pertaining to the grievances of the employers as per the Order is extracted here below:

"iii. All the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their workplaces on the due date, without any deduction, for the period their establishments are under closure during the lockdown"

In compliance with the MHA order (supra), all employers and private enterprises were advised not to terminate their employees from jobs, including the casual and employee of contractual, and not to deduct their wages during the lock-down period failing which penal action can be initiated against erred employers.

The Employers are/were aggrieved by the MHA order (supra) on the following grounds:

- i)** Due to the lock-down, Employers have less or zero revenue, and due to fixed costs, have been incurring huge losses,
- ii)** Employers are not in a position, financially, to pay the salary/wages during the lock-down period,
- iii)** If the employers are forced to make the 100% salary/wages during the period of the lock-down, it may lead to the closure of many MSMEs, which will ultimately lead to permanent unemployment disaster,

iv) MHA cannot force the private employers to pay for “NO WORK PERIOD” as Section 10(2) (1) of the DM Act, 2005,

v) The welfare of citizens of India is the duty of the state, and the government should take appropriate action for these workers during the period of lock-down. The huge amount, contributed by the employers and employees in relation to their employment, in the form of EPF and ESI Contribution and their respective interest is lying with the government, and the government should utilize the same corpus at this crisis situation, for the welfare of employees/workers and industries,

vi) Government has not given any general waiver/relaxation as far as liability of employers are concerned except giving some deferment of payment or loan

vii) There is a provision for doing layoff under the Industrial Disputes Act, 1947 to deal with employees under the situation of “natural calamity” as enumerated under Section 25-M of the said Act, 1947 and therefore, any action by invoking DMA is unwarranted,

viii) The Government has no power to issue the MHA order (supra) under Section 10(2) (1) the Disaster Management Act, 2005 so the vires of the said section are questionable.

ix) The MHA order (supra) is a violation of Article, 14, 19(1) (g) 21, 265 and 300A of the Constitution of India,

x) The Ministry of Corporate Affairs has considered the payment of salary/wages to employees/workers as the moral duty of the employer, and therefore, the employers may not be forced for their moral duty,

xi) There cannot be identical order for all kinds of employees /workmen or all industries /establishments are of different nature and of different capacity, including financial capacity,

On the other hand, the Labour Unions, representing employees/workers, are justifying the MHA order (supra) on the following grounds:

i) The MHA order (supra) was necessary for the Protection of the weaker section of the society,

ii) The MHA order (supra) was necessary for sustenance and livelihood of weaker section of the society,

iii) Most of the workers cannot survive in such a lockdown period without wages,

iv) The contract of service is subsisted, even, during the lockdown, and accordingly, the employer is duty-bound to make the payment of wages/salary,

v) Cessation of Work is not due to any fault on the part of the workman, and accordingly, the same is recognized as continuous service in terms of Section 25B of the Industrial Disputes Act, 1947

vi) The workers have not denied to work, and they are ready to work so principles of “No work, No wages” cannot be applied in the present dispute.

vii) Reduction of wages requires due procedure in term of Section 9A of the Industrial Disputes Act, 1947,

viii) There is no change in basic need of the fixed expenses of employees/workmen, like school fees, rent, loan/borrowing repayment, etc. wherein most of them, having no savings, are dependent on their monthly salary/wages only.

The MHA order (supra) along with other impugned orders have been challenged before the Supreme Court by filing as many as 20 writ petitions. In some of the writ petitions, the Trade Unions have also sought to be impleaded which were allowed by the Supreme Court. The Union of India has also filed a common affidavit in the writ petition (civil) D.No. 10983 of 2020 with a prayer to adopt the counter affidavit in other writ petitions. It has been pleaded by the Union of India that the MHA Order (supra) has been withdrawn by the Union of India vide order dated 17.05.2020. The Union of India further stated in his counter affidavit that the competent authority who had issued MHA order (supra) was illegal and necessary to issue such directions. The Union of India further prayed to file a detailed reply at the subsequent stage, if required.

The Hon'ble Bench, after hearing the arguments of the parties on 04.06.2020, kept the orders reserved for pronouncement on 12.06.2020. On 12.06.2020, the Hon'ble Bench has not decided the matter finally and granted four weeks' time to the Union of India to their counter affidavit and thereafter, rejoinder can also be filed by the Petitioner within one week. Further, the Hon'ble Bench directed that "in the meantime, no coercive action against the employers shall be taken pursuant to notification dated 29.03.2020".

GUIDELINES FOR IMPLEMENTATION OF THE ORDER DATED 12.06.2020

Paragraph 33, 34, 35, & 36, are very important for the analysis and implementation of the Supreme Court's order (I hereby advise you to read these paragraphs before the implementation of the SC order). However, the same, in brief, are being given hereunder:

1. The Lockdown measures enforced by the Government of India under the Disaster Management Act, 2005, had an equally adverse effect on the employers as well as the employee. s. Various industries, establishments were not allowed to function during the lockdown period and those allowed to function also could not function to their capacity.
2. All industries /establishments have nature including financial position. Some of the Industries and establishments may bear the financial burden of payment of wages or substantial wages during the lockdown period to its workers and employees. Some of them may not be able to bear the entire burden. A balance has to be struck between these two competitive claims. The workers and employees although they were ready to work but due to closure of the industries could not work and suffering so-far. For the smooth running of industries with the participation of the workforce, it is essential that a via media be found out. The obligatory orders having been issued on

29.03.2020 which has been withdrawn i.e. 18.05.2020, in between there have been only 50 days during which period, the statutory obligation was imposed.

3. No industry or establishment can survive without employees /laborers and vice versa.

4. Efforts should be made to sort out payment of wages of above 50 days and if settlement or negotiation can be entered into between them with regard to the order dated 29.03.2020, the said steps may restore congenial work atmosphere. Under the above concept of the order dated 12.06.2020, the Hon'ble Bench has, inter-alia, directed for settlement of the wages for the above 50 days for workmen and employees. So, in my opinion, the employers, if they are in a position to settle the dispute for payment of wages /salary during the lock-down period, they may follow the following steps:

Settlement procedure for workman category which falls within the definition of 2(s) of the Industrial Disputes Act,1947

(i) **FIRST STEP:** The concerned Employer must talk directly to their employees /workers/workers' union, depending upon the financial capacity of the establishment and negotiate the payment of wages for above 50 days of the lockdown period and settle this dispute of wages amicably.

(ii) **SECOND STEP:** If the employer fails to settle the dispute, then Central/State/UTs' Labour authority i.e. Assistant Labour Commissioner, Conciliation Officer can also be involved for settlement of wages for above 50 days of the lockdown period and try to settle this dispute of wages amicably.

(iii) **THIRD STEP:** If any settlement is arrived at the first step or second step during conciliation proceedings, in both stages of negotiation, the settlement (MOS) must be documented in writing as per prescribed Form -H (Memorandum of Settlement) (Under Rule 58 of the Industrial Dispute Rules, 1957).

(iv) **FORTH STEP:** The employer must ensure that the Memorandum of Settlement must be registered and entered in Register of settlement (Form-O, under Rule 75 of the Rules, 1957). Prescribed State Form of Memorandum of Settlement and its procedures can be used by the employer while settlement of wages for above 50 days of the lockdown period.

Settlement procedure for employee category (other than workman category) :
(i) The Employer /management can also settle the salary issue for the lock-down period by discussing one to one or by sending the email to the employee, mentioning the terms and conditions for payment of salary for the lock-down period.

(ii) The HR Professional must take consent in writing from each employee or take acceptance through email but these terms and conditions should be documented in writing

Suggestions for drafting a memorandum of settlement for workmen/employee categories:

- (i)** The payment of wages settlement can be done with workers /employees depending upon the financial capacity of the establishment.
- (ii)** If the employer wants to pay the agreed wages /salary amount, the same can also be paid into instalment.
- (iii)** If the employer had already paid any amount as advance during the lock- down period, that condition can also be documented in the settlement and adjustment of the advance amount thereof can be done through this settlement.
- (iv)** If any category of workman /employee who is not entitled to get wages /salary during the lock-down period because of some reasonable cause, then that reason must be reflected /documented in the memorandum of settlement.
- (v)** If somehow, the settlement is not possible because of the financial capacity of the establishment or on the dispute of % of wages, then such an employer can wait for the final judgment of the Supreme Court. However, I can advise that it is a good opportunity for the employer to settle the dispute of payment of wages for the lock-down period of above 50 days' subject to the financial capacity of the establishment.
- (vi)** The Memorandum of settlement must be registered as per State Industrial Dispute Rules.
- (vii)** If any organization/establishment wants to file his Memorandum of settlement in the Supreme Court, then establishment may contact on my email: skpfdelhi@gmail.com on or before 15.07.2020 so that his Memorandum of settlement can be submitted before the Supreme Court. This will remain in the benefits of the employers.

Certain points for clarification:

1. If the settlement does not arrive because of any reason, then on the failure of the conciliation proceedings before the Conciliation Officer or the Assistant Labour Commissioner or Dy. Labour Commissioner, then reference cannot be done by the appropriate government as per Section 10 of the Industrial Disputes Act,1947.
2. During Conciliation proceedings, the Conciliation Officer or the Assistant Labour Commissioner or the Dy. Labour Commissioner or any labour authorities cannot pressurize to the employer for settlement.
3. On making complaints by the workmen and its union before the Conciliation Officer or the Assistant Labour Commissioner or Dy. Labour Commissioner in respect of wages settlement, it is totally within the right of the employer to attend the conciliation proceedings or not.
4. Settlement can be done before the Conciliation Officer only for the workman category as defined under Section 2(s) of the Industrial Disputes Act,1947.

5. If somehow, either the employer is unable to give wages /salary during the lock-down period or the conciliation proceedings remain fails, then no coercive action can be taken by the labour authorities or any authorities prescribed under the provisions of the DM Act,2005 during the pendency of these writ petitions for adjudication before the Supreme Court.

6. For other than workman category i.e. Supervisor and above category, settlement with individual employee can be documented on papers or through email or through office order but such document (paper, email, office order, etc.) must be accepted by the individual employee in writing and also take his signature as a token of acceptance of the offer of the management.

7. If any claim application is filed by the employees /union under Section 15 of the Payment of Wages,1936 and / or on failure of the conciliation proceedings, reference is made under Section 10 of the Industrial Disputes Act,1947 or union files any writ petition under Section 71 of the D M Act,2005 before the respective High Court is not maintainable.

5 STEPS FOR IMPLEMENTATION OF THE SUPREME COURT'S ORDER DATED 12.06.2020

REFERENCE OF THE CASE: FICUS PAX PRIVATE LTD. & ORS. Vs. UNION OF INDIA & ORS., WRIT PETITION (C) DIARY NO. 10983 of 2020

GUIDELINES FOR IMPLEMENTATION OF THE ORDER DATED 12.06.2020

Before implementation of the SC order (supra), kindly read paragraph of the aforesaid order (supra) i.e. para No. 33, 34, 35, & 36 properly.

FOR WORKMAN CATEGORY:

The Settlement procedure for workman which falls within the definition of 2(s) of the Industrial Disputes Act, 1947

- (i) FIRST STEP: The concerned Employer must talk directly to their employees /workers/workers' union, depending upon the financial capacity of the establishment and negotiate the payment of wages for above 50 days of the lockdown period and settle this dispute of wages amicably.
- (ii) SECOND STEP: If the employer fails to settle the dispute, then Central/State/UTs' Labour authority i.e. Assistant Labour Commissioner, Conciliation Officer can also be involved for settlement of wages for above 50 days of the lockdown period and try to settle this dispute of wages amicably.
- (iii) THIRD STEP: If any settlement is arrived at the first step or second step during conciliation proceedings, in both stages of negotiation, the settlement (MOS) must be documented in writing as per prescribed Form -H (Memorandum of Settlement) (Under Rule 58 of the Industrial Dispute Rules, 1957).
- (iv) FOURTH STEP: The employer must ensure that the Memorandum of Settlement must be registered and entered in Register of settlement (Form-O, under Rule 75 of the Rules, 1957). Prescribed State Form of Memorandum of Settlement and its procedures can be used by the employer while settlement of wages for above 50 days of the lockdown period.
- (V) FIFTH STEP: If the settlement is not possible due to financial capabilities of the establishment or for any reasonable cause, then such establishment must wait for the final judgment of the Supreme Court. Till that time, no coercive action will be taken by the competent authority.
- (vi) SIXTH STEP (Optional): If the employer wants to submit his MOS before the Supreme Court, may submit for bona-fide reasons.

FOR NON-WORKMAN CATEGORY:

The Settlement procedure for Supervisor and above category (other than workman category):

- (i) The Employer /management can also settle the salary issue for the lock-down period by discussing one to one or by sending the email to the employee, mentioning the terms and conditions for payment of salary for the lock-down period.

(ii) The HR Professional must take consent in writing from each employee or take acceptance through email but these terms and conditions should be documented in writing

No registration is required for the non-workmen category

Suggestions for drafting a memorandum of settlement for workmen/employee categories:

- (i) The payment of wages' settlement can be done with workers /employees depending upon the financial capacity of the establishment.
- (ii) If the employer wants to pay the agreed wages /salary amount, the same can also be paid into instalment.
- (iii) If the employer had already paid any amount as advance during the lock- down period, that condition can also be documented in the settlement and adjustment of the advance amount thereof can be done through this settlement.
- (iv) If any category of workman /employee who is not entitled to get wages /salary during the lock-down period because of some reasonable cause, then that reason must be reflected /documented in the memorandum of settlement.
- (v) If somehow, the settlement is not possible because of the financial capacity of the establishment or on the dispute of % of wages, then such an employer can wait for the final judgment of the Supreme Court. However, I can advise that it is a good opportunity for the employer to settle the dispute of payment of wages for the lock-down period of above 50 days subject to the financial capacity of the establishment.
- (vi) The Memorandum of settlement must be registered as per State Industrial Dispute Rules.
- (vii) If any organization/establishment wants to file his Memorandum of settlement in the Supreme Court, then establishment may contact on my email: skpfdelhi@gmail.com on or before 15.07.2020 so that his Memorandum of settlement can be submitted before the Supreme Court. This will remain in the benefits of the employers.

Article by - S K Gupta , Advocate , Supreme Court

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) DIARY No. 10983 OF 2020**

FICUS PAX PRIVATE LTD. & ORS.

PETITIONERS

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

WITH

W.P. (C) No. 500/2020

W.P. (C) No. 498/2020

W.P. (C) No. 480/2020

W.P. (C) No. 484/2020

W.P. (C) No. 501/2020

W.P. (C) Diary No(s). 10981/2020

W.P. (C) Diary No(s). 10993/2020

W.P. (C) Diary No(s). 11018/2020

W.P. (C) Diary No(s). 11041/2020

W.P. (C) Diary No(s). 11048/2020

W.P. (C) Diary No(s). 11094/2020

W.P. (C) Diary No(s). 11111/2020

W.P. (C) Diary No(s). 11180/2020

W.P. (C) No(s). 494/2020

W.P. (C) Diary No(s). 11194/2020

W.P. (C) Diary No(s). 11223/2020

W.P. (C) Diary No(s). 11282/2020

W.P. (C) Diary No(s). 11309/2020

W.P. (C) Diary No(s) .11310/2020

O R D E R

ASHOK BHUSHAN, J.

1. All these writ petitions except one(i.e. W.P.(civil) Diary No.10981/2020) have been filed by different employers, employers' associations questioning the orders issued under Disaster Management Act, 2005 and other consequential orders issued by different States where directions have been issued that all the employers be it in the industries or in the shops, commercial establishment, shall make payment of wages of their workers, at their work place, on the due date, without any deduction, for the period their establishments are under closure during the lockdown.
2. In the writ petitions apart from challenging the D.O. dated 20.03.2020 issued by the Secretary, Government of India, Ministry of Labour and Employment, order dated 29.03.2020 issued by Government of India, Ministry of Home affairs, in exercise of powers under Section 10(2) (1) of Disaster Management Act, 2005,

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the vires of Section 10(2) (1) of Disaster Management Act, 2005, has also been questioned, in event, Section 10(2) (1) is interpreting as conferring power to Central Government to direct the private employers to make full payment of wages to the employees during the period of lockdown. In few of the writ petitions, directions have also been sought to subsidise 70 to 80 percent of the wages for the lockdown period by utilising funds collected by Employee State Insurance Corporation or the PM Cares Fund or through any other Government funds/schemes. To understand the nature of relief in different writ petitions, it shall be sufficient to refer reliefs claimed in few of the writ petitions since in other writ petitions reliefs claimed are more or less similar. In W.P.(Civil) D.No.10983/2020, Ficus Pax Limited Private Limited and others versus Union of India and others, the Union of India had filed a common counter affidavit and prayed that the counter affidavit be adopted in other writ petitions referred to in paragraph 4 of the counter affidavit. W.P.(Civil) Diary No.10983/2020 is being treated as

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leading writ petition. Various interventions applications have also been filed in the leading writ petition. The intervention applications filed in the leading writ petition are allowed.

3. The petitioner in W.P.(C) Diary No.10983 of 2020 is a company incorporated under the Companies Act and is engaged in the business of packaging with eleven factories spread across seven states. The petitioner is registered as Medium Industry (manufacturing) under Micro, Small, Medium Enterprises Development Act, 2006. The petitioner company before the lockdown employed 176 permanent workers and 939 contract workers across all its factories, warehouses and offices. The petitioner's case is that after the lockdown period although petitioner being in a supply chain of several essential items such as pharmaceuticals, food products has been permitted to operate but its business has been reduced to the level of near 5-6 percent. The petitioner challenges the order dated 29.03.2020 and the D.O. dated 20.03.2020 as being violative of

Article 14, Article 19(1) (g) of the Constitution of India.

4. The petitioner's case is that notifications are arbitrary, illegal, irrational and unreasonable and contrary to the provisions of law including Article 14, Article 19(1) (g). Notifications are unreasonable and arbitrary interference with the rights of petitioner Employers under Article 19(1) (g). Notifications are also contrary to the principles of Equal work Equal Pay and also No work No pay, for it does not differentiate between the workers who are working during the lockdown period in establishment such as the petitioner who have been permitted to operate during the lockdown period and the workers who had not worked at all.

5. The Home Secretary, Ministry of Home Affairs, Government of India, cannot invoke Section 10(2)(l) or any other provisions of Disaster Management Act, 2005, to impose financial obligations on the private sector such as payment of wages. The Central Government has the power to allocate funds for

emergency response, relief, rehabilitation, mitigation of disasters under Disaster Management Act. The ultimate onus for any compensation towards workers shall ultimately be of Government and the said liability cannot be shifted upon the employers in the Private establishment. The impugned notifications have the effect of completely negating the statutory provisions under the Industrial Disputes Act, 1947. The respondent should not compel the employers to pay the wages for lockdown period but instead should utilise the funds collected by Employees State Insurance Corporation (ESIC) to make periodical payment to workers. In the writ petition, following prayer has been made: -

"PRAYER"

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to: -

- i) Issue a writ, order or direction in the nature of a declaration or certiorari or any other appropriate writ, order or directions declaring D.O. No.M-11011/08/2020- Media dated 20.03.2020 issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 passed by Home Secretary, Ministry of Home

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Affairs are ultra vires Article 14, 19(1)(g) of the Constitution of India; AND/OR

- ii) Issue a writ, order or direction in the nature of mandamus or any other appropriate writ, order or directions, thereby directing the Respondents to subsidize the wages of workers to the tune of 70-80% for lockdown period by utilizing the funds collected by the Employees' State Insurance Corporation(ESIC) or the PM Cares Fund or through any other Government Fund/Scheme, AND/OR
- iii) Pass such other order or orders as may be deemed fit and proper and just and necessary in the interest of complete justice.

AND FOR WHICH ACT OF KINDNESS OF THIS HON'BLE COURT, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY."

6. The prayer made in W.P. (civil) No.484 of 2020, B4S solution Private ltd. and others versus Union of India & others, also need to be noted. The petitioner No.1 is a company incorporated under the Companies Act, 1956. The company has a number of subsidiary/associate companies. In addition to challenging the Government Order dated 29.03.2020, the petitioners have also challenged the consequential order dated 31.03.2020 issued by the Government of Maharashtra, Order dated 28.03.2020

issued by Government of Punjab, Order dated 29.03.2020 issued by State of Haryana and Order dated 05.04.2020 issued by Government of Uttar Pradesh. In one of the prayers, petitioners have prayed that petitioners be permitted to make payment of 50 percent of Basic Pay plus DA to its employees, pending the final disposal of the writ petition. Following are the prayers which have been made in the writ petition: -

"PRAYER"

In the facts and circumstances of the case, as mentioned above, it is, therefore, most respectfully prayed that this Hon'ble Court may graciously and empathically be pleased to:-

- a. Issue a Writ of Mandamus or any other appropriate writ(s), order(s) or direction(s) to quash clause iii of Government Order dated March 29, 2020 issued by the Ministry of Home Affairs, Government of India for being unconstitutional and in violation of Article 14 and 19 of the Constitution of India.
- b. Issue a Writ of Mandamus or any other appropriate writ(s), order(s) or direction(s) to quash Government Order dated 31.03.2020 issued by the Government of Maharashtra, Government Order/advisory dated 28.03.2020 issued by the Government of Punjab, Government Order dated 29.03.2020 issued by the State of

Haryana, Government order dated 05.04.2020 issued by the Government of Uttar Pradesh only to the limited extent of compelling the Petitioner and its subsidiaries to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown for being unconstitutional and in violation of Articles 14 and 19 of the Constitution of India.

- c. Permit the Petitioners to make payment of 50% of basic pay plus DA to its workers/employees (without payment of PF and ESIC contribution as the same is not wages), pending the final disposal of the present petition;
- d. Waive the Provident Fund and the ESI as there has been no work rendered by the workers during this period of lockdown and the contribution deposited by the Petitioners for the month of March and April, 2020 may refunded;
- e. Pass any order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present petition."

7. W.P.(civil) D.No.10981 of 2020, Aditya Giri versus Union of India & others, is a petition filed by an individual as a Public Interest Litigation to espouse the cause of employees and employers who have

been laid off and who are on the verge of Bankruptcy due to lockdown. In the prayers which have been made in the writ petition, directions have been sought to the respondent to frame policy to mitigate the problems of employees of the Private Sector as well as of the employers who are financially not in position to maintain the employees. In the writ petition, following are the prayers which have been made: -

"PRAYER"

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to: -

- a) Issue a Writ in the nature of Mandamus directing the Respondent No.1 to formulate a policy/measures to mitigate the problems of sudden laying off of the employees of private sector during the covid-19 lockdown period.
- b) Direct the respondents to intervene in a situation where the employer is financially not in a position to maintain the employees the respondents to support those employees who are not able to maintain their families and fulfil the basic needs.

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Pass any order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case to meet the ends of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL, AS IN THE DUTY BOUND EVER PRAY."

8. Prayers made in one more writ petition needs to be noted i.e. W.P.(Civil) D.No.11180 of 2020, Chamber of Small Industry Associations and others versus Union of India and others. Apart from challenging the order dated 29.03.2020 issued by the Home Secretary, Ministry of Home Affairs, and order dated 31.03.2020 issued by Government of Maharashtra, one of the prayers made in the writ petition as prayer (v) is to the following effect: -

"Issue a writ of Mandamus to pass appropriate direction to the respondent to strike a balance between the interest of MSMES and the interest of workers and employees in a manner that neither is unduly prejudiced "

9. As noted above, a common counter affidavit has been filed in writ petition (civil) D.No.10983 of 2020 with prayer to adopt the counter affidavit in other writ petitions. At the outset, in counter affidavit,

it has been pleaded that impugned notifications have been withdrawn by the Union of India; hence, the Union of India is not filing a para-wise reply to the writ petition but filing a limited affidavit to bring on record -

- i) legal authority, competence under which the said impugned direction was passed;
- ii) the facts and circumstances behind withdrawal of said orders, directions.

10. The Union of India has craved for leave to file a detailed para-wise reply at subsequent stage, if required.

11. In the counter affidavit, it has been stated that all orders passed under Section 10(2)(1) of the Disaster Management Act, 2005, have been withdrawn w.e.f. 18.05.2020 vide an order dated 17.05.2020. Counter affidavit states that D.O. dated 20.03.2020 issued by Secretary, Ministry of Labour and Employment, to the Chief Secretaries of all the States was an advisory and an order was issued on 29.03.2020 by National Executive Committee in

exercise of powers under Section 10(2)(1) of Disaster Management Act, 2005, directing all the employers to make payment of wages of their workers at their workplace without any deduction for the period their establishments are under closure during the lockdown.

12. Applications for interventions have been filed by employees, different employees' unions, namely All India Central Council of Trade Union, Trade Union Centre of India and few other employees' organisations in leading writ petition. The intervenors in their applications and affidavits have supported the order dated 29.03.2020. It has been stated that under Disaster Management Act, 2005, the Central Government has full authority to issue such directions.

13. It is further stated that right to wages is a pre-existing right which flows inter alia from the contract of employment as well as broader constitutional and statutory scheme flowing from Article 14 and 21 of the Constitution and encompassing Payment of wages Act, Minimum Wages Act,

The Contract labour (Regulation and abolition) Act and the Industrial Disputes Act, 1947. Nationwide lockdown and resultant closure of the workplace directly affected the sustenance and livelihood of members of the Employees Union. All measures taken by the Government of India are within its legislative competence. The prayer of the petitioner to utilise the ESIC fund has been refuted.

14. We have heard learned counsel for the petitioners. Learned Attorney General, Shri K.K. Venugopal, has appeared for the Union of India. We have also heard learned counsel appearing for the different intervenors.

15. Learned counsel for the petitioners contends that impugned notifications are arbitrary, unreasonable, and contrary to the provisions of law including Article 14, & Article 19(1)(g) of the Constitution of India. It is submitted that by way of impugned notifications an otherwise stable and solvent industrial establishment can be forced into Insolvency and loss of control of Business.

16. The Home Secretary, Ministry of Home Affairs, cannot invoke Section 10(2)(1) or any other Section of Disaster Management Act, 2005, to impose financial obligations on the Private Sector. The Central Government under Disaster Management Act, 2005, has the power to constitute National Disaster Response Fund. Similarly, the State Disaster Response Funds have been constituted, which can be utilised for payment of any compensation towards workers whose liability cannot be shifted upon the employers in Private establishments. The respondent should not compel the employers to pay the wages for the lockdown period but instead should utilise the funds collected by Employees State Insurance Corporation (ESIC) to make periodical payment to the workers.

17. Some of the counsel have also raised the submissions that the order dated 29.03.2020 was issued only with regard to migrant labour and the scope of order should not be extended to cover the entire workforce of the establishment. Further, the order dated 29.03.2020 was not a direction to the employer but it is an order to the State/UT

Government and other statutory bodies to take necessary action. The violation of Article 14 and Article 19(1)(g) and Article 300A has also been alleged by the impugned orders.

18. Learned counsel submits that if the impugned order is read in the manner contended by the respondent, it would mean that the employer should be compelled to not only continue to retain their migrant workers but also their regular workers and also pay full wages at a time when the business is effectively closed, and there is no income. Failure to comply for any reason, including the complete absence of funds, would render them liable to prosecution. Such order is ex facie arbitrary and unreasonable.

19. Learned counsel have further submitted that all industries and private establishments have different financial capacity, circumstances and all establishments cannot be grouped in one category for issuing a direction to pay wages to its employees during lockdown period and in possibility cannot be directed by any executive action. Some of the

petitioners have come forward with the prayer that they are ready to pay 50 percent wages during the said period. Some of the learned counsel have also submitted that they are also negotiating with their workers regarding payment of wages during the period of lockdown and some of the workers have re-joined their work.

20. Shri K.K. Venugopal, learned Attorney General, submits that the power to issue order dated 29.03.2020 can certainly be traced to inter alia Section 10(1) and nothing under Section 10(2) restrict the ambit or scope of Section 10(1). The order dated 29.03.2020 was fully in conformity with the provisions, schemes of Disaster Management Act, 2005.

21. The direction dated 29.03.2020 was issued in public interest by the Competent Authority. The directions are neither arbitrary nor capricious. The ground of financial hardship, incapacity which has been pleaded by the petitioner is legally untenable ground to challenge the direction issued by competent

authority in exercise of statutory power. The Union of India issued the above direction as a temporary measure to mitigate the financial hardship of the employees and workers especially contractual and casual workers during the lockdown period. The measure was proactively taken by the respondent to prevent perpetration of financial crisis within the lower strata of the society, labourers and employees. Directions issued by the Government of India were an economic and welfare measure as a benevolence in the object sought to be achieved.

22. Shri Venugopal further submits that by order dated 17.05.2020, the National Executive Committee has revoked its earlier impugned directions w.e.f. 18.05.2020, hence, the order remain in operation only for 54 days. The impugned notifications have been outlifit their lives, the adjudication of the same would only entail an academic exercise.

23. Learned counsel appearing for the intervenors have supported orders issued by the Government of India dated 29.03.2020 and other orders and consequential

directions. It is submitted that orders dated 20.03.2020 and 29.03.2020 were issued in larger public interest to prevent the possible spread of the disease.

24. It is submitted that when the authority had declared a lockdown, it is also liable to provide for the consequences of the lockdown. In event, the order dated 29.03.2020 struck down, the very lockdown order will be arbitrary and it is also liable to be struck down. The Government of India has offered Economic Stimulus package to all Small and Medium Industries to enable them to cope with the current financial situation so as to ensure that they can cope with the burden of payment of wages and continue to be viable.

25. The Disaster Management Act, 2005, is a self-contained code and no reliance can be placed on any other law. Further by virtue of Section 72 of Disaster Management Act, 2005, all other enactments are overridden. It is further submitted that order impugned seeks to reinforce the pre-existing right

of the worker to get their wages without any reduction. The Payment of Wages Act of 1936 has also been referred to in support of their submission.

26. We have considered the submissions of the learned counsel for the parties and perused the record.

27. It is true that the orders dated 29.03.2020 which was passed in exercise of power under Section 10(2)(l) of the Disaster Management Act, 2005, stood withdrawn by subsequent order dated 17.05.2020 w.e.f. 18.05.2020. The consequence of the subsequent order dated 17.05.2020 is that the obligation cast on the employer to make payment of wages of their workers at their workplace, without any reduction, for the period their establishments are under closure during the lockdown is no longer in operation. However, the issue regarding obligation of the employer as per order dated 29.03.2020 when it remained in force is still to be answered especially when the petitioners challenges the order as ultra vires to Disaster Management Act, 2005, as well as violative of Article 14, 19(1)(g) and Article 21.

The petitioners have also prayed that Section 10(2)(1) of Disaster Management Act, 2005, be declared ultra vires to Article 14 and Article 19(1)(g), in event, it is interpreted in conferring authority to the Central Government to direct the employers of the Private establishments to pay wages of their workers during the lockdown period.

28. In the common affidavit filed by Union of India, although authority to issue impugned order dated 29.03.2020 has been sought to be traced under Section 10(1) and Section 10(2)(1) of Disaster Management Act, 2005, but in counter affidavit, there are no reply to the other grounds raised in the writ petitions to attack the order dated 29.03.2020.

29. We are of the view that all issues raised by the petitioners and the respondents have to be decided together and the piecemeal consideration is not warranted. We thus are of the view that Union of India may file a detail counter affidavit for which the leave they have already prayed for in the common counter affidavit, within a period of four weeks.

Rejoinder to which to be filed within a period of one week and all the matter to be listed again in last week of July,2020.

30. In some of the writ petitions, this Court had already passed an order for not taking any coercive action against the employer. In our order dated 04.06.2020, we have directed: -

"In the meantime, no coercive action, against the employers shall be taken pursuant to notification dated 29.03.2020."

The above order shall continue in all the matters.

31. We have already noticed that in one of the writ petitions, b4S Solutions Private Ltd., the petitioners have prayed for permitting the petitioner to make payment of 50 percent of Basic Pay plus DA to its workers/employees without payment of PF and ESICC pending final disposal of the writ petition.

32. One of the writ petitions i.e. Writ petition filed by the Chamber of Small Industry Associations, one

of the prayers sought is "direction to the respondent to strike a balance between the interest of MSMEs and the interest of the employees."

33. It cannot be disputed that the lockdown measures enforced by the Government of India under the Disaster Management Act, 2005, had equally adverse effect on the employers as well as on employees. Various Industries, establishments were not allowed to function during the said period and those allowed to function also could not function to their capacity. There can be no denial that lockdown measures which were enforced by the Government of India had serious consequences both on employers and employees. The period of Unlock having begun from 01.06.2020 and even prior to that some of the industries were permitted to function by the Government of India by different guidelines, most of the industries and establishments have re-opened or are re-opening, require the full workforce.

34. As noted above, all industries/establishments are of different nature and of different capacity,

including financial capacity. Some of the industries and establishments may bear the financial burden of payment of wages or substantial wages during the lockdown period to its workers and employees. Some of them may not be able to bear the entire burden. A balance has to be struck between these two competitive claims. The workers and employees although were ready to work but due to closure of industries could not work and suffered. For smooth running of industries with the participation of the workforce, it is essential that a via media be found out. The obligatory orders having been issued on 29.03.2020 which has been withdrawn w.e.f. 18.05.2020, in between there has been only 50 days during which period, the statutory obligation was imposed. Thus, the wages of workers and employees which were required to be paid as per the order dated 29.03.2020 and other consequential notification was during these 50 days.

35. In most of the industries, factories and establishments, the workers are represented by Trade

Unions or other Employees associations. The State is also under obligation to ensure that there is smooth running of industrial establishment and the disputes between the employers and employees may be conciliated and sorted out.

36. It cannot be disputed that both Industry and Labourers need each other. No Industry or establishment can survive without employees/labourers and vice versa. We are thus of the opinion that efforts should be made to sort out the differences and disputes between the workers and the employers regarding payment of wages of above 50 days and if any settlement or negotiation can be entered into between them without regard to the order dated 29.03.2020, the said steps may restore congenial work atmosphere.

37. We thus direct following interim measures which can be availed by all the private establishment, industries, factories and workers Trade Unions/ Employees Associations etc. which may be facilitated by the State Authorities: -

- i) The private establishment, industries, employers who are willing to enter into negotiation and settlement with the workers/employees regarding payment of wages for 50 days or for any other period as applicable in any particular State during which their industrial establishment was closed down due to lockdown, may initiate a process of negotiation with their employees organization and enter into a settlement with them and if they are unable to settle by themselves submit a request to concerned labour authorities who are entrusted with the obligation under the different statute to conciliate the dispute between the parties who on receiving such request, may call the concerned Employees Trade Union/workers Association/ workers to appear on a date for negotiation, conciliation and settlement. In event a settlement is arrived at, that may be acted upon by the employers and workers irrespective of the order dated 29.03.2020 issued by the Government of India, Ministry of Home Affairs.

- ii) Those employers' establishments, industries, factories which were working during the lockdown period although not to their capacity can also take steps as indicated in direction No.(i).
- iii) The private establishments, industries, factories shall permit the workers/employees to work in their establishment who are willing to work which may be without prejudice to rights of the workers/employees regarding unpaid wages of above 50 days. The private establishments, factories who proceed to take steps as per directions (i) and (ii) shall publicise and communicate about their such steps to workers and employees for their response/participation. The settlement, if any, as indicated above shall be without prejudice to the rights of employers and employees which is pending adjudication in these writ petitions.
- iv) The Central Government, all the States/UTs through their Ministry of Labour shall circulate

and publicise this order for the benefit of all private establishment, employers, factories and workers/employees.

38. In event, any settlement is entered between the employers and employees in the establishments which are before us, an affidavit giving details shall be filed by next date of hearing.

39. List in last week of July.

.....J.
(ASHOK BHUSHAN)

.....J.
(SANJAY KISHAN KAUL)

.....J.
(M.R.SHAH)

NEW DELHI,
JUNE 12,2020

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LOCKDOWN COMPENSATION

SC asks firms, staff to negotiate wages

Court asks Centre, states to facilitate process of settlement between the two

By Abhishek Sharan
@timesgroup.com

TWEETS @abhiMirror

The Supreme Court on Friday asked private employers and workers' bodies to negotiate a settlement on deciding the quantum of wages to be paid during the Covid-19 lockdown.

In an interim order, the court observed that industries and workers need one another for survival, and asked the central and state governments to facilitate the process of settlement and conciliation between the two.

The court passed the order after hearing petitions by several collectives of employers, including Mumbai-based manufacturers and traders, who approached it seeking the quashing of a March 29 order by the Union Ministry of Home Affairs (MHA), which was followed by matching orders by several state governments, including Maharashtra. The MHA's March 29 order directed private employers to pay full salaries/wages to their workforce during the lockdown.

The order said: "All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers at their workplaces on the due date without any deduction, for the period their establishments are under closure during lockdown period."

While the Centre later with-



SC has passed an interim order on government orders asking employers to pay salaries to workers during lockdown

drew the March 29 order on May 18, the petitioners apprehend that they face prosecution for non-payment of full salaries during the period when the MHA directive was operational under provisions of the Disaster Management Act, 2005. Pending the SC's final order, the central/state governments cannot take any coercive action against the employers who have approached the court against the order.

According to the SC's order, a date for settlement and conciliation may be fixed by the MHA and the directions for participation of employees for conducting the settlement process should be given adequate publicity for the benefit of employers as well as the workers. The court also asked

state governments to initiate and facilitate the settlement process and submit reports before the concerned labour commissioners. The court noted in the order that one of the petitioners had sought permission to pay only 50 per cent of the basic pay along with dearness allowance.

"In case mutual settlement is not possible, the parties can seek help of respective state governments. Workers who are willing to work should be allowed to work notwithstanding the wage-related disputes as per the court," the petitioners' lawyer, Kishan Kumar, said. Another petitioners' lawyer, Abhay Nevagi, said: "I am happy with the interim order as it's a win-win situation for employers as well as the workers."

North Block, New Delhi-110001
Dated 29th March, 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order of even number dated 24.03.2020, followed by Addendum Orders of even number dated 25.03.2020 and 27.03.2020 to the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions to implement lockdown measures annexed to the said Orders for the containment of spread of COVID-19 in the country;

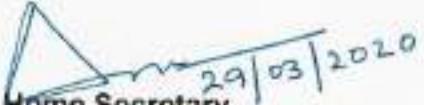
Whereas, movement of a large number of migrants have taken place in some parts of the country so as to reach their home towns. This is a violation of the lockdown measures on maintaining social distance;

Whereas, to deal with the situation and for effective implementation of the lockdown measures, and to mitigate the economic hardship of the migrant workers, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act 2005, the undersigned, in the capacity as Chairperson, National Executive Committee hereby directs the State/Union Territory Governments and State/ Union Territory Authorities to take necessary action and to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police, to take following additional measures:

- i. State/Union Territory Governments shall ensure adequate arrangements of temporary shelters, and provision of food etc. for the poor and needy people, including migrant labourers, stranded due to lockdown measures in their respective areas;
- ii. The migrant people, who have moved out to reach their home states/ home towns, must be kept in the nearest shelter by the respective State/Union Territory Government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- iii. All the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;

- iv. Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.
- v. If any landlord is forcing labourers and students to vacate their premises, they will be liable for action under the Act.

It is further directed that in case of violation of any of the above measures, the respective State/UT Government, shall take necessary action under the Act. The District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police will be personally liable for implementation of the above directions and lockdown measures issued under the above mentioned Orders.



29/03/2020
Home Secretary

To

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

Govt withdraws order on compulsory wage payment by firms during lockdown

Trade unions slam decision, employers welcome it, saying it was absolutely necessary especially in absence of grants from govt to industry for wage payment

Somesh Jha | New Delhi
Last Updated at May 18, 2020 15:51 IST

In what may come as a major relief to businesses, the Union government has withdrawn its order directing employers to pay wages to workers, even with units remaining shut during lockdown.

On Sunday, the Ministry of Home Affairs (MHA) had issued a fresh set of guidelines which will be applicable from Monday. It has repealed the order dated March 29, 2020 which had talked about compulsory wage payment to workers during lockdown.

“Save as otherwise provided in the guidelines annexed to this order, all order issued by the NEC [national executive committee] under Section 10(2)(I) of the Disaster Management (DM) Act, 2005, shall cease to have effect from 18.05.2020.”

The annexure attached to the order mentions six sets of standard operating procedures – mostly related to movement of persons – that will continue to remain in force. But it does not include the March 29 order.

The MHA had on March 29 issued an order under Section 10(2)(I) of the DM Act asking all employers to pay wages to workers on due date without any deduction even if the establishment was closed during the lockdown period.

“All employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their workplaces, on the due date, without any deduction, for the period their establishments are under closure during the lockdown,” the March 29 order had said.

Over the past few days, the industry had petitioned the government to withdraw its order on compulsory wage payment as they were themselves facing cash crunch issues. Some industrial bodies had also asked the government to foot the wage bills of companies through payment of grants but it was not agreed to due to fiscal constraints.

The constitutional validity of the government’s order on wages was challenged by several companies who had moved the Supreme Court. On Friday, the apex court asked the government not to take any coercive action against private companies who were unable to pay wages to workers. The SC was to hear the petition this week. The court, terming it as an “omnibus order”, had asked the government to re-examine it.

The trade union leaders have criticised the government’s step to withdraw the order. “The order for lockdown 4.0, by a slight of hand, allows employers to get away without paying wages during the lockdown. So no payment of wages and no wage subsidy just where do workers go? Who is responsible for a worker in a containment or red zone or for that matter even in an orange or green zone where full public transport has not been resumed?” Gautam Mody, General Secretary, New Trade Union Initiative said.

But employers have welcome the step, saying it was absolutely necessary especially in absence of grants from the government to the industry towards wage payment. “We have to work on the principles of ‘no work no pay’. Our opinion is that organisations should be considerate towards

employees and in a difficult situation like this, minimum sustenance pay should be given but where will they get the income to pay? In many countries, the government have shared the wage bill but it didn't happen in India," M.S. Unnikrishnan, chairman of Confederation of Indian Industry's committee for industrial relations said.

In its petition to the SC, Nagareeka Exports Limited had said that the payment of full salary to workers during the lockdown period when production was zero or "very minimal" would lead to closure of many micro, small and medium scale enterprises and "permanent unemployment of many people, directly affecting the economy."

Before the MHA's March 29 directive, the labour and employment ministry had issued multiple advisories to the industry to not lay-off or retrench workers during the lockdown and asking them to deter from deducting wages. Notably, the MHA order, which was issued under the DM Act, had said the state governments have to issue their separate orders to implement the diktat. Any contravention of the order was punishable under the DM Act.

MHA Order dated 29th March 2020 cease to have effect from 18th May, 2020

- Ministry of Home Affairs Order Dated : 29th March, 2020 Point No. III have been cancelled through order dated : 17th May, 2020 w.e.f 18th May, 2020.
- MHA Order dated : 17th May, 2020 having reference No. 40-3/2020-DM-I(A) has been issued.
- 3rd Paragraph of the order : *Whereas, save as otherwise provided in the guidelines annexed to this Order, all Orders issued by NEC under Section 10 (2) (I) of the Disaster Management Act, 2005, shall cease to have effect from 18.05.2020.*

Onus of paying full wage to staff on the employer: Govt

HT Correspondent

• letters@hindustantimes.com

NEW DELHI: The Centre is committed to restarting industries and reviving the economy, the central government's top law officer, attorney general (AG) KK Venugopal, told the Supreme Court on Thursday during the hearing of a case challenging the home ministry's March 29 directive to employers to pay workers in full for the lockdown period.

The directive had been intended to alleviate human suffering and will not come in the way of employers and employees negotiating the payment terms, the AG said.

"Government of India is interested in economy restarting, industries restarting. It is for employers to negotiate with employees as to how much wage could be paid for lockdown period, we will not interfere," Venugopal said.

Industries, traders and their associations, which are the petitioners before the apex court in the case, countered by arguing that workers will not come to the negotiating table as long as the government notification mandating payment of full wages is in operation.

"With the March 29 notification in place, no negotiation will be possible since workers will not come to negotiating table. We are

➤ Government of India is interested in economy restarting, industries restarting. It is for employers to negotiate with employees as to how much wage could be paid for lockdown period, we will not interfere.

KK VENUGOPAL, Attorney general

as much citizens as the workers are," senior counsel KV Viswanathan, who was appearing for the company B4S Solution Ltd, told the bench headed by justice Ashok Bhushan.

The bench also seemed to share the concerns of the employers, stating that mandating payment of full wages during the lockdown could have an adverse impact on the industries.

"The notification directs payment of 100% of salaries. It could have been around 50 to 75%. Do you have the power to ask them to pay 100%," justice Bhushan asked. The bench, which also comprised justices Sanjay Kishan Kaul and MR Shah, reserved its verdict, which will be delivered on June 12. The court granted interim protection to employers directing that no coercive action be taken against them until the court delivers verdict.

The contentious notification issued by the ministry of home affairs on March 29 said, "All the employers, be it in the industry or in the shops and commercial

establishment, shall make payment of wages of their workers, at their work places on due date, without any deduction for the period their establishments are under closure during the lockdown".

Companies and associations approached the court, stating that the obligation to pay employees arises only when work is done. "An employer and employee have reciprocal promises whereby the right of an employee to demand salary is reciprocal to performance of work by such employee. The employer has a right to not pay if no work is done," the plea by Hand Tool Manufacturers Association, an association of around 52 firms based out of Punjab, said.

Senior counsel Indira Jaising, who appeared for Angmenhanti Kashtakari Sangarsh Samiti, an umbrella coalition of informal workers, said, "If an authority prevents me from going to work, then it should ensure that I am protected. We have honoured the lockdown."

North Block, New Delhi-110001
Dated 17th May, 2020

ORDER

Whereas, the National Disaster Management Authority (NDMA) in exercise of their powers under section 6(2)(i) of the Disaster Management Act, 2005, vide their Orders dated 24.03.2020, 14.04.2020 and 01.05.2020 had directed the National Executive Committee (NEC) to take lockdown measures so as to contain the spread of COVID-19 in the country;

Whereas, Chairperson NEC, in exercise of the powers conferred under Section 10(2)(l) of the Disaster Management Act, 2005, has issued Orders of even number on lockdown measures dated 24.03.2020, 29.03.2020, 14.04.2020, 15.04.2020 and 01.05.2020;

Whereas, save as otherwise provided in the guidelines annexed to this Order, all Orders issued by NEC under Section 10(2)(l) of the Disaster Management Act, 2005, shall cease to have effect from 18.05.2020;

Whereas, in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, NDMA has issued an Order number 1-29/2020 - PP dated 17.05.2020 directing the Chairperson, NEC that lockdown measures to contain the spread of COVID-19 be continued to be implemented in all parts of the Country, for a further period upto 31.05.2020;

Now therefore, under directions of the aforesaid Order of NDMA dated 17.05.2020, and in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues directions for strict implementation, to all the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities that lockdown measures to contain the spread of COVID-19 will continue for a period of upto 31.05.2020, as per the guidelines annexed to this Order, which will come into effect from 18.05.2020.



17/05/2020
Union Home Secretary

To:

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL)..... Diary No(s).10983/2020

FICUS PAX PRIVATE LIMITED

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.48452/2020 - INTERVENTION APPLICATION

IA No.48914/2020 - INTERVENTION/IMPLEADMENT

IA No.48669/2020 - INTERVENTION/IMPLEADMENT)

WITH

W.P.(C) No. 500/2020 (X)

W.P.(C) No.498/2020

**(FOR ADMISSION and IA No.49894/2020-EXEMPTION FROM FILING O.T. and
IA No.49893/2020-APPROPRIATE ORDERS/DIRECTIONS)**

W.P.(C) No.480/2020

**FOR ADMISSION and IA No.49028/2020-STAY APPLICATION and IA
No.49029/2020-APPLICATION FOR EXEMPTION FROM FILING ORIGINAL
VAKALATNAMA/OTHER DOCUMENT)**

W.P.(C) No.484/2020 (X)

**(FOR ADMISSION and IA No.49078/2020-STAY APPLICATION and IA
No.49079/2020-EXEMPTION FROM FILING O.T.**

W.P.(C) No.501/2020

**(FOR ADMISSION and IA No.50014/2020-EX-PARTE STAY and IA
No.50015/2020-APPLICATION FOR EXEMPTION FROM FILING ORIGINAL
VAKALATNAMA/OTHER DOCUMENT)**

W.P.(C)..... Diary No(s).10981/2020

W.P.(C)..... Diary No(s).10993/2020

(IA No. 48918/2020 - EARLY HEARING APPLICATION

IA No. 48444/2020 - EARLY HEARING APPLICATION

IA No. 48916/2020 - INTERVENTION APPLICATION

IA No. 48443/2020 - INTERVENTION/IMPLEADMENT

W.P.(C)..... Diary No(s).11018/2020

W.P.(C)..... Diary No(s).11041/2020

W.P.(C)..... Diary No(s).11048/2020

(IA No. 48494/2020 - CLARIFICATION/DIRECTION)

W.P.(C)..... Diary No(s).11094/2020

Signatory..... Diary No(s).11111/2020

Date..... Diary No(s).11180/2020

W.P.(C) No(s).494/2020

W.P.(C)..... Diary No(s).11194/2020

W.P.(C)..... Diary No(s).11223/2020

W.P.(C)..... Diary No(s).11282/2020
(IA No.48639/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)
W.P.(C)..... Diary No(s).11309/2020
W.P.(C)..... Diary No(s).11310/2020

Date : 04-06-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.R. SHAH

Counsel for the parties:

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Mr. Vivek Sharma, Adv.

for petitioner in Mr. J.P. Cama, Sr. Adv.
Diary No.10993/2020 Mr. Abhya Nevagi, Adv.
W.P.(C) No.494/2020 Mr. Krishan Kumar, Adv.
Diary No.11018/2020 Mr. Mohit Gulati, Adv.
Mr. S.C. Ralhan, Adv.
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Ms. Liz Mahtew, AOR

in Diary No.11041/2020 Mr. Anish Gupta, Adv.
Mr. Adarsh Tripathi, Adv.
Mr. Gaurav Srivastava, Adv.

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W.P.(C) 500/2020 Ms. Harshita Kumar, Adv.

for petitioner in Mr. Jeetender Gupta, AOR
WP(C) No.498/2020
Diary No.11094/2020
Diary No.11048/2020
Diary No. 10983/2020

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Diary No.11111/2020 Ms. Nishtha Kumar, AOR
Ms. Deepti Arya, Adv.
Mr. Akshay Dev, Adv.
Mr. Rishabh Rana, Adv.

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D.No.11310/2020 Mr. Man Mohan Sharma, Adv.
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Mr. Ishaan Chakrabarti, Adv.

in W.P No.10981/2020 Mr. Aditya Giri, Petitioner-in-person

for petitioner in
Diary No.11194/2020 Mr. Parthiv K. Goswami, Adv.
Ms. Diksha Rai, AOR

in W.P(C) No.480/2020 Mr. Vipin Singhania, Adv.
Mr. Nikhil Jain, AOR

Mr. Sunil Fernandes, AOR

Mr. Rajiv M. Roy, Adv.

Mr. Gautam Singh, Adv.

for respondent
UOI Mr. K.K. Venugopal, AG
Mr. K.M. Nataraj, ASG
Mr. Rajat Nair, Adv.
Mr. Ankur Talwar, Adv.
Mr. Kanu Agrawal, Adv.
Mr. B.V. Balaram Das, AOR

for R.6 in
D.No.11111/2020 & Mr. Sanjay Singhvi, Sr. Adv.
Intervener in Ms. Aparna Bhat, AOR
I.A. No.49102 of 2020) Ms. Karishma Maria, Adv.

for R.5 in
Diary no.10983/2020. Mr. Manish Kumar Saran, AOR
Diary no.11048/2020
Diary no.11111/2020

for R.2 & 3 in
D. No.11282/2020 Mr. G. Prakash, Adv.

for respondent in
D.No.10981/2020 Mr. Nalin Kohli, AAG
Mr. Shuvodeep Roy, AOR

for State of Maharashtra
Diary No.11180/2020 Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR

for respondent in
Diary No.10981/2020 Mr. Chirag M. Shroff, AOR

for intervenor in Mr. C.U. Singh, Sr. Adv.
Diary Nos.10983/2020 & Mr. Pukhrambam Ramesh Kumar, Adv.
10993/2020 Mr. Jawahar Raja, Adv.
Mr. Archit Krishna, Adv.
Ms. Anupama NG, Adv.
Mr. Karun Sharma, Adv.

for intervenor Ms. Indira Jaising, Sr. Adv.
D. No.10983/2020 Mr. Anand Grover, Sr. Adv.
Ms. Gayatri Singh, Sr. Adv.
Mr. Sunil Fernandes, AOR.
Ms. Nupur Kumar, Adv.
Mr. Zeeshan Diwan, Adv.
Mr. Prastut Dalvi, Adv.

for intervenor in Mr. Rakesh Shukla, Adv.
D.No.10983/2020 Ms. Sumita Hazarika, AOR

Mr. Amit Pai, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

Heard counsel for the parties.

Counter affidavit has been filed in the main matter, which has
been requested to be considered in all connected matters.

Hearing completed.

List for orders on 12.06.2020.

In the meantime, no coercive action, against the employers,
shall be taken pursuant to notification dated 29.03.2020.

(ARJUN BISHT)
COURT MASTER (SH)

(RENU KAPOOR)
BRANCH OFFICER

Only employees on duty before lockdown entitled to full salaries: HC

NARSI BENWAL
Mumbai

While reiterating that 'no work no wages' principle cannot be used by employers to deny salaries for the lockdown period to their workers, the Bombay High Court on Monday clarified that only those employees who were 'on duty' on the day when the lockdown was declared, would be entitled to their full wages.

A bench of Justices Ujjal Bhuyan and Ritzor Chagda said that only employees who attended work, at least till the day before the lockdown was declared, can get full salaries for the lockdown period.

The judges clarified that employees who were not working prior to the lockdown, cannot seek relief from the orders issued by the Union and Maharashtra governments, directing employees of pri-

vate sector, to pay full wages to all the workers, even if they do not attend work during the lockdown period.

Notably, the governments had instructed all private employers to consider their employees on duty, even if they were unable to attend work or confined to home during the lockdown.

The judges were dealing with a plea filed by the workers union of M/s. Premier Limited Company seeking full wages for the lockdown period. The union claimed to have not received salaries since March 2020, the month when the government declared a nation wide lockdown.

Opposing the plea, the company apprised the bench of the fact that it was included in a legal dispute before an industrial court way back from May 2019. It further told the judges that the workers have not af-

shall pay full salary to their employees during the period when their establishments were closed because of the lockdown. Such payment shall be without any deduction and for this period, the workers shall be deemed to be on duty."

The bench further questioned if these orders be invoked in a situation where the management and workmen are engaged in an industrial dispute relating to non-payment of salaries prior to the commencement of salaries prior to the lockdown.

"In our view, taking these aspects into consideration, the claim of the workmen to wages will not be covered by the union and state government's order. These measures would cover a situation where an employee was in employment as on the day the lockdown was declared and had received salary for the month before the lockdown," the



Adv. Ramesh L. Soni

M.B.A. (HR), B.Sc. (Hons.), LL.B., D.L.L. & L.W., D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

Management Consultant and Advisor on Labour Laws

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Website: www.rlsconsulting.in

judges ruled.
"To be deemed to be on duty one should be on duty on the date when the lockdown was declared. To be entitled to or for continuity of salary during the lockdown, an employee should receive the same till the month which is previous to close on account of the lockdown," the bench explained.

The judges, however, maintained that in the interest of industrial peace "a balance has to be struck between the competing claims."

"Survival of the industry is equally important not only for the management but also for the workmen. Therefore, in the interest of justice it would be just and proper to direct the management to pay 50 per cent of the full monthly wages to the workmen with effect from March 2020 till the dispute before industrial court is disposed," the bench ordered.

Non – Refundable PF Advance to EPF Members in the due to “Outbreak of pandemic (COVID-19)”

FREQUENTLY ASKED QUESTIONS ON EPF ADVANCE TO FIGHT COVID-19 PANDEMIC

Q1: Who is eligible for the advance from EPF to fight COVID-19 Pandemic?

Ans. Any member of EPF Scheme, 1952 with UAN (Universal account number) employed in any establishment or factory covered under EPF & MP Act, 1952.

Q2: Under which provision of the EPF Scheme, 1952, a member is entitled for benefit?

Ans: That a new sub-para (3) has been inserted in Paragraph 68L of the EPF Scheme, 1952 through GSR No.225(E) published in the Gazette of India (Extraordinary), Part II- Section 3- sub section (1) on 28.03.2020 to provide for benefit.

Q3: What is the new beneficial provision?

Ans: It is to provide for non-refundable advance from their EPF account to EPF members, employed in factory or establishment located in an area, which is declared to be affected by outbreak of epidemic or pandemic by the Appropriate Govt.

Q4: How can I know whether establishment/factory in which I am employed is in an area declared to be affected by COVID-19 pandemic?

Ans: Since COVID-19 has been declared a Pandemic by the Appropriate Government for the entire country and therefore the employees working in establishments and factories across entire India, who are members of the EPF Scheme, 1952, are eligible.

Q5: Is EPF member required to produce any certificate or document for availing this advance?

Ans: No certificate or documents are to be submitted by member or his/her employer for availing the benefit.

Q6: How much money can I get from my EPF account under this new provision to fight COVID-19 and do I have to refund it?

Ans: You can get non-refundable withdrawal to the extent of the basic wages and dearness allowances for three months or up to 75% of the amount standing to your credit in the EPF account, whichever is less. The amount standing to credit in EPF includes employee's share, employer's share and interest thereupon.

Since withdrawal is non-refundable, there is no requirement to refund the amount.

Q7: Please illustrate the calculation of benefits

Ans: If the balance in member's EPF account as on date is Rs.50,000/- and monthly basic wage and dearness allowance is Rs.15,000/- 75% of balance of Rs.50000/- is Rs.37,500/- & amount of three months wage is Rs.45000/-. So member is eligible to get Rs.37,500/- the least of two amounts.

Q8: How can I claim this amount? Do I need to submit claim form to EPFO Office?

Ans: Like claim for all other types of advances, the claim for this advance also can be filed Online if your UAN is validated with Aadhaar and KYC of Bank account and Mobile number is seeded in UAN.

Q9: Where and how can I file Online Claim?

Ans: On the home page of website- www.epfindia.gov.in, under the TAB "COVID-19" on top right hand corner, instructions for filing online advance claim is hosted.

The process is also noted below:

- a. Login to Member Interface of Unified Portal (<https://unifiedportalmem.epfindia.gov.in/memberinterface>)
- b. Go to Online Services>>Claim (Form-31,19,10C & 10D)
- c. Enter last 4 digits of your Bank Account and verify
- d. Click on "Proceed for Online Claim"
- e. Select PF Advance (Form 31) from the drop down
- f. Select purpose as "Outbreak of pandemic (COVID-19)" from the drop down
- g. Enter amount required and Upload scanned copy of cheque and enter your address
- h. Click on "Get Aadhaar OTP"
- i. Enter the OTP received on Aadhaar linked mobile.
- j. Claim is submitted

Q10: Can I file claim through my mobile phone?

Ans: Yes, from your mobile phone you can either

- i) login to (<https://unifiedportal-mem.epfindia.gov.in/memberinterface>) and follow steps a. to j as in Ans to Q9 to file claim OR
- ii) Through UMANG (Unified Mobile Application for New-age Governance) Mobile APP Home> EPFO> Employee Centric Services> Raise Claim> Login with your UAN and OTP received on your mobile number registered with UAN to file claim

Q11: Can an employee working in an exempted establishment get the advance to fight COVID-19 pandemic from PF Trust?

Ans: The "Terms and conditions of exemption" in Para 27AA of EPF Scheme, 1952, provides that any amendment to EPF Scheme, 1952, which is more beneficial to the employees becomes applicable to exempted establishments pending formal amendment of Trust Rules.

So, employee of an exempted establishment can withdraw from his PF account maintained with the PF Trust of the establishment by making application to the PF Trust

Q12: I availed advance recently for illness. Can I avail advance to fight COVID-19 pandemic?

Ans: Yes. This advance can be availed irrespective of advances availed earlier.

Q.13: What is income tax rate for advance to fight COVID-19 pandemic?

Ans: Income Tax is not applicable on any advance availed under EPF Scheme.

Q.14: I have already applied advance for a different purpose and requested a lower amount. I do not want to avail this advance now and would like to prefer claim for advance to fight COVID-19 pandemic. However, it is not permitted by the portal. What should I do?

Ans: To enable submission of fresh claim for availing this advance, the earlier claim under submission needs rejection. Please send request on email of your jurisdictional Regional Office for rejection of earlier form 31 submitted.

Q.15: How long will it take for credit of amount in my bank account after submission of claim for advance to fight COVID-19 pandemic?

Ans: Claims for advance to fight COVID-19 pandemic are being processed on priority considering exigency of the situation.

Q16: KYC is not complete for my EPF account and hence I am unable to file this claim.

Ans: The claim for this advance can be filed Online if your UAN is validated with Aadhaar and KYC of Bank account and Mobile number is seeded in UAN. You are requested to complete your KYC by submitting same on Member Portal. If your basic details that is name, date of birth and gender against UAN are same as that in Aadhar, you can link your Aadhar through eKYC Portal. In case of mis-match in KYC details and details in EPF account, please submit online request for demographic detail correction through your employer. The bank account details has to be digitally approved by the employer. For submitting your claim online our aadhar linked mobile will get OTP. So your aadhar should be linked with a mobile

Q17: Is it necessary to apply for 75% of PF balance under this provision?

Ans: Withdrawal to the extent of the basic wages and dearness allowances for three months or up to 75% of the amount standing to your credit in the EPF account, whichever is less, is maximum permissible limit. You can apply for lesser amount also.

Q18: I have applied for availing advance under 'Natural Calamity' purpose. Will this be treated as advance to fight COVID-19 pandemic?

Ans: No. You have to apply specifically for advance to fight COVID-19 pandemic.

Q19: Will EPFO process advance to fight COVID-19 pandemic despite lockdown?

Ans: Yes. Advance to fight COVID-19 pandemic are being settled on priority to mitigate hardship faced by members.

Q.20: I have not left my job. Can I withdraw PF to fight COVID-19?

Ans: Yes. You can avail this advance while still in service.

Instructions for filing online claims for the purpose- "Outbreak of Pandemic (COVID-19)"



Prerequisite

1. UAN should be activated
2. Verified Aadhaar should be linked with UAN
3. Bank Account with IFSC code should be seeded with UAN
4. Mobile number should be seeded with UAN

Eligible Amount

Upto 75% of PF balance (Employee share and Employer Share) or 3 months of basic salary and dearness allowance or the claimed amount by the member, whichever is the least.

How to file online advance claim

1. Login to Member Interface of Unified Portal (<https://unifiedportal.mem.epfindia.gov.in/memberinterface>)
2. Go to Online Services>>Claim (Form-31, 19, 10C & 10D)
3. Enter last 4 digits of your Bank Account and verify
4. Click on "Proceed For Online Claim"
5. Select PF Advance (Form 31) from the drop down
6. Select purpose as "Outbreak of pandemic (COVID-19)" from the drop down
7. Enter amount required and Upload scanned copy of cheque and enter your address
8. Click on "Get Aadhaar OTP"
9. Enter the OTP received on Aadhaar linked mobile.
10. Claim is submitted



श्रम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
राष्ट्र सरकार (Government of India)

EPFO - PMGKY Scheme

Government of India will pay EPF contribution of both employer and employee (12 percent each) for the next three months so that nobody suffers due to loss of continuity in the EPFO contribution. This is for those establishments that have upto 100 employee and 90 percent of whom earn under Rs. 15,000 monthly wage. This will benefit about 80 Lakh employees and incentivize about 4 Lakh establishments to continue their employees on their Payrolls despite disruption. Government of India to spend around Rs. 5,000 crore for this purpose.



FINANCE MINISTERS ANNOUNCEMENT REGARDING PF
ON 13TH MAY 2020

Rs. 2500 crore EPF Support for Business & Workers for 3 more months

- Businesses continue to face financial stress as they get back to work.
- Under Pradhan Mantri Garib Kalyan Package (PMGKP), payment of 12% of employer and 12% employee contributions was made into EPF accounts of eligible establishments.
- This was provided earlier for salary months of March, April and May 2020
- **This support will be extended by another 3 months to salary months of June, July and August 2020**
- This will provide liquidity relief of **Rs 2500 cr** to 3.67 lakh establishments and for 72.22 lakh employees.

FINANCE MINISTERS ANNOUNCEMENT REGARDING PF
ON 13TH MAY 2020

EPF contribution reduced for Business & Workers for 3 months- Rs 6750 crores Liquidity Support

- Businesses need support to ramp up production over the next quarter.
- It is necessary to provide more take home salary to employees and also to give relief to employers in payment of Provident Fund dues,
- Therefore, **statutory PF contribution of both employer and employee will be reduced to 10% each from existing 12% each for all establishments covered by EPFO for next 3 months.**
- CPSEs and State PSUs will however continue to contribute 12% as employer contribution. **i.e. Employees Contribution 10% & Employers Contribution 12%**
- **This scheme will be applicable for workers who are not eligible for 24% EPF support under PM Garib Kalyan Package and its extension.**
- This will provide **relief to about 6.5 lakh establishments covered under EPFO and about 4.3 crore such employees.**
- This will provide **liquidity of Rs 6750 Crore to employers and employees over 3 months.**

Procedure to receive reimbursement of benefits under Pradhan Mantri Garib Kalyan

Reimbursement under PMGKY for Establishments which had remitted for March, 2020 before deployment of facility of PMGKY on PF Portal. Employer need to login in on EPF Portal and has to fill under tab of “PMGKY Reimbursement Registration”. Then Employer need to update Form-5A with e-sign or DSC and has to fill the bank details from which the March 2020 due paid, & then has to submit the claim for PMGKY reimbursement.

EPF Statutory Contribution Rates @10% for the Wage Month of May 2020, June 2020 & July 2020

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 18th May, 2020

S.O. 1513(E).—Whereas due to Covid-19 pandemic, lockdown Is in force across the country and the Central Government after making necessary inquiry is satisfied that to provide liquidity in the hands of employers and employees, there arises a need to amend the notification of the Government of India in the Ministry of Labour published in the Gazette of India, Extraordinary, Part II, section 3, sub-section(ii) vide number S.O. 320(E), dated 9th April, 1997;

Therefore, in exercise of powers conferred by first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after making aforesaid inquiry, hereby makes the following amendments in the said notification number S.O. 320 (E) dated the 9th April, 1997, namely:-

In the said notification, in SCHEDULE II, after clause (iv), the following clause shall be inserted, namely:-

“(v) Any establishment, other than Central Public Sector Enterprises and State Public Sector Enterprises and other establishments owned by, or under the control of the Central Government or the State Government, as the case may be, in respect of wages payable by it for the months of May, June and July, 2020”.

Provided that this clause shall not be applicable to the establishments eligible for relief under the Pradhan Mantri Garib Kalyan Yojana guidelines issued by the Employees' Provident Fund Organization vide its Office Memorandum No.C-1/Misc./2020-21/Vol.II/Pt. dated 9th April, 2020 ”.

[F. No. S-35019/01/2020-SS-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 S.O. 320 (E), dated 9th April, 1997.

EPF Statutory Contribution Rates @10% for the Wage Month of

May 2020, June 2020 & July 2020

The statutory rate of contribution will be 10% for wage month of May 2020, June 2020 & July 2020.

Revised rate of EPF Contribution announced by the Central Government, Under Atmanirbhar Bharat Package, vide notification dated 18th May, 2020. The Statutory rate of PF Contribution for Employer and Employees has been reduced to 10% (on Basic +DA) from existing rate of 12% for all class of covered establishments under EPF & MP Act 1952, except the establishments like Central and State Public Sector Enterprises or any other establishment owned or controlled by or under control of the Central Government or State Government.

This reduced rate of statutory PF will help to overcome the immediate liquidity crisis to some extent during pandemic situation. The reduction in statutory rate of contributions from 12% to 10%, the employee shall have a higher take home pay due to this reduction in deduction from his pay on account of EPF contributions and employer shall also have his liability reduced by 2% of wages of his employees.

Rate is also not applicable to establishments eligible for Pradhan Mantri Garib Kalyan Yojna (PMGKY) benefits, since the entire employees PF contribution @12% & Employers PF Contribution @ 12% both totalling to 24% of the monthly wages is being contributed by the Central Government. But the establishment availing benefit of Pradhan Mantri Rojgar Protsahan Yojana (PMRKY) can contribute at this reduced rate. Also, the reduced rate is applicable to exempted establishments. But, the establishment which are already paying at @10% are not eligible for any more reduction in rate of contribution.

If the establishment is not able to pay dues timely during the scheme period, then also such establishments is still eligible for reduced rate of contribution, irrespective of date of payment. There is no change in the EPF administrative charges and EDLI contributions both payable by employers.

Web Circulation



कर्मचारी भविष्य निधि संगठन

(अमेरिका सोसाइटी बैंकलाल, भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

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

मुख्य कार्यालय / Head Office

भविष्य निधि भवन, 14-भीकाजी कामा प्लॉस, नई दिल्ली-110 066.

Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi - 110 066.

No. C-I/Misc./2020-2021/Vol. II/Pt/ 1142

Date: 10.07.2020

14

OFFICE MEMORANDUM

Subject: Extension of validity period of Scheme for implementation of PMGKY package for credit of employer's and employee's contributions (24% of wages) by Government of India.

As part of the Pradhan Mantri Garib Kalyan Yojana (PMGKY) package, the Central Govt. had proposed to pay 24 percent of the monthly wages for three months into EPF accounts of Wage-earners below Rupees fifteen thousand per month, with a view to prevent disruption in the employment of low wage earning employees and support establishments employing up to one hundred employees, with 90% or more of such employees earning less than Rs.15,000/- monthly wages.

That Scheme guidelines approved by Ministry of Labour & Employment, Govt. of India to implement the above package was notified vide EPFO Office Memorandum no.C-I/Misc./2020-21/Vol.II/Pt./ dated 09.04.2020 wherein it was specified in clause 3 that the Scheme is valid for the wage months of March, 2020, April, 2020 and May, 2020.

That the competent authority has approved the extension of the existing benefit under the aforesaid Scheme for three months under the Aatmanirbhar Bharat Abhiyan. Therefore, the clause 3 of the Scheme is amended to the extent that the Scheme shall be in operation for wage months of March, 2020, April, 2020, May, 2020, June, 2020, July, 2020 and August, 2020.

(Authority: MoL& E, GOI, Letter no. S-35012/02/2020-SS-II(pt.), dated 08.07.2020)

(Pankaj Raman)

Addl. CPFC (Compliance)

EPFO, Head Office

To,

(As per the list)

Due date for payment of Provident Fund extended – due to Covid-19

- The due date for filling Electronic Challan cum Return (ECR) for wage month March 2020 is extended up to 15th May 2020 for employers who have paid wages to their employees for March 2020.
- Extended time limit is applicable to contributions and administrative charges due for the month of March, 2020.
- There would be no interest and penalty, if they remit on or before 15th May 2020, as per circular reference : F. No. C-1/Misc./2019-2020/Vol. II/Part/9, Dated 15th April, 2020.

Flash News on ESI

As per ESI Notice Dated 16th March 2020 – Keeping in view the pandemic in the form of “Corona virus” (COVID-19) in the country, ESI has relaxed the provision for payment of ESI Contribution for 45 days instead of 15 days.

ESIC Challan for the month	Due date of Payment of ESI Contribution
February 2020	Can be paid upto 15 th April, 2020 (Instead of 15 th March, 2020)
March 2020	Can be paid upto 15 th May, 2020 (Instead of 15 th April, 2020)

ESI – Return filing date extended

- As per Due date for filing ESI Contribution has been extended - Circular Dated : 18th May, 2020, having Reference No.: P-11/12/Misc./1/2019(M)-Rev.II
- Relaxation of time limit for filing and depositing ESI contribution for the month of February, 2020 and March, 2020.
- Employers are allowed to file the Return of Contribution up to 15th July, 2020 for the contribution period from October-2019 to March-2020.



**HEADQUARTERS OFFICE
EMPLOYEES' STATE INSURANCE CORPORATION
(ISO 9001-2008 CERTIFIED)
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-110002**

File No. PT No. A/48/15/3/2017 Med-1

Date: 11.06.2020

To,

All Deans/Medical Superintendents
ESIC Medical and dental Colleges /Hospitals

Sub: provision of prompt medical services to ESI beneficiaries at ESIC hospitals during Covid pandemic

Sir/Madam,

It has come to the notice of the competent authority that some sick ESI patients are being referred to empanelled/government Hospital without being provided with emergency/initial line of treatment or proper work-up for Covid in suspected cases, thereby adding to the agony of the patient. Further, difficulty is being faced by some ESI patients in availing medical services from empanelled hospitals at certain locations, once being referred. Such patients are either not being considered for admission by the empanelled hospital or being further referred to some other Hospital.

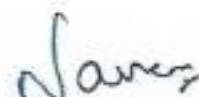
This practice has the potential of causing death of sick patient due to lack of timely medical intervention when the patient is losing precious time in transit from hospital to hospital for need of emergency medical care.

In order to avoid such a situation to develop, competent authority has instructed following actions to be taken so that required medical services are available to ESI beneficiaries in a hassle-free swift manner:

- All patients to be provided with emergency/initial line of treatment even if they are suspected/confirmed case of Covid.
- In this regard, Isolation beds may be made functional at select departments/emergency/ICU/labour room facilities for managing Covid suspected/confirmed cases requiring Covid or other emergency medical/surgical treatment.
- For cases requiring Covid testing, instructions issued by this office vide letter no.U-16/30/18-COVID-19/2020-SST(27) dated 11.05.2020 are to be diligently followed so that there is no delay in patient management. Further, for critically sick patients, rapid diagnosis test for Covid (CB NAAT) may also be judiciously used through private empanelled labs (in case

- there is delay in report from govt lab) so that further treatment is not put on hold, pending RT PCR report for Covid.
- When needed, referring ESIC hospital should pre-ensure/reserve availability of required treatment/bed/ventilatory support etc. in the selected referred hospital, before actually referring and transporting sick patients.
 - Adequately equipped Ambulance/patient transport service (in-house or hired) must be readily available in all ESIC Hospitals on 24*7 basis along-with due backup arrangement. Further, It is to be constantly ensured that ambulance services are functional and available for transfer of sick patient on very short notice.
 - Utilization of medical services of nearby intra-state/inter-state ESIC Dedicated Covid Hospital may be considered for management of Covid patients, in consultation with respective State health authority, if needed.

This issues with the approval of competent authority for immediate, strict and continuous compliance.



Dr. Naveen Saxena
OSD(Medical)

Copy to:

1. DIMS, all State ESI Scheme for information and corresponding necessary action in respective ESIS Hospitals
2. ESIC website
3. All regional offices for information

**If no. of Employees are 10 or more,
then following Labour Laws are applicable:**

1	Employees Provident Fund Act 1952 & Pension Scheme 1995. (mandatory for 20 employee's and voluntary less than 20 employee's)	9	The Labour Welfare Fund Act
2	Employees State Insurance Scheme (ESIC) 1948.	10	The Employee's Compensation Act, 1923.
3	The Contract Labour Act, 1970.	11	The Payment of Wages Act, 1936.
4	The Payment of Bonus Act 1965.	12	The Shops & Establishment Act.
5	The Payment of Gratuity Act, 1972.	13	The Sexual Harassment of Women at Place (Prevention, Prohibition & Redressal) Act, 2013
6	The State Profession Tax Act	14	The Maternity Benefit Act, 1961.
7	The Minimum Wages Act, 1948.	15	The Factories Act, 1948
8	Equal Remuneration Act 1976	16	The Inter-state Migrant workmen (Regulation of Employment and Condition of Service) Act, 1979.
17. The Building and Other Construction Worker's (Regulation of Employment and Conditions of Service) Act, 1996			

If no. of Employees are upto 9 then following Labour Laws are applicable:

- 1) The Shops & Establishment Act, 1948.
- 2) The Minimum Wages Act, 1948.
- 3) The Payment of Wages Act, 1936.
- 4) The Labour Welfare Fund Act, 1953.
- 5) The Employee's Compensation Act, 1923.
- 6) The State Profession Tax Act, 1975.
- 7) Equal Remuneration Act, 1976.

EMPLOYEES' STATE INSURANCE ACT, 1948 & the SCHEME

CHECK LIST

<p>Applicability of the Act & scheme</p> <p>Is extended in area-wise to factories using power and employing 10 or more persons and to non-power using manufacturing units and establishments employing 10 or more person upto Rs.21,000/- per month w.e.f. 1-1-2017. It has also been extended upon shops, hotels, restaurants, roads motor transport undertakings, equipment maintenance staff in the hospitals.</p>	<p>Coverage Of employees</p> <p>Drawing wages (w.e.f. 1-1-2017) Upto Rs.21000/- per month Engaged either directly or thru' contractor contractor</p>	<p>Rate of Contribution of the wages w.e.f 1st July 2019</p> <p>Employers' 3.25% Employees' 0.75%</p> <p>Contribution is to be paid on or before 15th Day of following month w.e.f 1st July 2017</p>	<p>THE ESI SCHEME TODAY</p> <p>As on 31-3-2018</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">State / Union Territories Covered</td><td style="padding: 2px;">94</td></tr> <tr> <td style="padding: 2px;">No. of Employers covered</td><td style="padding: 2px;">1003730</td></tr> <tr> <td style="padding: 2px;">No. of Insured Persons/family units</td><td style="padding: 2px;">34331300</td></tr> <tr> <td style="padding: 2px;">No. of Beneficiaries</td><td style="padding: 2px;">130305444</td></tr> <tr> <td style="padding: 2px;">No. of ESI Hospitals</td><td style="padding: 2px;">154</td></tr> </table>	State / Union Territories Covered	94	No. of Employers covered	1003730	No. of Insured Persons/family units	34331300	No. of Beneficiaries	130305444	No. of ESI Hospitals	154
State / Union Territories Covered	94												
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No. of Beneficiaries	130305444												
No. of ESI Hospitals	154												
<p>Manner and Time Limit For making Payment of contribution</p> <p>The total amount of contribution (employee's share and employer's share) is to be deposited with the authorized bank through a challan in the prescribed form on or before 15th of month following the calendar month in which the wages fall due.</p>													
<p>WAGES FOR ESI CONTRIBUTIONS</p> <p>Registers / files to be maintained by the employers.</p>													
<p>To be deemed as wages</p> <ul style="list-style-type: none"> • Basic pay • Dearness allowance • House rent allowance • City compensatory allowance • Overtime wages (but not to be taken into account for determining the coverage of an employee) • Payment for day of rest • Production incentive • Bonus other than statutory bonus • Night shift allowance • Heat, Gas & Dust allowance • Payment for unsubstituted holidays • Meal/food allowance • Suspension allowance • Lay off compensation • Children education allowance (not being reimbursement for actual tuition fee) 	<p>NOT to be deemed as wages</p> <ul style="list-style-type: none"> • Contribution paid by the employer to any pension/provident fund or under ESI Act. • Sum paid to defray special expenses entailed by the nature of employment – Daily allowance paid for the period spent on tour. • Gratuity payable on discharge. • Pay in lieu of notice of retrenchment compensation • Benefits paid under the ESI Scheme. • Encashment of leave • Payment of Inam which does not form part of the terms of employment. • Washing allowance for livery • Conveyance (Amount towards reimbursement for duty related journey) 	<p>Contribution period</p> <p>1st April to 30th September.</p> <p>1st October to 31st March</p>	<p>Contribution period</p> <p>If the person joined insurance employment for the first time, say on 5th January, his first contribution period will be from 5th January to 31st March and his corresponding first benefit will be from 5th October to 31st December.</p>										
<p>Penalties</p> <p>Different punishments have been prescribed for different types of offences in terms of Section 85:</p> <p>(i) (Six months imprisonment and fine Rs.5000), (ii) (One year imprisonment and fine), and 85A: (five years imprisonment and not less to 2 years) & 85C (2) of the ESI Act, which are self explanatory. Besides these provisions, action also can be taken under section 406 of the IPC in cases where an employer deducts contributions from the wages of his employees but does not pay the same to the corporation which amounts to criminal breach of trust.</p>													

Source: LLR

Adv. Ramesh L. Soni

M.B.A. (HR), B.Sc. (Hons.), LL.B., D.L.L. & L.W., D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

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Website: www.rlsconsulting.in

EMPLOYEES' STATE INSURANCE ACT, 1948

Long Back in 1923, the Government, by enacting the Workmen's Compensation Act, provided some Social security to the industrial workers. The benefit provided by this act was, however, limited to compensation for injury caused by accident. Besides, the cost of compensation was to be borne entirely by the employer.

By enacting the Employee's State Insurance Act, 1948, the Government introduced a scheme of social insurance for the industrial workers. Under the scheme, the workers also are required to contribute to a social insurance fund, which is to be utilised for conferring benefits on them. The Employee's State Insurance Act, 1948, provides to the workers not only accident benefit but also other benefits such as sickness benefit, maternity benefit and medical benefit.

Object: -

The object of the Act is to secure sickness, maternity, disablement and medical benefits to employees of factories and establishments and dependents' benefits to the dependents of such employees.

Coverage under the ESI Act, 1948: -

The Act is applicable to the "Factory" u/s 2(12) has amended to facilitate coverage of smaller factories and all factories which employ 10 or more persons whether are run by power or without power (w.e.f. 1st June 2010).

Under Section 1(5) of the Act, the Scheme has been extended to shops, hotels, restaurants, cinemas including preview theatre, road motor transport undertakings and newspaper establishment employing 10 or more persons.

There is exception, by virtue of notification dt: - 31st March 2008, a person with disability under Disabilities Act, 1955 and National Trust for Welfare of Persons with Disabilities Act, 1999 is entitled to be covered under the Act even through his monthly salary / wages more than Rs. 21,000/-.

(ONCE COVERED; COVERED FOR EVER)

The Factory or Establishment shall continue to be governed by the Act notwithstanding the fall in the number of persons employed or discontinuance of the use of power w.e.f. 23rd Oct 1989.

Areas Covered: -

The ESI Scheme is being implemented area-wise by stages. The Scheme has already been implemented in different areas in the **all States & Union Territories** i.e. Delhi, Chandigarh and Pondicherry

Applicability:

- a) All **Factories** Employing **10 or more** persons whether they are run by Power or without Power (w.e.f. 1st June 2010)
- b) **Shop** Employing **10 or more persons.**
- c) The existing wage-limit for coverage under the Act, is **Rs. 21,000/- per month, excluding overtime wages.** (with effect from 01.01.2017)
- d) Disabled Employees no wage limit for coverage under the Act, (No Limit), Insurance Number is to be taken from respective branch office.
- e) Any Establishment which the State Government may specifically notify as being covered.
- f) Certain States like Delhi, Punjab, Karnataka, Andhra Pradesh ESIC Applicable on 10 employees to different industries. (School, Hospitals, etc.)

Note: -

As soon as the above conditions are fulfilled the employer should furnish the details in Form- 01 to ESIC office for registration under the ESI Act, 1948 & Obtaining of the Company's Code Number.

Following Employees also entitled for ESI Coverage (Gross Salary/Wages Rs. 21,000/-P.M.): -

The employees have been held to be covered under the Act (establishment or factory should be covered under the ESI Act): -

- 1) Persons employed in a canteen of a club
- 2) Drivers employed by the transport organisation
- 3) Persons engaged in the distribution and sale of products
- 4) Persons carrying administrative work of processing the orders and executing sales
- 5) Hawkers employed for sale of products
- 6) Employees of cycle stand and canteen run in cinema theatres by contractors
- 7) Members of editorial and administrative staff of a printing press publishing newspaper
- 8) A home worker rolling beed is at home
- 9) Medical Representative
- 10) Persons employed in a hospital attached to a maintained by factory
- 11) Part-time doctor employed by ambulance room
- 12) Book binders engaged by a contractor
- 13) Sales clerk working in a factory

➤ Is Directors Coverable?

A directors and the managing director of a company, who is paid a less than Rs. 21,000/- remuneration per month, have been held to be an employee for the coverage purpose

➤ Is Partners Coverable?

A partner engaged for the work of the factory or establishment and being paid monthly even less than Rs. 21,000/- P.M is not an employee as defined under the definition of ESI Act.

➤ **Is OT counted for Coverage Purposes?**

An employee whose wages (excluding OT wages) exceed Rs. 21,000/-P.M at any time after the beginning of the contribution period, shall continued to be covered until the end of that contribution period.

➤ **Is Consultants being employees???**

Consultants do not work in the premised of the company. Their work is carried out in their own places. They are engaged as consultants in the matter of carrying on the business of the respondent first as retaining tax consultants such engagement cannot create employer-employee relationship.

➤ **Employer Contribution not to be deducted:-**

No deduction shall be made from the wages / salary of any employee for the employers contribution payable or paid in respect of him.

➤ **Recovery of Contribution in respect of Contract Labour:-**

The Principal Employer may deduct the amount of contributions both employers and employees, payable in respect of employees engaged through the contractor, from the bill of the contractor.

The Contract is entitled to deduct the employee contribution from the wages payable to such contract employee in respect of the period for which the contribution is payable

Following Documents are required for deciding Final Date of Coverage under ESI Act / EPF Survey:

I. **Manufacturing Unit: -**

1. PAN Card of Company
2. Proof of the Premises: Details of Gala Purchase (viz. copy of the Agreement) / Rent Receipt / Leave & Licence Agreement Copy.
3. P. Tax Number Certificate / GST (if applicable).
4. Balance sheet/P & L account (in case of Limited company Annual Report since beginning)
5. Shops & Establishment Registration Certificate/ Factory Licence.
6. Partnership deed (in case of Partnership firm) & Memorandum of Association & Articles (in case of Limited co.)
7. Salary / Wage register & Attendance Register since beginning.
8. Month wise strength of number of employees since beginning.
9. List of Directors/partners/owners along with their residential addresses.
10. Name of the Bankers, Address of the Bank and Name of the Person responsible for financial affairs, along with the cancelled cheque.

II. **Restaurant / Residential Hotel**

1. Above all documents except Date of 1st Trial Production.
2. Invitation card or paper- cutting of the advertisement Regarding The Inauguration of the Restaurant/Hotel
3. Eating House Licence from the Public Health Department (BMC)
4. Licence for public entertainment in the premises issued by the police department.
5. 1 Sale bill (either restaurant or room sale bill whichever is earlier)

6. Room sale register.
7. Exercise Certificate.
8. Bar permit Licence (if any)
9. Name of the Bankers, Address of the Bank and Name of the Person responsible for financial affairs, along with the cancelled cheque.
10. Proof of the Premises: Details of Gala Purchase (viz. copy of the Agreement) / Rent Receipt / Leave & Licence Agreement Copy.

III. Following Points Jointly Are Taken into Consideration While Clubbing The Units:-

1. Unit of Ownership (i.e. Management & Control)
2. Unit of Labour (i.e. transferability of employees)
3. Geographical Proximity (i.e. vicinity, bonafides in keeping the unit a part)
4. Source of Finance (i.e. whether source of finance is same)
5. Supervision & Control (i.e. whether managed by same person)
6. Service Conditions of Workmen (i.e. rules applicable, employment contract, if any)
7. Functional Integrality (i.e. integrated whole- part & parcel of main unit, primary & dominant activity, subsidiary, minor, incidental)
8. Unit of Purpose (i.e. production & business, interrelated business)
9. General (i.e. books of accounts / similarity of nomenclature)

Code Number: -

On receipt of the Employer's Registration Form the Regional Office examines the coverage and if it is satisfied that the Act applied to the factory / establishment, will allot a 17-digit Code Number along with User ID and Password to the employer. Only one code Number is allotted to a factory / establishment even though functionally it may have more than one unit / sub-unit within the same premises/precinct/station. The Code Number so allotted is required to be indicated by the employer in all Correspondence with the Corporation, Regional Office and Local Office.

Sub Code Number: -

There may be a case where an employer is having the main factory / establishment at one station and sub-unit, branch office, sales office or registered office at another implemented station, either within the same State or outside that State. In all such cases, Principle Employer is required to furnish necessary details to the Regional Director concerned for allotment of Sub-Code Number to each sub-unit, branch office, sales office & registered office etc.

Return of contribution is required to be submitted separately for the main Code Number and each Sub-Code Number. The employees working in the branch office/sale office etc. can draw/claim benefit locally from the nearby Local Office with which the branch office / sales office, etc. are attached. Similarly, it would be convenient for the workers to avail medical benefit from the nearby ESI dispensary in the State.

Contributions: -

E.S.I. Scheme being contributory in nature, all the employees in the factories or establishments to which the Act applies shall be insured in a manner provided by the Act. The contribution payable to the Corporation in respect of an employee shall comprise of employer's contribution and employee's contribution at a specified rate. The rates are revised from time to time. Currently, the **employee's contribution rate** (w.e.f. 1.7.2019) is **0.75%** of the wages and that of **employer's is 3.25% of the wages** paid/payable in respect of the employees in every wage period. Employees in receipt of a daily average wage up to **Rs.176/- are exempted** (w.e.f 6th Sept 2019) from payment of contribution. Employers will however contribute their own share in respect of these employees.

Wages for ESI contributions: - (To be deemed as wages)

1. Basic Pay.
2. Dearness Allowance
3. House Rent Allowance
4. City Compensatory Allowance
5. Overtime Wages (but not to be taken into account for determining the coverage of an employee)
6. Payment of day of rest
7. Production incentive.
8. Bonus other than Statutory
9. Night shift allowance
10. Heat, Gas & Dust allowance
11. Payment for un-substituted holidays
12. Meal / food allowance
13. Suspension allowance
14. Lay off compensation
15. Children education allowance (not being reimbursement for actual tuition fee)

Maintenance of Registers & Returns: -

1. Every Employer should maintain a Register in Form 7 Regulation 32 in respect of every employee of his factory or establishment (View History to be kept in hard copy form the ESI Portal for Respective Month for our record).
2. ESIC Bound Inspection Book.
3. ESIC Accident Register under Rule 66

Reimbursement on actual basis to employers for Aadhar seeding of their Insured Persons: (w.e.f - 19th Sept., 2018)

ESI Corporation has approved the proposal for reimbursement @ Rs. 10/- per person to the employers to encourage the seeding of Aadhar (UID) in ESIC database of their workers and their family members. It will curtail the multiple registrations of same Insured Persons and thus enable them to avail the benefits requiring longer contributory conditions.

Relaxation in the eligibility conditions for availing Super Specialty treatment: (w.e.f - 15th April, 2019)

ESI Corporation has approved the proposal for relaxing the eligibility conditions for availing Super Specialty treatment has now been relaxed from earlier insurable employment of 2 years to 06 months with contribution requirement of only 78 days. Besides, the eligibility for availing Super Specialty treatment for dependents of Insured Person has now been relaxed to insurable employment of 1 year with 156 days of contributions. This relaxation will immensely help the Insured Persons and their beneficiaries to avail Super Specialty treatment free of cost as per revised eligibility.

Enhancement in Funeral Expenses: (w.e.f - 1st March, 2019)

ESI Corporation has enhanced the amount of Funeral Expenses from existing Rs. 10,000/- to Rs. 15,000/- being paid on the death of Insured Person.

Recovery:

If any employer fails to pay the amount due in respect of any contribution or any other amount payable under the Act, the Corporation can recover from the employer damages up to cent percent of the areas. The corporation is empowered to recover the contribution and the damages as an **arrear of land revenue.**

Collection of Contribution

An employer is liable to pay his contribution in respect of every employee and deduct employee's contribution from wages bill and shall pay these contributions at the above specified rates to the Corporation within 15 days following the end of the Calendar month in which the contributions fall due, w.e.f. 1st July 2017.

Contribution Period and Benefit Period

There are two contribution periods each of six months' duration and two corresponding benefit periods also of six months' duration as under.

Contribution Period	Corresponding Cash Benefit Period
1st April to 30th Sept.	1st January of the following year to 30th June.
1st Oct. to 31st March	1st July to 31st December of the year following

Benefits:

- 1) Employee is covered immediately on becoming an employee under the ESI Act, along with his / her family members, Free medical treatment is offered to covered employees and their family members, at hospital and dispensaries run by the ESI Corporation. No limit of expenditure on treatment taken from ESIC Hospital / Dispensary
- 2) Maternity benefit for 26 weeks of which not more than 8 weeks should be preceding confinement
- 3) Injury during/ in course of employment resulting in temporary / permanent disablement entitles the covered employee to a regular payment to substitute his lost wages.

- 4) Death during course of employment entitles specified dependents to a regular payment.
- 5) Onetime payment of Rs. 15,000/- (w.e.f 01/04/2011) to help meet funeral expenses.
- 6) Rajiv Gandhi Shramik Kalyan Yojna (Unemployment to the IPs who have been rendered unemployed involuntarily due to closure of factory / establishment / retrenchment or permanent disablement) w.e.f. 1st April 2005
- 7) Vocational Rehabilitation Scheme is provided in case of disablement of an Insured Person of under 45 years of age and 40 % or more disablement. There is a provision of Free Supply of physical aids and appliances such as crutches, wheelchairs, dentures, spectacles under the act to insured person
- 8) Insured person can avail cashless treatment in the hospitals referred by ESI Hospital.
- 9) An insured person who retires on attaining the age of superannuation shall be eligible to receive only medical benefits for himself and his spouse if (i) he had been in the insurable employment for not less than 5 years and (ii) if he pays contribution of Rs. 120/- every year in advance.
- 10) Dependent Parents whose earnings from all sources upto Rs. 5000/- pm (w.e.f. 01/04/2011) are eligible for medical benefits.
- 11) w.e.f 4th August 2011 an insured person whose claim for any permanent disablement benefit (PDB) has been admitted shall be paid Rs. 100 (Rupees One Hundred Only) as conveyance allowance, in addition to his PDB payment, on each visit to Branch Office for submission of life certificate as required under Regulation 107 of ESI (General) Regulations. 1950.
- 12) Treating commuting accidents as employment injury.
- 13) Payment of long - term benefits (PDB/DB) through Electronic Clearing System (ECS)
- 14) Minimum dependants' pension of Rs. 1200/- per family.

Employees State Insurance Corporation is a premier organization providing Social Security to workforce in the form of Medical and Cash Benefits in the contingencies of Sickness, Maternity, Disablement or death due to employment injury

Sr. NO.	Benefits	Entitlement	Duration	Rate of Benefit
1	Medical Benefit	One should be an insured person	From day one of entering into Insurable employment and during the corresponding benefit period.	Reasonable medical care. Super Speciality treatment comprehensive medical care & clinical investigation as per eligibility.
2 (a)	Sickness Benefit	78 days in relevant Contribution Period.	Up to 91 days in two consecutive Benefit Period.	70% of average Daily wages

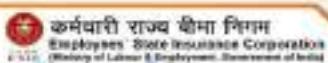
2 (b)	Enhanced Sickness Benefit	78 days in one Contribution Period	7 days / 14 days for male / female insured person respectively for undergoing sterilization operation	100% of average Daily wages
3	Extended Sickness Benefit	156 days in 4 consecutive Contribution Period	124 to 309 days may be extended to 730 days in case of specified long-term diseases.	80% of average Daily wages
4 (a)	Temporary Disablement Benefit	From day one of entering Insurable employment.	As long as temporary disablement lasts	90% of average Daily wages
4 (b)	Permanent Disablement Benefit	From day one of entering Insurable employment	For whole life	Depending upon loss of earning capacity of Insured
5	Dependents Benefit	From day one of entering Insurable employment	Paid to the dependents of the Insured Person. Who dies as a result of employment injury in manner as detailed in Rate 58.	90% of average Daily wages Shareable in fixed proportion.
6	Maternity Benefit.	70 days in immediately preceding 1 or 2 consecutive Contribution Periods	26 weeks in case of normal delivery for 1 st two surviving child thereafter 12 weeks. 6 weeks in case of miscarriage, 12 weeks for commissioning / adopting mother.	100% of average Daily wages.
7	Rajiv Gandhi Shramik Kalyana Yojana	Insurable employment for the last 2 years with 78 days' contribution paid / payable in each Contribution	For a maximum period of 24 months. Vocational training of up to 1 year for upgrading skill of Insured Persons / receiving	<ul style="list-style-type: none"> 1) Unemployment allowance at the rates of <ul style="list-style-type: none"> I) 50% of last avg. daily wages – 0 to 12 months. II) 25% of last avg. daily wages –

		Period. Involuntary Unemployment due to closure of factory, retrenchment or permanent disablement due to non – employment injury > 40%	unemployment allowance.	13 to 24 Months. 2) Medical care for self and family during receipt of unemployment allowance.
8	Funeral Expenses	From day one of entering Insurable employment	For defraying expenses on funeral of an Insured Person	Actual expenses subject to a maximum of Rs. 15000/-
9	Confinement expenses	No condition other than insurable employment	Up to two confinements	Rs. 5000/- per case of confinement to an Insured Women or an Insured person in respect of his wife in case facilities for confinement are not available in ESI Institutions.
10	Medical Care to retired Insured persons	Superannuated / permanently retired / retired under VRS / Pre – mature retirement / permanently retired due to employment injury after being in insurable employment for 5 years / spouses of such deceased Insured Persons / spouses receiving Dependent Benefit	On yearly basis	Medical facility within ESIC on payment of Rs. 120/- for self.

Relief to the workers affected due to Covid-19 Pandemic

**Relaxation in eligibility criteria and enhancement in the payment of relief under Atal Bimit Vyakti Kalyan Yojana of ESIC
(During 24.03.2020 to 31.12.2020)**

- ① Payment of relief has been enhanced to 50% of average of wages from earlier 25% of average wages payable upto maximum 90 days of unemployment.
- ② Instead of the relief becoming payable 90 days after unemployment, it shall become due for payment after 30 days.
- ③ Insured Person can submit the online claim directly to ESIC Branch Office instead of the claim being forwarded by the last employer and the payment shall be made directly in the bank account of IP.
- ④ The Insured Person should have been in insurable employment for a minimum period of 2 years immediately before his/her unemployment and should have contributed for not less than 78 days in the contribution period immediately preceding to unemployment and minimum 78 days in one of the remaining 3 contribution periods in 02 years prior to unemployment.

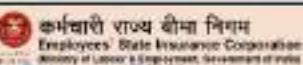
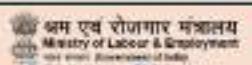


Relaxation in Atal Bimit Vyakti Kalyan Yojana Scheme of ESIC

Existing eligibility Conditions

Relaxed eligibility conditions (During 24.03.2020 to 31.12.2020)

- | | |
|---|--|
| <ul style="list-style-type: none">• The Insured Person should have been in insurable employment for a minimum period of two years immediately before his/ her unemployment and should have contributed for at least 78 days during each of preceding four contribution periods.• Relief becomes payable 90 days after unemployment.• The claim of the IP for relief under the scheme is to be forwarded by last employer of the Insured Person.• Relief to the extent of 25 % of the average per day earning during the previous four contribution periods to be paid up to maximum 90 days of unemployment. | <ul style="list-style-type: none">• The Insured Person should have been in insurable employment for a minimum period of two years immediately before his/ her unemployment and should have contributed for not less than 78 days in the contribution period immediately preceding to unemployment and minimum 78 days in one of the remaining three contribution periods in two years prior to unemployment.• Relief shall become due for payment 30 days from the date of unemployment.• The claim of the IP need not be forwarded by his employer. The claim may be submitted directly in the Branch office and the verification of the claim with the employer will be done at the Branch Office Level. The payment shall be made in the bank account of the IP within 15 days from the receipt of the claim. Aadhaar shall be used for identification of the Insured Person.• Relief to the extent of 50 % of the average per day earning during the previous four contribution periods to be paid up to maximum 90 days of unemployment. |
|---|--|





Headquarters
Employees State Insurance Corporation
Panchdeep Bhawan, CIG Marg, New Delhi-02.

No P-11/14/11/ABVKY/2019-Bft II

Dated 16.09.2020

To,

All Regional Directors
Sub-Regional Office In-charges.

Subject: - Extension of the scheme Atal Beemit Vyakti Kalyan Yojana and relaxation in its eligibility conditions.

Sir,

It is informed that the ESI Corporation in its 182nd meeting held on 20.08.2020 has decided to extend the scheme Atal Beemit Vyakti Kalyan Yojana for another one-year period i.e. from 01.07.2020 to 30.06.2021. The Corporation has also decided to relax the eligibility condition of the scheme for the period 24.03.2020 to 31.12.2020 in order to provide benefit to the IPs who became unemployed due to COVID-19 induced lockdown. The relaxation in the eligibility conditions is as under: -

Existing eligibility Conditions	Relaxed eligibility conditions (During 24.03.2020 to 31.12.2020)
The Insured Person should have been in insurable employment for a minimum period of two years immediately before his/ her unemployment and should have contributed for at least 78 days during each of preceding four contribution periods.	The Insured Person should have been in insurable employment for a minimum period of two years immediately before his/ her unemployment and should have contributed for not less than 78 days in the contribution period immediately preceding to unemployment and minimum 78 days in one of the remaining three contribution periods in two years prior to unemployment.
Relief becomes payable 90 days after unemployment	Relief shall become due for payment 30 days from the date of unemployment.

The claim of the IP for relief under the scheme is to be forwarded by last employer of the Insured Person.	The claim of the IP need not be forwarded by his employer. The claim may be submitted directly in the Branch office and the verification of the claim with the employer will be done at the Branch Office Level. The payment shall be made in the bank account of the IP within 15 days from the receipt of the claim. Aadhaar shall be used for identification of the Insured Person.
Relief to the extent of 25 % of the average per day earning during the previous four contribution periods to be paid up to maximum 90 days of unemployment.	Relief to the extent of 50 % of the average per day earning during the previous four contribution periods to be paid up to maximum 90 days of unemployment.

2. Other conditions of the original scheme shall remain same. The Scheme Atal Beemit Vyakti Kalyan Yojana will be available with original eligibility conditions for the IPs who became unemployed on or before 23.03.2020 and on or after 01.01.2021.
3. All Regional directors/ SRO In-charges are advised that a help desk may be set up at every branch office/ DCBO having a computer with internet/ intranet and a printer. The help desk should be manned by an official conversant with the scheme. He/she may be directed to behave in courteous manner with the IP visiting for help. Arrangement of drinking water and glass may be made at the help desk. If required, assistance in creating claim for relief may be provided at the help desk irrespective of the fact that the IP does not belong to that branch office. Health protocols of protection against spread of COVID-19 must followed at the help desk.
4. As the condition of submission of claim for relief under the scheme through the employer has been relaxed for the period 24.03.2020 to 31.12.2020, the claim for relief in hard copy along with the photocopy of Aadhar and bank passbook/ copy of cancelled cheque will be submitted by the IP directly in the Branch office and verification of the claim of the IP shall be done at the Branch Office level. For this either the Branch Office Manager or any other official of the Branch Office not below the rank of the Head Clerk duly authorized by the Branch Office Manager will visit the employers' office with prior intimation and verify the attendance and wage register to confirm that the IP has indeed been rendered unemployed. The verifying officer will collect the attested photocopies of the documents

on basis of which he has verified the unemployment status of the IP. A certificate on the claim itself will be recorded by the Branch Manager/ Head Clerk that he has verified the unemployment of the IP from the records of the employer. The certificate will be countersigned by the employer with seal. **WHILE GOING FOR VERIFICATION ALL HEALTH PROTOCOLS OF COVID-19 RELATED PROTECTION MUST BE ADHERED.**

5. Required changes in the Benefit module for incorporating the change in eligibility conditions of Atal Beemit Vyakti Kalyan Yojana are being made in the system by ICT Division and the same will be available soon. An intent notification has been published in the gazette. The claims of the IPs may be accepted and all ground work for payment may be completed. The payment of verified claims may be made as soon as the final notification is published.
6. As an initial rush of claims under the relaxed conditions is anticipated, services of area SSO may be utilized for the purpose of verification of the claim of the IP. Once claim of the IP has been verified, the amount of relief as calculated by the system based upon the information provided by the IP and the data available in the system shall be paid in the bank account of the IP.
7. If the details of the bank account of the IP are not available in the ESIC database, the same shall be updated by the Branch Office taking the details from the IP before making the payment. For this purpose, either the cancelled cheque or copy of the bank passbook shall be collected from the IP and shall be kept in the records for future references.
8. The entire process of verification of the claim and payment in the bank account of the IP is to be completed in 15 days' time.
9. All payments made under the Atal Beemit Vyakti Kalyan Yojana shall be mandatorily audited by the internal audit team on quarterly basis. Each claim received in hard copy will be diaryized in the Branch Office and the Branch Office managers may be directed to settle the claims for relief received from the IPs on "First in First Out" basis without fail.
10. As provided in the original ABVKY scheme, the IPs who have crossed the age of superannuation are not entitled for relief under ABVKY.
11. It is requested to give adequate publicity to the above relaxation in the eligibility conditions of the scheme amongst the employers and employees. The employers may also be advised to cooperate with the Branch Office Manager or any official visiting the employer for verifying the claim of the IP for relief under the scheme.

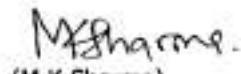
12. It is expected that there will be initial rush of claims under the scheme. It is therefore requested to maintain sufficient funds at the disposal of the Branch Office Manager so as to enable him to make payment of the claims under the scheme. The other conditions and instruction given vide Circular no P-11/14/11/ABVKY/2019 dated 14.12.2018 will remain the same.

It is requested to properly guide all Branch Office Managers under your jurisdiction so that the payment of the relief under Atal Beemit Vyakti Kalyan Yojana may be made to the IPs within time. A report of payments made under the scheme may be provided on weekly basis in the prescribed proforma enclosed in Annexure-I, to be submitted online every Monday.

This issues with approval of Director General.

Yours Faithfully

Encl:- Standard Operating Procedure.


(M K Sharma)

Insurance Commissioner

Copy to: -

1. PPS to the Director General/ Financial Commissioner/ Chief Vigilance Officer for information.
2. PPS/PS to all Divisional Heads, ESIC Hqrs. / NTA, New Delhi.
3. All Additional Commissioners, ESIC Hqrs, New Delhi.
4. Director (M) Delhi/ Noida/ K. K. Nagar
5. All Medical Superintendents, ESIC/ Model Hospitals.
6. All Deans, ESIC Medical Educational Institutions.
7. All DD(F) Regional Offices/ Sub-Regional Offices/ Model Hospital/ Director (Med.) Noida/ KK Nagar/ ESIC Educational Institutions.
8. Website content Manager for uploading on ESIC website.
9. Guard File.

Annexure-I

Details of Payment made under Atal Beemit Vyakti Kalyan Yojana for week

.....to.....

Name of RO/SRO	No. of claims pending before the start of the week	New claims received during the week	Total (3+4)	Total no of Claims settled during the week	Balance at the end of week (5-4)	Total Amount paid	Remarks if any
1	2	3	4	5	6	7	8

**STANDARD OPERATING PROCEDURE FOR DELIVERY OF RELIEF UNDER
ATAL BEEMIT VYAKTI KALYAN YOJANA (ABVKY) (with Relaxed Eligibility criteria)**

Claim by Insured Person

1. An Insured Person (IP) who lost his job on or after 24.03.2020 and fulfills the required eligibility condition i.e. minimum two years insurable employment and minimum 78 days contribution in the contribution period immediately preceding to his/her unemployment and minimum 78 days contribution in one of the remaining three contribution periods in the two years insurable employment prior to his/her unemployment shall login the IP portal on www.esic.in by entering his insurance number and captcha at the designated place.
2. On logging in the IP portal, the IP shall click the link provided for creation of claim for the Atal Beemit Vyakti Kalyan Yojana. The system will check IP's eligibility and if IP is eligible for the relief under the scheme it will take him to next page where the IP will fill up the period for which he/ she seeks relief under the ABVKY and submit it to create claim. Otherwise, if the system finds that the IP is not eligible for the relief under the scheme, a message giving the reason for his non-eligibility will be displayed.
3. The system will then prompt the eligible IP to print a copy of the claim thus created (form AB-1). The claim thus generated will have the information which are available in the system, auto-filled in it. The claim duly signed in the form of an affidavit on non-judicial stamp paper of minimum Rs 20/- value will be submitted by the IP to his designated branch office either in person or by speed post along with a self-attested photocopy of Aadhar card and that of the bank passbook or a cancelled cheque.
4. In case the IP faces any difficulty in filling the claim for relief under the scheme, he may visit the nearest ESIC Branch Office where a help desk has been created for the purpose. The IP may also call the toll-free helpline number 1800-11-2526 for clarification or assistance.

Action at the Branch Office

1. A help desk shall be set up at every branch office/ DCBO having a computer with internet/ intranet and a printer. The official manning this help desk will have sufficient knowledge about the scheme. He/she may be directed to behave in courteous manner with the IP visiting for help. Arrangement of drinking water and glass may be made at the help desk. Assistance in creating claim for relief will be provided at the help desk.

irrespective of the fact that the IP does not belong to that branch office. Health protocols of protection against spread of COVID-19 shall be adhered to at the help desk.

2. As soon as the claim for relief under the scheme is received, either in person or by post, the same will be diarized in a chronological manner on the system and an acknowledgement shall be issued.
3. The claim ID of the claim submitted by the IP will be displayed in the Branch Manager's task list. Earlier in the original scheme the task of verification from the employer was left on the IP, now it has to be done by the Branch Office Manager/ SSO or at least by a Head Clerk of Branch Office. A proper authority letter is to be issued to the Head Clerk, if he has been assigned the task of verification of the claim from the employer.
4. The officer going for verification of the claim of the IP from the Employer shall inform the employer in advance of his visit and its purpose via telephone and fix the date and time of his visit so that the employer may arrange for the records. The verification officer shall clearly inform the employer the purpose of his visit and take the employer in confidence before proceeding for verification of the unemployment of the IP from the Employer's records. The process of verification must be without any incident.
5. **WHILE GOING FOR VERIFICATION ALL HEALTH PROTOCOLS OF COVID-19 RELATED PROTECTION MUST BE ADHERED.**
6. The verifying officer will verify the unemployment of the IP from the wage register and attendance register of the Employer. Copy of the documents may be obtained and enclosed with the claim of the IP in records. If any formal communication has been issued by the employer for termination of service of the IP copy of the same may also be obtained. A certificate on the side of the claim of the IP may be recorded regarding verification of unemployment or otherwise and signed by the verification officer.
7. Once the unemployment of the IP is verified the payment of the amount calculated by the system shall be made in the bank account of the IP without any further delay.
8. Record of the payment shall be maintained in the forms prescribed in the original scheme. Reporting to the RO// SRO shall be done in the prescribed proforma for the same.

Action by the Regional Office / Sub-Regional Office,

1. Publicity of the Scheme and relaxation in eligibility conditions to provide relief to the workers who lost their jobs due to COVID-19 induced lockdown shall be done within their respective jurisdiction.

2. Employers under their respective jurisdiction shall be informed through their associations about the relaxation in eligibility conditions of the scheme and the requirement of verification of unemployment of the IP by the Branch office staff. They may be requested to offer their support to the visiting Branch Office staff.
3. Regular Monitoring of payments of Relief under Atal Beemit Vyakti Kalyan Yojana shall be done by the RO/SRO.
4. Regular assessment of requirement of fund by the Branch Office shall be done by the RO/SRO and additional fund if necessary be transferred on request of the Branch Manager as per the standard procedure.
5. Requirement of additional staff at the Branch Office shall be assessed by respective RO/SRO and if needed additional staff shall be provided.
6. Weekly report of the payments made shall be submitted in the proforma in Annexure-I

FOR CLAIMS OF THE IPs WHO BECAME/ BECOME UNEMPLOYED ON OR BEFORE 23.03.2020 AND ON OR AFTER 01.01.2021 THE INSTRUCTIONS ISSUED IN P-11/14/11/ABVKY/2018 DATED 14.12.2018 SHALL APPLY.

Unemployment allowance eligibility criteria under ESIC relaxed, workers can claim 50% of average wage

ENS ECONOMIC BUREAU
NEW DELHI, AUGUST 20

RELAXING THE eligibility criteria to avail the unemployment allowance under the Employees' State Insurance Corporation (ESIC), the Centre announced that workers can directly claim 50 per cent of the average wage as against 25 per cent earlier, payable up to 90 days of joblessness, for their loss of employment between March 24 and December 31 in the wake of the COVID-19 pandemic.

The benefits would be payable 30 days after unemployment as against 90 days earlier, ESIC said in a release after a meeting chaired by Labour and Employment Minister Santosh Kumar Gangwar on Thursday.

The Atal Bimbit Vyakti Kalyan Yojana, which is run by ESIC and provides for the unemployment allowance, has been extended by one more year to June 30, 2021, the release said, adding that the scheme will be available with original eligibility conditions during January 1, 2021 to June 30, 2021.

The ESIC has also provided for direct submission of claims by the worker covered under the scheme (insured person) instead of it being forwarded by the last

3 KEY POINTS

1 The benefits would be payable 30 days after unemployment as against 90 days earlier, ESIC said in a release after a meeting chaired by Labour and Employment Minister Santosh Kumar Gangwar on Thursday

2 The Atal Bimbit Vyakti Kalyan Yojana, run by ESIC and provides for the unemployment allowance, has been extended by a year to June 30, 2021, a release said

3 The scheme will be available with original eligibility conditions during January 1, 2021 to June 30, 2021, it added

employer. "... the payment shall be made directly in the bank account of insured person," the release said.

The Insured Person should have been in insurable employment for a minimum period of 2 years before his/her employment and should have contributed not less than 78 days in

the contribution period immediately preceding to unemployment.

Several industry groups had earlier petitioned the government to tap into its reserve funds of ESIC of over Rs 73,000 crore to help part-pay salaries for the workers affected due to the lockdown post the COVID-19 pandemic but the government had stated that it is not in favour of using the ESIC corpus for wage payments and that it already provides for employees to withdraw a basic sustenance amount from their corpus upon losing their jobs. The government has now relaxed the eligibility criteria for the same.

ESI Act applies to all factories and notified establishments located in implemented areas employing 10 or more persons and is applicable on employees drawing wages up to Rs 21,000 per month (Rs 25,000 for persons with disabilities). In July 2019. The contribution rate under the ESI Act was reduced from 6.5 per cent to 4 per cent (employers' contribution from 4.75 per cent to 3.25 per cent and employees' contribution from 1.75 per cent to 0.75 per cent). It covers about 3.49 crore of family units of workers and provides cash benefits and medical facilities to 13.56 crore beneficiaries.

DOCUMENTS REQUIRED FOR CLAIMING MATERNITY BENEFIT

- **Form-21 & 23** (From Registered ESIC Dr.)
- **Birth Certificate** (New Born Child)
- **Discharge Card** (Original & Xerox)
- **Bank Details** (Cancelled Cheque)
- **Aadhar Card** (Xerox)
- **Form – 10** (From Company HR / Manager)
- **Child Birth Declaration Form**



- Paid Maternity Benefit for Women workers covered under ESIC Act has been enhanced to 26 weeks (6 months).
- An Insured Woman should have completed 9 months of insurable employment on the date of confinement of child or else her claim is liable to be summarily rejected.
- Insured Woman shall be required to contribute not less than 70 days in immediately preceding two contribution periods to be eligible for claiming Maternity Benefit.
- Miscarriage or Medical Termination of Pregnancy (MTP) is payable for 6 weeks.
- Maternity Benefit rate is 100% of average daily wages.

"Checklist of Documents" verified for Accident Case

1. *Accident Report F/12 (Original)*
2. *Investigation Report in ESIC-25*
3. *Brief History of the Case.*
4. *Copy of the Attendance Register on the day of Accident along with last 03 months.*
5. *Copy of the Wages Register of last 03 months from the date of Accident.*
6. *Details of nature of job along with shift duty, timing of duty on the date of Accident*
7. *Job Allotment/Engagement Report maintained by ER, if any*
8. *Xerox Copy of Safety ware registers, if any*
9. *Copy of News Paper cutting, if any*
10. *Witness Statement (Original) at the time of Investigation.*
11. *Witness Statement of Local People, if RTA Case*
12. *Copy of Online & Manual FIR*
13. *Police Inquest Report*
14. *Driving Licence, if RTA Case*
15. *Photo copy of spot of Accident, if any*
16. *Xerox Copy of Gate Pass, if any*
17. *First Treatment Papers after the Accident.*
18. *Sketch Map of Spot Accident*
19. *Format U/S 2(9) duly filled by ER.*
20. *Form of ESIC-32, if newly appointment.*
21. *Copy of Inspector/Factories & Boiler submitted to the factory, if any*
22. *Any other documents according to the nature of the Accident Case.*



(SRI D.S.ROUT)
BRANCH MANAGER/SSO
ESIC BRANCH OFFICE, JAGATPUR
CUTTACK

Labour Laws Update: Tuesday, 9 June 2020

With effect **from 1st July 2020**, submission of valid & correct **Mobile Number** as well as **Bank Account details (Account number & IFSC)** of the employees shall become **MANDATORY** for registration of all New Employees.

Attention dear Employers!! With effect from First July 2020, submission of valid & correct Mobile Number as well as Bank Account details (Account number & IFSC) of the employees shall become MANDATORY for registration of all New Employees. All Employers are requested to comply with this requirement.

Moreover, the Employers are required to update/rectify Mobile Number & Bank Account details of all the existing employees registered under ESI Scheme.

It shall be responsibility of Employer to provide true & correct information to prevent any fraudulent activity and avoid any legal or administrative consequences thereof.

सावधान प्रिय नियोक्ता !! 1st जुलाई 2020 से, सभी नए कर्मचारियों के पंजीकरण के लिए प्रभावी और सही मोबाइल नंबर जमा करने के साथ ही बैंक खाता विवरण (खाता संख्या और IFSC) जमा करना भी अनिवार्य होगा। सभी नियोक्ताओं से अनुरोध है कि वे इस आदेश का पालन करें।

इसके अलावा, ईएसआई पोजना के तहत पंजीकृत सभी मौजूदा कर्मचारियों के मोबाइल नंबर और बैंक खाते के विवरण को सही ढंग से तुरंत अपडेट करना और सुधारना भी, नियोक्ताओं की जिम्मेदारी होगी।

नियोक्ताओं की यह जिम्मेदारी भी होगी कि वे किसी भी धोखाधड़ी की गतिविधि को रोकने के लिए सही जानकारी प्रदान करें और इसके किसी भी कानूनी या प्रशासनिक परिणाम से बचें।

For *RLS Consulting*

Jigar Soni

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www.rlsconsulting.in



No.:E-13/12/08/2017-PR

Dated: 27.02.2017

Press Release

PROVIDING SUPER SPECIALITY TREATMENT TO RETIRED INSURED PERSONS

The ESI Corporation under the Ministry of Labour & Employment, Govt. of India in its Chintan Baithak of 171st meeting of ESI Corporation held on 18.2.2017 at Kochi gave its approval for providing Super Speciality Treatment to retired Insured Persons. **Shri Bandaru Dattatreya**, Hon'ble Minister of State (Independent Charge) for Labour & Employment, Govt. of India/Chairman, ESIC chaired the meeting.

Medical care including Super Specialty Treatment

The retired Insured Persons & their spouse are getting in-house Medical Facility Benefit on payment of Rs.120/- per annum. Now, the Corporation has approved in principle, extending the facility of Super Speciality Treatment (SST) to retired Insured Persons, subject to following eligibility conditions:-

1. IP should have been eligible for SST during his qualifying period of insurable employment before retirement.
2. Only IPs and his/her spouse shall be eligible for treatment.
3. IPs to enroll under Rule 61 within one month of their retirement.
4. Option to join shall be one time on retirement, No enrollment shall be allowed thereafter.
5. The existing beneficiaries under Rule 61 shall have one time option to opt for SST facility.
6. A retired IP who have opted out any time, after retirement shall not be eligible to rejoin on any subsequent date.
7. Ceiling of expenditure on SST/all referrals to tie up hospitals in a financial year may be restricted to 10,00,000.
8. An overall ceiling of Rs.15, 00,000 may be fixed for SST, in life time for both the IP and spouse.
9. IPs already retired but not enrolled so far may be allowed one time opportunity to join the scheme within the period of 3 months. However, they shall be eligible for SST only after gestation period of 6 months.
10. The medical facilities are extended to the widow of deceased IPs, i.e. widow who is in receipt of Dependent Benefit. The facility of SST may also be extended to such widows.

ESIC Covid-19 dedicated Hospitals across the country.

	01. ESIC Hospital, Ankleshwar, Gujarat	100 Beds		09. ESIC Hospital, Indore, MP	300 Beds
	02. ESIC Hospital, Gurugram, Haryana	80 Beds		10. ESIC Hospital, Bhiwadi, Rajasthan	50 Beds
	03. ESIC Hospital, Vapi, Gujarat	100 Beds		11. ESIC Hospital, Jaipur, Rajasthan	270 Beds
	04. ESIC Hospital, Udaipur, Rajasthan	100 Beds		12. ESIC Hospital, Jajmau, UP	70 Beds
	05. ESIC Hospital, Jammu	50 Beds		13. ESIC Hospital, Sahibabad, UP	100 Beds
	06. ESIC Hospital Baddi, Himachal Pradesh	100 Beds		14. ESIC Hospital (SST block), Varanasi, UP	54 Beds
	07. ESIC Hospital, Adityapur, Jharkhand	42 Beds		15. ESIC Hospital, Kalaburgi, Karnataka	120 Beds
	08. ESIC Hospital, Joka, West Bengal	470 Beds		16. ESIC Hospital, Bapu Nagar, Gujarat	250 Beds

भारत सरकार
मन्त्रालय
कर्मचारी राज्य बीमा निगम
Employees' State Insurance Corporation
मन्त्रालय, भारत सरकार, वित्त मंत्रालय

कर्मचारी राज्य बीमा निगम
Employees' State Insurance Corporation
मन्त्रालय, भारत सरकार, वित्त मंत्रालय

Several relief measures taken by ESIC for Insured Persons (IPs) and Employers

- ESI beneficiaries can purchase medicines from private chemists during the lockdown period and its subsequent reimbursement by ESIC has been permitted.
- Insured Persons (IPs) and beneficiaries can avail medical services from tie-up hospitals if an ESIC hospital is declared as a dedicated COVID-19 hospital to cater exclusively to Coronavirus confirmed cases.
- The validity of Medical Benefit Cards issued to the IPs who ceased to be in Insurable Employment due to Permanent Disablement or, to retired IPs who couldn't pay the advance contribution due allowed to avail medical benefit till 30.06.2020.
- ESI Beneficiary may also seek Emergency/non-Emergency medical treatment from tie-up without referral letter, in accordance with his entitlement.

भारत सरकार
मन्त्रालय
कर्मचारी राज्य बीमा निगम
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Employees' State Insurance Corporation
मन्त्रालय, भारत सरकार, वित्त मंत्रालय



Medical Benefits by ESIC during COVID-19 Pandemic

IP
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**Hospitals are working as COVID centres for treatment/
isolation of COVID-19 positive patients.**

Sr No.	Location	Bed Capacity	Category (Dedicated/ Quarantine ward)
1	ESIS Hospital, Kandivali	130	Dedicated
2	ESIS Hospital, Solapur	40	Dedicated
3	ESIS Hospital, Nasik	Order issued on 18/06/2020 to make provision of 50 bedded COVID-19 wards	Quarantine ward
4	ESIS Hospital, Chinchwad	100	Dedicated
5	ESIS Hospital, Aurangabad	40	Quarantine ward
6	ESIS Hospital, Ulhasnagar	100	Dedicated
7	ESIS Hospital, Kolhapur	50	Quarantine ward
8	MGM Hospital, Parel	300 Order issued on 09/05/2020 to make provision for dedicated COVID-19 Hospital	Quarantine ward Dedicated



MEDICAL INFRASTRUCTURE IN MAHARASHTRA

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As on 30-09-2019	
1. Total No. of ESI hospitals	15
(i) Hospitals run by ESI Corporation	3
(ii) Hospitals run by State Government	12
2. Total number of Dispensaries	55
(i) ESIC dispensaries	03 (DCBOs)
(ii) ESIS Dispensaries	52
3. Total number of ISM unit	10
4. Total number of hospital beds (Including annexes/ reserved beds)	2,665
5. Total number of Doctors	604
6. Total number of IMP clinics	501
7. Total number of IMP/CHC/PHC	938
8. No. of tie-up (private) hospitals	264



Medical Benefits by ESIC during COVID-19 Pandemic

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- Primary, Secondary and Tertiary care are provided in ESIC Empanelled Hospitals. The list of Hospitals can be found on https://www.esic.nic.in/roso_tie_up_hospitals.
- Cashless COVID-19 tests are provided which can be done after being referred by authority from ESI Hospitals.
- During emergency, the test may be conducted at the ICMR approved labs at own cost and reimbursement can be claimed from ESIC.
- Dialysis centres have been empanelled exclusively for dialysis services during the time of COVID-19 Pandemic.
- Due to imposition of Lockdown if medicines for chronic diseases prescribed earlier by the ESIC Hospital/ESIC Tie-up Hospitals earlier are bought out of one's own pocket, the same will be reimbursed by ESIC.
- In view of Lockdown, Migrant Workers across the Country, with valid ESI Medical benefit entitlement , may seek medical care services from ESI Hospital nearest to their home town , in case of emergency.

Measures taken by ESIC to extend relief during the COVID-19 pandemic



15 ESIC Hospitals with 2156 Isolation beds converted into dedicated COVID-19 Hospitals.



Quarantine Facility at 6 ESIC Hospitals with 1334 Beds made available.



Additional, 796 Isolation Beds, 555 ICU / HDU Beds with 213 Ventilators at most of the other ESIC Hospitals.



Beneficiaries can avail medical treatment from any tie-up hospital without referral letter, during lockdown period.



ESIC Medical College & Hospital, Faridabad (Haryana) has started In-house Covid 19 Lab test services.



ESIC Medical College and Hospital, Sanath Nagar, Hyderabad in collaboration with DRDO has developed India's first ICMR approved Covid -19 sample collection mobile lab named "Mobile BSL-3 VRDL Lab."



ESIC IN MAHARASHTRA



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- ESI Scheme was first started on 11th July 1954 in Nagpur & In Mumbai on 3rd Oct. 1954
- ESI Scheme has been fully implemented in 22 districts and partially implemented in 09 districts in Maharashtra



Extent in Maharashtra

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- ❖ Regional office Mumbai (Lower Parel)
- ❖ Six Sub-Regional Offices at -
 - Pune
 - Marol
 - Thane
 - Nagpur
 - Aurangabad
 - Nasik
- ❖ Number of Branch Offices - 72



Super Specialty.....

IP
our
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- **Tie-up arrangements:** in Maharashtra with reputed Hospitals made for cashless / hassle-free treatment to I.Ps and their dependent family members.
- **Entitlement conditions for availing Super Specialty Treatment :**
For IP minimum 6 months insurable Employment with 78 days payment of contribution.
For the dependent of IP, IP should be in 12 months insurable Employment with 156 days payment of contribution



Comparison between Commercial Insurance Scheme and ESI Scheme

IP
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VIP
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Commercial Insurance Scheme	ESI Scheme
Covers only one person viz. the insured	Covers the insured person along with his family unit
Provides only one service stipulated in the policy	Provides five services – Medical Benefit, Sickness Benefit, Disablement Benefit, Maternity Benefit and Dependents' Benefit with single contribution
Covers only identified diseases	Covers all types of diseases.
The saving go into the profit of the company	The savings are kept in the corpus for being ploughed back into the Scheme.



NEW INITIATIVES

IP
our
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- Enhancing the income limit of dependent parents from 5000/- to 9000/- under Rule 61 (A) of ESI Act.
- Once in a year life certificate and no need for submitting claim for PDB/DB beneficiaries has been introduced.
- Cash Benefits especially the long term Benefits i.e. Permanent Disablement and Dependents Benefits are being directly credited to the bank account of the beneficiaries through ECS system.
- Continuing medical benefit to insured persons retiring under VRS scheme or taking premature retirement.



NEW INITIATIVES

IP
our
VIP
ATH

Central Analysis and Intelligence Unit (CAIU)

- Setting up of Central Analysis and Intelligence Unit (CAIU) and notification of scheme of inspection linked with the Unified Web Portal (UWP).
- CAIU has been formulated with an aim to achieve the objective of simplifying business regulations, with system driven triggers equipped with relevant norms and criteria for ensuring more accountability, transparency and for minimising frequent inspection of the same unit.



NEW INITIATIVES

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ESIC Launches e-Pehchan Card and Health Passbook

- Aadhar Number of Self and family can be linked online to the IP no by the employer or by the staff of branch office or by directly IP through IP portal link available on website www.esic.in.
- Issuance of Health Passbook to Beneficiaries to maintain Health Records.



Benefits to Employers

IP
OUR
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- Online registration facility for all the employers.
- Online filing of employee details, employers are able to file details online and check the status online.
- Online contribution payment activated, employers are relieved from physical payment at the banks through challans and then submission of challan details physically.
- Online filing of returns, processing done automatically, status or queries can be tracked and submitted online.
- Faster and timely delivery of service through automation across all ESIC departments.



SUVIDHA SAMAGAM

- **Suvidha Samagam is being held regularly in RO/SRO on 2nd Wednesday of every month and at Branch Offices on 2nd Friday of every month for redressal of grievances/complaints.**



Benefits to IPs

- One Card accepted in all ESI hospitals and dispensaries across India.
- Card and the insurance no. remains valid even after change of employer, no need to apply for new card.
- Hence, employers are requested not to issue new Insurance Numbers to those who are already registered.
- IPs can view their details, contributions and entitlements online using **IP Portal**.



Better Medical Care Using Technology

- Empowering the IP : All the details of medical history as well as treatment received are available online on the click of a button
- For emergency/Super Specialty Treatment, entitlement can be checked online. Entitlement period for superspecialty treatment will be counted from the date of registration in place of date of appointment.
- Re-imbursement of all the medical bills done online and payment transferred directly to IP through ECS.
- Lists of Super Specialty Hospitals all over the country are available on ESIC website.



e-Kranti – Online Services of ESIC

- Stakeholders may lodge their grievances online and get redressal through internet facility anytime and anywhere in ESIC.
- Stakeholders can also lodge complaint on PG Portal <http://pgportal.gov.in>



Speed Post



HQRS.OFFICE

EMPLOYEES' STATE INSURANCE CORPORATION

PANCHDEEP BHAVAN, CIG ROAD, NEW DELHI-110 002

E-mail: dir-p&d@esiic.nic.in, Phone/Fax-011-23236610; VOIP no.-10011017

No. X-11/14/1/2002-P&D

Dated: 30/03/2011

To

Regional Director / Additional Commissioner,
Employees' State Insurance Corporation,
Rajindera Place, New Delhi.

Subject: Reduction of threshold of coverage of certain establishments in the NCT , Delhi area under section 1(5) of ESI Act.

Sir,

In continuation of this office letter no. X-11/14/1/2008-P&D dated 27/08/2010, I to forward herewith a copy of Gazette Notification no. 501 dated March, 2011 published in Extraordinary PART-II-Section 3-Sub-section (ii) issued by the Central Govt.

(2) Vide above notification the Central Govt. has extended the provisions of Act to certain specified establishments as mentioned in said notification. The provisions of above notification are applicable w.e.f. 1st April, 2011. Necessary action may kindly be taken to ensure that the compliance of the notification is made immediately under intimation to Director (Revenue), Hqrs. Office.

Yours faithfully,

Encl: as above.

[R.C.SHARMA]

DIRECTOR (P & D)

Copy forwarded alongwith copy of notification for information and suitable necessary action to:-

- (1) Director (Revenue), Hqrs. Office, ESI Corporation, New Delhi.
- (2) Joint Director (I/C), ESI Corporation, Sub-Regional Office, Okhla, New Delhi.
- (3) Joint Director (I/C), ESI Corporation, Sub-Regional Office, Nand Nagri, New Delhi.
- (4) Joint Director (I/C), ESI Corporation, Sub-Regional Office, Rohini, New Delhi.
- (5) Joint Director (System) , Hqrs. Office, with the request to upload this circular including enclosures on the website of Hqrs. Office.

DEPUTY DIRECTOR (P&D)

MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION

New Delhi, the 23rd March, 2011

S.O. 616(E).—Whereas, by a notification of the Government of India in the Ministry of Labour and Employment, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 148(E), dated the 29th November, 2010, the Central Government, in consultation with the Employees' State Insurance Corporation, gave notice of its intention to extend the provisions of the Employees' State Insurance Act, 1948 (34 of 1948) to certain classes of establishments specified in the Schedule to the said notification after one month from the date of that notification;

And whereas, the copies of the said notification were made available to the public on the 24th day of November, 2010;

And whereas, no objections and suggestions have been received within the said period of one month in respect of the said notification;

Now, therefore, in exercise of the powers conferred by sub-section (5) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, in consultation with the Employees' State Insurance Corporation, hereby extends with effect from the 1st day of April, 2011, the provisions of the said Act to the classes of establishments specified in column (1) and situated within the areas specified in column (2) of the Schedule annexed hereto, namely :—

SCHEDULE

Description of establishments	Areas in which the establishments are situated
(1)	(2)
<p>The following establishments wherein ten or more persons are employed, or were employed, on any day of the preceding twelve months, namely :—</p> <ul style="list-style-type: none">(i) shops;(ii) hotels;(iii) restaurants;(iv) road motor transport establishments;(v) cinemas including preview theatres;(vi) newspaper establishments as defined in clause (d) of Section 2 of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955);(vii) educational institutions (including public, private, aided or partially aided) run by an individual, trust, society or other organisation;(viii) medical institutions (including corporate, joint sector, trust, charitable and private ownership hospitals, nursing homes, diagnostic centres, pathological labs).	All areas in the National Capital Territory of Delhi where provisions of the Employees' State Insurance Act, 1948 have already been brought into force under sub-section (3) of Section 1 of the Act.

[No. S-38025/23/2010-SS. I]

RAVI MATHUR, Addl. Secy.

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 27th October, 2020

G.S.R. 676(E).—Whereas, a draft containing certain rules further to amend the Employees' State Insurance (Central) Rules, 1950, was published in the Gazette of India, Extraordinary, Part-II, section 3, sub-section (i) vide number G.S.R. 466(E), dated the 27th July, 2020 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 Official Gazette containing the said notification was published were made available to public;

And whereas, copies of the said Official Gazette were made available to the public on the 27th July, 2020;

And whereas, no objection or suggestion has been received from any person in respect of the said draft rules within the period specified above for consideration by the Central Government;

Now, therefore, in exercise of the powers conferred by section 95 of the Employees' State Insurance Act, 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:—

1. **Short title and commencement.**— (1) These rules may be called the Employees' State Insurance (Central) Amendment rules, 2020.
(2) They shall come into force on the date of their final publication in the Official Gazette.
2. In the Employees' State Insurance (Central) Rules, 1950, in the rule 56-A, for the words "rupees five thousand", the words "rupees seven thousand five hundred" shall be substituted.

[F. No. S-65012/01/2020-SS-I]

VIBHA BHALLA, Jt. Secy.

Note : The principal rules were published in the Gazette of India , Part II, Section 3, Sub-section(i) *vide* notification number S.R.O. 212, dated the 22nd June, 1950 and amended *vide* notification number G.S.R. 555(E), dated the 14th September, 2020.



मुख्यालय/Headquarters
कर्मचारी राज्य बीमा निगम /Employees' State Insurance Corporation
पंचदीप भवन, श्री आई जी मार्ग/Panchdweep Bhawan, CIG Marg
नई दिल्ली/New Delhi - 110002
वेब साईट/Website : www.esic.nic.in
E-mail : dir-pnd@esic.nic.in
दूरभाष/Telephone - 011 23232373



No. X-11/14/6/2015-P&D

Dated : 02.11.2020

**परिपत्र
CIRCULAR**

विषय : एसिक 2.0विजन-2022 के अंतर्गत राज्य-वार कार्यान्वित/गैर-कार्यान्वित जिलों की अद्धतन सूची
(दिनांक 01.11.2020 की स्थिती के अनुसार)।

**Sub : State wise updated list of implementation under ESIC 2.0/Vision-2022 (As on
01.11.2020)**

मुख्यालय की वेबसाइट लिंक सं. 4187/2019 दिनांक 06.09.2019 पर अपलोड किए गए पूर्व परिपत्र दिनांक 05.09.2019 के अनुक्रम में दिनांक 01.11.2020 की स्थिती के अनुसार कार्यान्वयन की वर्तमान स्थिती निम्नानुसार है :-

- क.** दिनांक 01.11.2020 की स्थिती के अनुसार राज्य-वार कार्यान्वयन की स्थिती इस प्रकार है :-
- i. राज्य/केन्द्रशासित प्रदेश जहां संपूर्ण क्षेत्र अधिसूचित है - 12
 - ii. राज्य/केन्द्रशासित प्रदेश जहां आंशिक क्षेत्र अधिसूचित है - 23
 - iii. गैर-कार्यान्वित राज्य/केन्द्रशासित प्रदेश - 1 (लक्षद्वीप)

दिनांक 01.11.2020 की स्थिती के अनुसार कार्यान्वित/गैर-कार्यान्वित जिलों की जिलेवार अद्धतन सूची अनुलग्नक-ए पर संलग्न है।

ख. कार्यान्वित जिलों की सूची इस प्रकार है -

संपूर्ण क्षेत्र में कार्यान्वित जिलों की संख्या	387
आंशिक रूप से क्षेत्र में कार्यान्वित जिलों की संख्या	188
कुल	575

विजन - 2022 के अंतर्गत लक्ष्य को पूरा करने के लिए आंशिक रूप से कार्यान्वित जिले व गैर-कार्यान्वित जिलों में राज्य सरकार की सहमती से चिकित्सा व्यवस्था पूर्ण करने हेतु प्रयास करें व प्रस्ताव मुख्यालय लक्ष्यानुसार प्रेषित करें।

In continuation to previous Circular of even no. dated 05/09/2019 uploaded on ESIC website www.esic.nic.in link no. 4187/2019, the present status of notification of ESI Scheme is as under :-

- (a) State wise status of implementation as on 01.11.2020 is as under:-
1. No. of States/UT's whose entire area is notified - 12
 2. No. of States/UT's where the Scheme is partially notified - 23
 3. Non-Implemented State/UT's - 1 (Lakshadweep)

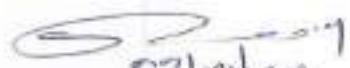
The consolidated status of district wise implementation in respect of above is enclosed as Annexure-A

(b) The Summary of Notified Districts is as under:

Fully Notified Districts	387
Partially Notified Districts	188
Total	575

The medical arrangement in non-implemented districts & Partially implemented districts may be expedited in consultation with respective State Govt.'s for implementation as per target of Vision - 2022.

संलग्नक - यथोपरि



02/11/2020
(प्रयग सिंह)

उप निदेशक (योजना व विकास)

प्रतिलिपि प्रेषित :-

1. प्रधान निजी सचिव (महानिदेशक/वित्त आयुक्त/मुख्य सतर्कता अधिकारी/दीमा आयुक्त/चिकित्सा आयुक्त)।
2. सभी क्षेत्रीय निदेशक।
3. उप निदेशक (जन संपर्क शाखा) को मुख्यालय की वेबसाइट पर अपलोड करने हेतु।



मुख्यालय/Headquarters
कर्मचारी राज्य बीमा निगम /Employees' State Insurance Corporation
पंचदीप भवन, सी आई जी मार्ग/Panchdweep Bhawan, CIG Marg
नई दिल्ली/New Delhi - 110002
वेब साईट/Website : www.esic.nic.in
ई-मेल/E-mail : dir-pnd@esic.nic.in
दूरभाष/Telephone - 011 23232373



No. N-15/14/03/PP/2020 - P&D

Dated 23.10.2020

To,

The Additional Chief Secretary /Principal Secretary
to the Government of

Sub: Phased programme for implementation of ESI Scheme for year 2020-21.

Sir,

Kindly refer to Letter No.X-11/14/03/2017-P&D dated 14.10.2019 on the above cited subject wherein the district wise phased programme for the year 2019-20 was conveyed as per Vision – 2022. The targets for 2019-20 could not be achieved due to non-receipt of proposal from State Govt. Now, a new consolidated target for 2020-21 is enclosed which includes the pending districts not notified during the year 2019-20 in the target of notification.

The present status of notification is that the entire area of 387 Districts are fully notified, and in 188 districts, the Scheme is notified in the Districts Headquarters area or prominent Industrial centers. The Scheme is not-notified in 161 Districts.

It is also to inform that the Code on Social security, 2020 (Act 36 of 2020) has been notified. The effective date of implementation is also expected to be notified shortly. The code subsumes ESI Act, 1948 along with eight other central enactments in the field of Social Security. Once notified, the entire area of the country shall be implemented for the purposes of ESI Scheme. Therefore, it is imperative to make medical arrangement in all areas within this financial year itself.

The targets for the year 2020-21 is enclosed as Annexure -A with the request that necessary steps may be taken on priority basis for implementing the scheme in the districts shown in the Annexure.

The ESI Corporation bears the entire expenditure on medical care for an initial period of 3 years in case of implementation of the Scheme to new areas. The ceiling of expenditure on medical care per insured persons family unit per annum has also been further enhanced from Rs 2150 to Rs.3000 per IP per annum w.e.f. 2017-18. The Government has also decided to reduce the rate of ESI contribution payable from 6.5% of wages to 4% of wages which has become effective from 01.07.2019.

In view of the above, the State Govt. is requested to take steps to complete the medical arrangement in the districts for delivery of medical care to the Insured Persons and their family members so as to enable ESIC to take further action for issue of notification well in time for implementing the Scheme.

Encl : As above.

Yours faithfully,

(S. Ravichandran)
Additional Commissioner (P&D)

Copy forwarded to :-

1. All Director Medical Services/Administrative Medical Officer.....
2. The Regional Director, ESI Corporation, for pursuing the matter with the State Government for speeding up implementation of scheme as per phased programme. The matter may be discussed with the concerned Secretary/Director (M) to get implementation proposals expedited to Hqrs. Office. Regional Director may monitor personally the submission of medical benefit arrangement plan, estimates etc. both by the State Government and from the Regional Office itself as per targets fixed and discuss at the highest level so that the targets could be achieved. The phased programme and achievement of the targets may be discussed in the Regional Board & SEC Meetings. For the areas falling in the jurisdiction of Sub Regional Offices/Divisional Offices, Regional Director may ensure medical arrangement and Branch Office availability in the new area through the respective In-charge. DCBO has also been sanctioned for various districts which are to be run by ESIC directly. Opening of DCBO may be linked to phased programme of implementation, especially in respect of those States where NOC for making medical arrangement has been given by the State Govt. to ESIC.
3. Actuarial Br./F&A/Medical-1/Medical-II/Hindi Section for information,
4. DD(PR), ESIC Hqrs. Office with request for uploading on Hqrs. Website.
5. Rajbhasha, For Hindi Version.



Dy. Director (P&D)



भारत का राजपत्र

The Gazette of India

सं. ओ.-ग्र. एल.-अ.-16102020-222507
CG-DL-E-16102020-222507

विस्तारण
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भाग III—खण्ड 4
PART III—Section 4
प्रधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 436।

नई दिल्ली, मुकुटार, अक्टूबर 16, 2020/आस्विन 24, 1942
NEW DELHI, FRIDAY, OCTOBER 16, 2020/ASVINA 24, 1942

कर्मचारी राज्य बीमा नियम

अधिसूचना

नई दिल्ली, 14 अक्टूबर, 2020

सं.-एन-12/13/01/2019-यो.एवं बि.—जबकि अटल बीमित व्यक्ति कल्याण योजना को 24.03.2020 से 31.12.2020 की अवधि के लिए पात्रता शर्तों में राहत के साथ 01.07.2020 से 30.06.2021 तक विस्तारित करने की मसीदा अधिसूचना, उसमें प्रभावित होने वाले सभी व्यक्तियों से जनता को इसे उपलब्ध कराने की तिथि से तीस दिन की अवधि की मात्रा तक आपत्तियाँ एवं सुझाव आमंत्रित करने हेतु, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 97 की उपधारा (1) में पदा-अधिकारित भारत का राजपत्र (असाधारण) भाग III खण्ड 4 में दिनांक 11.09.2020 को प्रकाशित की गयी थी;

और जबकि, उक्त राजपत्र की प्रतिपाँ 11.09.2020 से सार्वजनिक उपयोग के लिये उपलब्ध करा दी गयी थी;

और प्रभावित होने वाले सम्मानित व्यक्तियों से प्राप्त मुझावों पर विचार किया गया ;

अतः अब कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 97 की उप-धारा (1) के तहत प्रदत्त अधिकारियों का प्रयोग करते हुए कर्मचारी राज्य बीमा नियम अटल बीमित व्यक्ति कल्याण योजना जो कि भारत का राजपत्र (असाधारण) भाग III खण्ड 4 में दिनांक 04.02.2019 को अधिगृहित की गई थी को दिनांक 01.07.2020 से 30.06.2021 तक, दिनांक 24.03.2020 से 31.12.2020 तक नियमित पात्रता शर्तों में राहत के साथ, एलट्रारा विस्तारित करने को अधिसूचित करता है :-

- बीमाकृत व्यक्ति को अपनी बेरोजगारी के ठीक पूर्व के दो वर्षों की न्यूनतम अवधि के लिए बीमायोग्य रोजगार में होना चाहिए और बेरोजगारी से ठीक पूर्व अंशदान अवधि में कम-से-कम 78 दिनों तक बेरोजगारी से पूर्व के दो वर्षों में तीन अंशदान अवधियों में से एक में न्यूनतम 78 दिन का अंशदान होना चाहिए।

2. दावा बेरोजगारी की तिथि के पश्चात 30 दिनों में देय होगा।
3. बीमाकृत व्यक्ति द्वारा शहर का दावा, शास्त्र कार्यालय को सीधे विधिवत पूर्ण निर्धारित दावा प्रपत्र में अनिवार्य प्रस्तुत किया जाए। बीमाकृत व्यक्ति के बैंक खाते में भुगतान, विधिवत पूर्ण दावे की प्राप्ति से 15 दिनों के भीतर किया जाएगा। बीमाकृत व्यक्ति की पहचान करने के लिए आधार का उपयोग किया जाएगा।
4. बेरोजगारी के अधिकतम 90 दिनों के लिए, पिछली चार अंशदान अवधियों के बीच प्रतिदिन औसत अर्जन राशि की 50% तक राहत प्रदान की जानी है।

उपर्युक्त घट दी गई पात्रता अते केवल 24.03.2020 से 31.12.2020 की अवधि के लिए ही लागू होगी। अन्य अते, दिनांक 04.02.2019 को अधिसूचित मूल अटल बीमित व्यक्ति कल्याण योजना में निर्दिष्ट अनुसार पूर्ववत ही रहेगी। अटल बीमित व्यक्ति कल्याण योजना मूल पात्रता अतों के साथ उन बीमाकृत व्यक्तियों के लिए उपलब्ध रहेगी जो 23.03.2020 वा उनसे पहले एवं 01.01.2021 वा उसके बाद बेरोजगार हुए हों।

एम. विनाम, बीमा आयुक (मो.व.वि.)

[विज्ञापन-III/4/असा./299/2020-21]

EMPLOYEES' STATE INSURANCE CORPORATION

NOTIFICATION

New Delhi, the 14th October 2020

No. N-12/13/01/2019-P&D.—Whereas draft notification further to extend Scheme Atal Beemit Vyakti Kalyan Yojana for the period 01.07.2020 to 30.06.2021 with relaxation in eligibility conditions for the period 24.03.2020 to 31.12.2020 was published as required under sub-section (1) of section 97 of the Employees' State Insurance Act, 1948 (34 of 1948) in the Gazette of India (Extraordinary) Part III Section 4 dated 11.09.2020 for inviting objections and suggestions from all persons likely to be affected thereby till the expiry of period of thirty days on which the notification was published;

And whereas, the said gazette notification was made available to the public on 11.09.2020;

And the suggestions received from the persons likely to be affected were considered;

Now, therefore in exercise of the powers conferred under sub-section (1) of Section 97 the Employees' State Insurance Act, 1948 (34 of 1948), the Employees' State Insurance Corporation hereby notifies the extension of the Scheme Atal Beemit Vyakti Kalyan Yojana, which was notified in the Gazette of India (Extraordinary) Part III section 4 on 04.02.2019, for the period from 01.07.2020 to 30.06.2021 with relaxation in following eligibility conditions for availing relief under the Scheme during the period 24.03.2020 to 31.12.2020, which shall be as under:-

1. The Insured Person should have been in insurable employment for a minimum period of two years immediately before his/ her unemployment and should have contributed for not less than 78 days in the contribution period immediately preceding the unemployment and minimum 78 days in one of the remaining three contribution periods in two years prior to unemployment.
2. Claim shall be due 30 days after date of unemployment.
3. The claim for relief may be submitted by an IP online in the prescribed claim form duly completed, directly to the Branch office. The payment shall be made in the bank account of the IP within 15 days from the receipt of the duly completed claim. Aadhaar shall be used for identification of the Insured Person.

4. Relief to the extent of 50 % of the average per day earning during the previous four contribution periods to be paid up to maximum 90 days of unemployment.

The above relaxed eligibility conditions shall be applicable for the period 24.03.2020 to 31.12.2020 only. The other conditions as specified in the original Atal Beemit Vyakti Kalyan Yojana as notified on 04.02.2019 shall remain the same. The Scheme Atal Beemit Vyakti Kalyan Yojana shall be available with original eligibility conditions for the IPs who became unemployed on or before 23.03.2020 and on or after 01.01.2021.

S. BISWAS, Insurance Commissioner (P&D)

[ADVT-III/4/Exty./299/2020-21]

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and Published by the Controller of Publications, Delhi-110054.

"Frequently Asked Questions" and their Replies on "Atal Beemit Vyakti Kalyan Yojana (ABVKY)"

S. No.	Question	Reply
1	<p>Does unemployment cover the Insured Persons (IPs) who didn't get the salary from the employers during the lockdown period and whose contribution is being shown as 0 (Zero)?</p> <p>Is it mandatory for employer to remove IPs names from the ESIC Challan List? Because in most of the cases the workers contribution is showing "0" and yet ineligible.</p>	<p>No.</p> <p>The relief under the scheme is available only to the IPs who have been rendered unemployed. An IP will be considered unemployed only if his/ her employer has shown him/ her exit in the monthly contribution Challan. If the employer has shown "0" contribution for the IP in the monthly contribution challan, this means that the IP is still employed with the employer and employer may pay some amount to these employees hence such employees are not eligible for relief under the Scheme.</p>
2	Does the scheme cover the IPs who were unemployed during the lockdown but are now working?	Such employees, if fulfil the required eligibility conditions are eligible for relief under the scheme. But the claimant must have been unemployed during the period of claim.
3	The claimant cannot file claim under the scheme for first 30 days after unemployment.	The claimant can file claim for relief 30 days after being rendered unemployed i.e. shown exited by the employer). The claimant can file the claim for a completed month right after his unemployment.
4	Is creation of claim by the system a guarantee of payment of relief under the scheme. Can the claim be rejected even after the system has allowed claim creation?	Creation of claim by the system is not guarantee for payment of relief under the scheme. If the claimant is found ineligible during the verification of the claim by the Branch office Manager with the Employer's records, the claim can be rejected by the Branch office manager albeit such cases should be rare.

S. No.	Question	Reply
5	What is the age of superannuation?	The age of superannuation of any Insured Person is company specific as per Company's policy in accordance with the law. As per the explanation under Section 56 of the ESI Act the age of superannuation can be taken as age of sixty years.
6	It is a general phenomenon that the employees submit their resignation from the company for leaving the job. Will those employees who have submitted their resignation to leave the job are eligible for relief under ABVKY.	The employees who have submitted their resignation shall be considered as unemployed and if otherwise eligible they can be paid relief under the scheme provided that employer has not paid any retrenchment benefit/ monetary compensation at the time of resignation/ leaving the job.
7	Whether Lockdown (a closure of temporary nature forced on employer by a government order) can be a qualification factor under ABVKY to pay compensation to the employees.	No. Relief under the ABVKY is not admissible in case of lock-down or lock-out as the employer continues to employ the employees during the period of lock-out/ lockdown.
8	Whether employee is to be enquired regarding his unemployment and whether any declaration regarding his unemployment is to be taken by the Branch Manager during verification of the claim.	No declaration is to be obtained from the employee (unemployed ex-IP). Enquiry from the employee is also to be avoided. All required information of ex-IP may be obtained from employer at the time of verification.
9	The employer during verification shows that the employee has left the job or had tendered resignation or taken voluntary retirement.	The employees shall be considered as unemployed, and if otherwise eligible they can be paid relief under the scheme provided that employer has not paid any retrenchment benefit/ monetary compensation at the time of resignation/ leaving the job.
10	If the EPF contribution has been paid in respect of the unemployed employee, then whether employee is to be considered as unemployed.	No. If during verification it is found that the EPF contribution has been paid in respect of the employee, the employee shall not be considered as unemployed.



JUDGMENT which makes SENSE

PRINCIPAL EMPLOYER IS NOT LIABLE TO ESI DUES IN RESPECT OF CONTRACTORS' EMPLOYEES IF NOT HAVING CONTROL AND SUPERVISION OVER SUCH EMPLOYEES

ESI Corporation asked principal employer to pay ESI contribution in respect of contractors' employees. The employer submitted that it has no control and supervision over these employees and not liable to pay ESI contributions. ESI Authority passed an order directing the principal employer to pay ESI dues. On challenge, the ESI Court set aside the impugned order. ESI Authority filed appeal against the order of ESI Court. The High Court upheld the order passed by ESI Court dismissing the appeal holding that 'principal employer' cannot be liable for ESI contributions towards employees of independent contractors, not working under its control and supervision.

Dy. Director, Insurance No.V, ESI
Corporation, Chennai vs. India Pistons
Repco Limited, 2014 LLR 536 (Mad. HC)



EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN, C.L.G. ROAD
NEW DELHI - 110 002
Website - esic.in Ph : (011) 23234092

ESIC...Chinta se Mukti

No.P-11/12/Misc./1/2019(M) Rev.II

Dated : 01.07.2020

To

All RDs/Directors (I/c)/JDs (I/c) /DD (I/c)
Regional Office/Sub-Regional Office,

Sub: Relaxation of time limit for filing contribution for the period ending March, 2020-
regarding

Sir

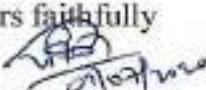
In continuation of this office letter of even number dt. 18.05.2020 on the subject noted above, it is informed that the Director General, in exercise of powers vested under regulation 100, has further relaxed the provisions as entered in regulation 26 of the Employees' State Insurance (General) Regulation, 1950.

According, the employers are allowed to file the Return of Contribution up to 15.07.2020 for the contribution period from October, 2019 to March, 2020.

In this regard it is advised to give wide publicity to the above relaxation in Local Media, Trade Associations and Employers Unions etc.

This issues with the approval of Director General.

Yours faithfully


(RAKESH KUMAR)
DY. DIRECTOR(REV.)

Copy to : 1. ICT Division, Hqrs. Office for necessary action.
2. Website Manager, with the request to upload the above letter on the website of ESI Corporation.

FORM 22
FEDERAL EXPENSES CLAIM FORM
EMPLOYEES' STATE INSURANCE CORPORATION
(Regulation 95-E)

Claim arising out of death on of s/w/d of aged years, having Insurance No. and last employed as by M/s. Code No.

I s/w/d of aged years declare :

**(i) that I am the eldest surviving member of the family of the deceased Insured Person, whose particulars are furnished here-in-above, and that I actually incurred an expenditure of Rs. (Rupees only) necessary for the funeral of the said deceased person.

or

**(ii) that the deceased Insured Person, whose particulars are furnished there-in-above, did not have a family / was not living with his family at the time of his / her death and that I actually incurred an expenditure of Rs. (Rupees only) on the funeral of the deceased Insured Person.

Accordingly, I do hereby claim funeral expenses for the amount of Rs.
(Rupees only)

Date : Name in Block Letters Signature / Thumb-impression of the Claimant

ATTESATION

*** Certified that the declarations, as made here-in-above, are true to the best of my knowledge and belief.

Name in Block Letters and Rubber Stamp Signature
or Seal of the Attesting Authority Designation
Date

*Delete either (i) or (ii), which may not be applicable in the case.

**This certificate is to be given by (i) an officer of the Revenue, Judicial or Magisterial Department; or (ii) a Municipal Commissioner, or (iii) a Workmen's Compensation Commissioner; or (iv) the Head of Gram Panchayat under the official seal of the Panchayat, or M.L.A./M.P.; or (v) A Gazetted Officer of the Central/State Govt./Member of the Local Committee / Regional Board; or (vi) any other authority considered as appropriate by the Branch Manager concerned.

Important : Any person who makes a false statement or misrepresentation for the purpose of obtaining benefit, whether for himself or for some other person, commits an offence punishable with imprisonment for a term which may extend up to six months or with a fine up to Rs. 2,000/- or with both.]

Note : In the case of a minor, the guardian should sign the claim form on behalf of the minor and then add the following below his/her signature: —

.....
(Name of the Minor)
Through
(Name of the Guardian)
his/her
(Relationship with the Minor)

EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN, C.I.G. ROAD
NEW DELHI - 110 002
Website - esic.nic.in Ph : (011) 23234092



ESIC... Chinta se Mukti

No. P- 11/12/45AA(South)/12/2018 Rev II

Date 08.09.2020

To,

The Regional Directors /Directors/Joint Director I/C/ DD I/C
ESI Corporation
Regional office/Sub Regional Office.

Subject: Permission for conducting Personal Hearing in the Cases registered u/s 45AA through Video Conferencing- reg.

Sir,

Hqrs has been receiving various representations from Appellate Authority and employers request seeking permissions for conducting Personal Hearing in appeal cases u/s 45AA through video Conferencing. According to the procedure establish by the Corporation, "the Appellate Authority shall fix time day and place for the hearing of the appeal and shall give notice of the same to the appellant."

In view of current situation of COVID-19 pandemic there is restriction on movement of individual in many parts of the country and keeping appeals pending will increase workload of Appellate Authority, Therefore The competent authority has allowed all Appellate Authorities, to conduct personal hearing of the cases registered u/s

45AA via Video Conferencing.

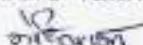
Following procedure may be strictly followed for Personal hearing through VC under Sec 45AA.

1. The Appellate Authority shall fix day and place for hearing of the appeal and shall give notice of the same to the appellant and to the authorised officer against whose order the appeal is preferred.
2. Appellate Authority has to obtain all relevant document from the appellant as scanned copy via email or in hard copy by speed post which can be submitted in concerned SRO for passing order u/s 45AA.
3. Concerned SRO has to keep attendance record of the employer and record of the proceeding of the personal hearing of the VC with hand and seal of the employer and forward it to the Appellate Authority.
4. The AA must ensure that all relevant records/documents have been examined before passing the order under 45AA.

This relaxation is applicable upto 31/12/2020 or till the normalization of the current pandemic situation whichever is earlier.

This issue with the approval of the Director General.

Yours faithfully


(MOHIT RAJA)

Dy. Director (Rev)

SELF DECLARATION OF IW FOR SURVIVING CHILDREN FOR MB CLAIM
EMPLOYEE STATE INSURANCE CORPORATION

Employer's code no.: _____
IW's name: _____

Signature or thumb impression
of IW

Insurance no.: _____
Wife/daughter of: _____

Name & Signature of employer's

I do hereby declare that as on date, I have the following surviving children.

Sl. no.	Name of the child	Gender	Date of birth
First child			
Second child			
Third child			
Fourth child			

I do hereby declare that information furnished above is true. Nothing has been concealed.
Therefore, my claim for payment of maternity for First/Second/Third/Fourth child may be accepted.

Further I declare that I am claiming maternity benefit for _____ surviving child.

Date:-

Signature & thumb impression of
insured woman

Important: Any person who makes a false statement or representation for the purpose of obtaining benefit; Whether for herself or for some other person, commits an offence punishable with imprisonment for a term which may extend upto six month or with a fine upto Rs. 2000/- or with both.



EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE MAHARASHTRA
PANCHDEEP BHAVAN, 108, N.M. JOSHI MARG
LOWER PAREL, MUMBAI, MAHARASHTRA-400013
Email: rd-maharashtra@esic.nic.in Ph:02261209700/742

**NOTICE TO SHOPS AND ESTABLISHMENTS FOR REGISTRATION
UNDER SECTION 1(5) OF THE ESI ACT, 1948 W.E.F. 1ST OCTOBER, 2020
FOR THOSE THAT HAVE EMPLOYED 10 OR MORE PERSONS**

Government of Maharashtra has notified vide it's gazette notification/corrigendum dated 10th of September, 2020/29th of September, 2020 that the ambit of Sub Section(5) of Section(1) of the ESI Act, 1948 has been extended with effect from 01/10/2020 to those classes of establishments mentioned hereunder wherein 10 or more persons are employed or were employed on any day during the preceding twelve months in which the provisions of the said Act have been brought into force under Section 1(3) of the said Act.

Sr. No	Class of Establishments
1	Shops
2	Hotels
3	Restaurants
4	Road Motor Transport Establishments
5	Cinema including Preview Theatres
6	Newspaper Establishments as defined in section 2(d) of the working journalists (conditions of service) and Miscellaneous Provisions Act (45 of 1995)

Accordingly, all such aforestated classes of establishments that are operating in ESI implemented areas of Maharashtra and employing 10 or more persons in their respective units as mentioned above but have not registered yet under the relevant section of the ESI Act, 1948 are required to register themselves through the concerned link available on Shram Suvidha Portal of Ministry of Labour and Employment, Government of India (shramsuvidha.gov.in) or via www.esic.in by filling up all relevant information pertaining to the unit within 15 days in adherence with Regulation 10(B) of the ESI Act, 1948.

Sd/-
Additional Commissioner and Regional Director,
Maharashtra

ESIC provides various benefits such as Medical treatment, Sickness benefits, Temporary/Permanent Disablement Benefit, Dependent benefit, Maternity Benefit, Unemployment allowances and many more, to its eligible Insured persons.

मुख्यालय
कर्मचारी राज्य बीमा निगम
पंचदीप भवन, सी.आइ.जी.मार्ग
नई दिल्ली-110002



Headquarters
Employees' State Insurance Corporation
Panchdeep Bhawan, C.I.G. Road
New Delhi-110002

No V-15/15/1/2006-Medical I (MS)

27.06.2020

To,

All Deans/Medical Superintendents/ Dir. (Med) Delhi & Noida. All DIMS/AMO
ESIC Medical College and Hospitals / All RDs State ESI
Scheme

Subject: Medical benefit to Migrant workers covered under ESI Scheme.

Respected Madam/Sir,

During ongoing Covid 19 Pandemic, it has been observed that some IPs covered under ESI Scheme, are facing difficulty in availing Medical benefit while they have migrated from their workplace town/city to their home town/city, in view of lockdown.

In this regard, considering difficulties being faced in availing medical benefit, the Competent Authority has approved that such Migrant Workers across the country, with valid ESI medical benefit entitlement, may seek medical care services from ESI Hospital nearest to their home town, in case of emergency.

Hence, you are requested to take cognizance of this decision for further necessary action, in order to ease out the hardship faced by such migrant IPs.

Your Sincerely

Dr Subhash Chhokra
Dy. Medical Commissioner

Copy to:

1. Website Content manager for uploading ESIC website.



V.J.B. UDYAN P.O.
MUMBAI-400 027.

Government of India Department of Posts, India



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3. Aadhaar Printing

(Walk along with concerned original documents for Enrolling or Corrections)



List of Post Offices Aadhar Enrolment & updating Facility in Mumbai East Division

Sr. No.	Name of Post Office	Phone No.
1.	Antop Hill Post Office	24120290
2.	BPT Colony Post Office	24100525
3.	B. P. Lane Post Office	23421653
4.	Chinchbunder Post Office	23771116
5.	CGS Colony Post Office	24097933
6.	Chamar Baug Post Office	24705407
7.	Dadar HO Post Office	24148953
8.	Dadar Colony Post Office	24173412
9.	Dockyard Post Office	23774238
10.	Haffkine Institute Post Office	24125871
11.	Kadwai Nagar Post Office	24173413
12.	Kalachowki Post Office	23724722
13.	Lalbaug Post Office	24702340
14.	Mandvi Post Office	23432740
15.	Masjid Post Office	23428490
16.	Mazgaon Post Office	23774019
17.	Mazgaon Dock Post Office	23770820
18.	Mazgaon Road Post Office	23776275
19.	Naigaon Road Post Office	24126454
20.	Null Bazar Post Office	23475628
21.	Parel MDG Post Office	24712640
22.	Princess Dock Post Office	23481393
23.	Parel Naka Post Office	24136363
24.	Reay Road Post Office	23722756
25.	Sewree Post Office	24131420
26.	Tank Road Post Office	24704179
27.	VJB Udyan Post Office	23726146
28.	V. K. Bhavan Post Office	23731424
29.	Wadala Post Office	24127248
30.	Wadala R. S. Post Office	24121220

For More Information :-

O/s Senior Superintendent of Post Offices, Mumbai East Division
3rd Floor, Dadar HPO Bldg., Dadar East, Mumbai 400 014.

Tel.: 022-24184913 / 24142122

Email : domumbaieast.mh@indiapost.gov.in / sspo.east@gmail.com / hod.east@gmail.com

V.J.B. UDYAN P.O.

MUMBAI-400 027

Maternity Benefit Claim Documents

1. ESIC Form 18 (Original) (Pre-Delivery, Obtain from IMP, ESIC Doctor)
2. ESIC Form 23 (Original) (Post Delivery, Obtain from, ESIC Doctor)

SUBMIT AFTER COMPLETE THE LEAVE

1. ESIC Form 10 (Original) (Obtain from Employer)
2. Discharge Card / Summary (Xerox Copy)
3. Birth Certificate of Child (Xerox Copy)
4. Self Declaration in r/o. Surviving Child (Original & attested by employer)
5. Aadhar Card (Xerox Copy)
6. Bank Passbook / Cheque (Xerox)
7. Application (late submission of documents)
8. Claim Form (Original)

Note :

- Take All original & xerox above mentioned documents, to Branch Office.
- All the xerox copies should be self-attested by Insured Woman.
- Please mention contact number and insurance number for further reference.
- Please carry E-pehachan Card whenever visiting to Branch Office.
- Claimant should preset at the time of claim.



Employees' State Insurance Corporation

Ministry of Labour & Employment, Govt. of India
Panchdeep Bhawan, CIG Road, New Delhi-110002



No. E-13/12/9/2020-P.R.

Dated: 20.08.2020

Press Release

- 1. Relaxation in eligibility criteria and enhancement in the payment of unemployment benefit under Atal Bimit Vyakti Kalyan yojana of ESIC**
- 2. Establishment of ICU/HDU services at 10% of total beds in ESIC Hospitals**
- 3. Measures taken by ESIC during Covid – 19 pandemic**

The ESI Corporation during its 182nd meeting held on 20.08.2020 under the Chairmanship of Shri Santosh Kumar Gangwar, Hon'ble Minister of State for Labour & Employment (Independent Charge), Govt. of India has taken some very important decisions towards improvement in its service delivery mechanism and providing relief to workers affected by Covid-19 pandemic. Following important decisions were taken during the meeting:

1. Relaxation in eligibility criteria and enhancement in the payment of relief under Atal Bimit Vyakti Kalyan yojana:

ESIC is implementing the Atal Bimit Vyakti Kalyna Yojna under which unemployment benefit is paid to the workers covered under ESI Scheme. The ESI Corporation has decided to extend the scheme for one more year upto 30th June 2021. It has been decided to relax the existing conditions and the amount of relief for workers who have lost employment during the Covid-19 pandemic period. The enhanced relief under the relaxed conditions will be payable during the period of 24.03.2020 to 31st December 2020. Thereafter the scheme will be available with original eligibility condition during the period 01.01.2021 to 30.06.2021. Review of these conditions will be done after 31.12.2020 depending upon the need and demand for such relaxed condition.

The eligibility criteria for availing the relief has also been relaxed, as under:

- A. The payment of relief has been enhanced to 50% of average of wages from earlier 25% of average wages payable upto maximum 90 days of unemployment.
- B. Instead of the relief becoming payable 90 days after unemployment, it shall become due for payment after 30 days.

- C. The Insured Person can submit the claim directly to ESIC Branch Office instead of the claim being forwarded by the last employer and the payment shall be made directly in the bank account of IP.
- D. The Insured Person should have been insurable employment for a minimum period of 2 years before his/her employment and should have contributed for not less than 78 days in the contribution period immediately preceding to unemployment and minimum 78 days in one of the remaining 3 contribution periods in 02 years prior to unemployment.

2. Establishment of ICU/HDU services at 10% of total beds in ESIC Hospitals

With a view to strengthen ICU/HDU services in ESIC hospitals amid the Covid-19 pandemic, it has been decided to establish ICU/HDU services upto 10% of total commissioned beds in all ESIC Hospitals.

3. Measures taken by ESIC during Covid – 19 pandemic

The members of ESI Corporation in meeting appreciated the actions taken by ESIC towards mitigating the effect of Covid-19 on its stakeholders besides providing its infrastructure for medical care to general public. So far, **23 ESIC hospitals with around 2600 Isolation Beds and approx 1350 quarantine beds** across India are functioning as **COVID-19 Dedicated Hospitals** to exclusively provide COVID medical services to the general public of the area. In addition to above, **around 961 Covid Isolation Beds** are available in most of the remaining ESIC Hospitals across the country, making a **total of 3597 Covid Isolation Beds in various ESIC Hospitals**. Further, a total of **555 ICU/HDU Beds with 213 Ventilators** have also been made available in these Hospitals.

- B.** ESIC Medical College & Hospitals at Faridabad (Haryana), Sanath Nagar, Hyderabad (Telangana), Gulbarga (Karnataka) and ESIC PGIMSR, Basildarapur (Delhi) have started ICMR approved in-house Covid-19 lab test service.
- C.** Plasma Therapy treatment is being provided at ESIC Medical College Faridabad (Haryana) and Sanath Nagar, Hyderabad (Telangana).
- D.** Rapid Covid-19 ANTIGEN TEST has also been started in all major ESIC hospitals of Delhi/NCR regions.
- E.** Alternate provisions have been made for providing non-Covid medical services from tie-up hospitals to the Insured Persons and their family members.

Besides above, around 30 other agenda/reporting items pertaining to improvement in services/benefits to Insured Persons & their beneficiaries and other administrative matters were deliberated upon and approved during the meeting.

Around 60 members of the Corporation including employers' representative, employees' representatives, professional expert and representatives of State Government participated through video conference. The other dignitaries who participated in the meeting were Shri HeeraLal Samariya, Secretary, Labour & Employment, Govt. of India, Shri Ram Kripal Yadav, Hon'ble MP, Smt Dola Sen, Hon'ble MP, Smt. Anuradha Prasad, Director General and Ms. Sibani Swain, AS&FA, Ministry of Labour & Employment.

ESI Scheme in India

The Employees' State Insurance Corporation is a pioneer Social Security organization providing comprehensive social security benefits like reasonable Medical Care and a range of Cash Benefits in times of need such as employment injury, sickness, death etc. It covers about 3.49 Crores of family units of workers and providing matchless cash benefits and reasonable medical care to its 13.56 crore beneficiaries. Today, its infrastructure has increased many folds with 1520 Dispensaries (including mobile dispensaries)/307 ISM Units and 159 ESI Hospitals, 793 Branch/Pay Offices and 64 Regional & Sub-Regional Offices. The ESI Scheme today stands implemented in 566 districts in 34 states and Union Territories of the country.

Performa		
Sr.No.	Information required by your Office	Our Says
1	Whether your factory has been shifted to some other place? If so, please intimate the present detailed postal address of the Factory.	
2	Exact date of closure of your Factory, if it is Closed	
3	Whether the closure is Permanent or Temporary? Please furnish a copy of Closure/Intimation,if any,given by you to Chief Inspector of Factories/Other Authorities.	
4	In Case of Temporary Closure, please intimate reasons for such closure and future plans of its restarting etc	
5	Please intimate the date upto which workers and staff had been employed for wages. Kindly clarify/confirm that the Contributions upto the date of closure have been paid and the returns of Contribution submitted to the ESI Corporation thereof.	
6	Whether any Skeleton Stff is maintained subsequently? if so, please furnish details regarding no. of persons amount paid and contribution dues payable/paid monthwise from the date of the closure of your factory.	
7	Please enlighten if approval of Competent Government authorities for such permanent closure has been obtained? If so, please give necessary details. If not obtained, please intimate the stage at which the matter is pending.	

8	<p>Please intimate whether machinery has been dismantled? Whether possession of premises has been given? If so, whom and when? Please send documentary evidence, if available.</p>	
9	<p>Kindly let us know if the licences have been surrendered to the relevant authorities and intimation of closure has been sent to the Director of Industrial Safety, if so, please send some documentary evidence of the same.</p>	
10	<p>Whether you intend to sell or have already sold the factory as a going concern/given on rent/lease contract basis. If so copy of sale deed/document alongwith name and address to whom it is so given may please be furnished.</p>	
11	<p>The Following past arrears have not been paid by you so far</p>	
	<p>On Verification of records, it is seen that checking of your records is pending. EC pending from Inception till date of closure. Ledger Verification from Inception till date of closure. Please intimate the place alongwith the name of the person, Telephone no's if any, and the date when will be about to produce the records for Inspection by our Inspector.</p>	

Frequently Asked Question on ESI Scheme

1) What is ESI Scheme?

- A. It is a comprehensive Social Security Scheme designed to accomplish the task of socially protecting the 'employees' in the organized sector against the events of sickness, maternity, disablement and death due to employment injury and to provide medical care to the insured employees and their families.

2) How far and deep is ESIC's reach?

- A. The ESI Act applies to factories employing 10 and more persons. The provisions of the Act are being brought into force area - wise in the States. The ESI Act contains an enabling provision under which the "appropriate government" is empowered to extend the provisions of the Act to other classes of establishments.

3) How does the scheme help the employees?

- A. The scheme provides full medical care to the employee registered under the scheme during the period of his incapacity for restoration of his health and working capacity. It provided financial assistance to compensate the loss of his / her wages during the period of his abstention from work due to sickness, maternity and employment injury. The scheme provides medical care to his / her family members also.

4) How the scheme is funded?

- A. The ESI Scheme is a self financing scheme. The ESI Funds are primarily built out of contribution from employers and employees payable monthly at a fixed percentage of wages paid. The State Government also contribute 1/8th share of the cost of Medical Benefit.

5) What is code number?

- A. It is a 17 digit identification number allotted to factory / establishment by the Regional officer on receipt of Form - 01 or survey report from the Social Security Officer.

6) Who are the persons to be counted for coverage of an establishment?

- A. The words 'premises' and 'precincts' used in the definition of factory have not been used in the notifications issued by the State Governments, while extending the provisions of the Act to the establishments u/s. 1(5) of the Act. So long as the establishment employs a minimum prescribed number of 20 coverable employees for wages, it will stand covered under the Act whether these employees are employed at one place or at places away from each other, as they are engaged in the organised activity of the same establishment. Thus, all the coverable employees including those working in branches, regd. Office, sales office etc. Whether situated in implemented area or not.

7) Can a factory or establishment once covered go out of coverage if the number of persons employed therein goes down to the minimum limit prescribed?

- A. Once a factory or an establishment is covered under the act, it continues to be covered notwithstanding the fact that the number of persons / coverable employees employed therein at any time falls below the required limit or the manufacturing process therein ceases to be carried on (section 1 (6) of the act)

8) How wages are computed for payment of contribution?

- A. The following items are taken into account for computation of wages for payment of contribution:-
- a) Basic Pay , wages, salary;
 - b) D.A / HRA/CCA/overtime/officiating allowance/night shift allowance/ efficiency allowance/heat, gas, dust allowance/education allowance/food & tea allowance / conveyance allowance;
 - c) Wages / salary / pay for weekly off and public holidays;
 - d) Commission paid to sales staff;
 - e) Subsistence allowance paid to an employee during the period of suspension;
 - f) Attendance bonus or incentive or ex-gratia in lieu of attendance bonus or production incentive.
 - g) Regular honorarium or salary or remuneration paid to a director;
 - h) Collection bhatta paid to running staff.
 - i) Actual payments made toward leave salary, lay off compensation, or wages for strike period.
 - j) Any other remuneration paid or payable in cash to an employee if the terms of contract of employment, expressed or implied were fulfilled.

9) If the wages of an employee exceeds Rs. 21000 in a month, can he be treated as not covered and deduction of contribution from his wages is stopped?

- A. If the wages of an employee (excluding remuneration for overtime work) exceeds the wage limit prescribed by the Central Government after start of contribution period, he continues to be an employee till the end of that contribution period and contribution is to be deducted and paid on the total wages earned by him.

10) What is the effect of increase in wages from a retrospective date?

- A. In case the wages of an employee is increased from a retrospective date resulting in crossing the wage limit prescribed, its effect on coverage of that employee is only after expiry of the Contribution period during the currency of which such increase is announced or declared. The contribution on enhanced wages is also payable from the month in which such increase is announced. There is no need to pay the contribution on the arrears for the period prior to the month of declaration / announcement / agreement.

11) Why contribution should be paid on the total wages beyond the wage ceiling limit when an employee crosses the wage limit prescribed by the Central Government?

- A. An employee who crosses the prescribed ceiling limit in any month at any time after commencement of the contribution period, continues to be an employee till the end of that contribution period.

Through there is a wage ceiling limit for coverage of an employee, there is no ceiling limit in the definition of wages for payment of contribution. Hence, contribution is payable on the total wages without any ceiling limit.

12) Why over-time is to be excluded for wage ceiling limit for coverage of an employee?

- A. Overtime is not a regular and continuous payment, but it is of an occasional nature, if overtime is also taken for wage limit for coverage of an employee, he may be going out of coverage for some time and again coming within the orbit of the scheme, when overtime is not there. This frequent interruption from the scheme deprives him of the benefits admissible under the scheme even after making payment of contribution for a part of contribution period.

To ensure continued security and protection, overtime is excluded for determining the wage ceiling for coverage of an employee. However, it is included for payment of contribution to cover the risk during the period he was on overtime work, and to enable him to draw cash benefits at an enhanced rate, as by adding overtime wages to his average daily wages, he is fitted in to the next higher slab in the Standard Benefit table in Rule 54 for claiming cash benefits.

13) How a temporary or casual employee who works for 3 or 4 days and leaves the employment is entitled to the medical care?

- A. If he leaves the employment before his registration process is completed, the employer may provide him with a certificate of employment consisting of his date of employment, date of leaving, family particulars etc. In form ESIC – 86. Based on this certificate that person and his family can avail medical benefit for a period of 3 months.

14) If the insured person's family is residing in another place in the same state or another state, how the family can avail the medical benefit?

- A. If the family is residing in any other place either in the same state or different state, based on the declaration of the insured person and certified by the employer, the family is provided with a family identity card for receiving medical benefit from ESI Dispensary in the area in which it is residing. After IT rollout, the Family is issued a separate smart card. By producing this smart card, the family can avail the medical benefit from any ESI Dispensary / Hospital either at their place of residence or in any other part of the country.

15) What is Extended Sickness Benefits?

- A. This is an additional sickness benefit provided by the Corporation in exercise of its powers under section 99 of the Act. IP Eligibility within 6 months 78 Days Contribution. An insured person who has completed one years of insurable employment (each contribution period total 78 days) and contributed for not less than 156 days during this period is entitled to extended sickness benefit for a period of 309 days for the 34 specified long term diseases. This period can be extended up to 730 days or till the insured person attains the age of 60 years whichever is earlier. The benefit is payable @ 140% of the standard benefit rate which works out to 70% of his wages. The insured person and his family are also entitled to Medical Benefit during this extended period.

16) What is Enhanced Sickness Benefit?

- A. To promote the norms of small family, this cash benefit is paid to the insured person for undergoing vasectomy / tubectomy operation. This is paid at double the standard benefit rate i.e. full wages, for a period of 7 days for vasectomy operation and for 14 days for tubectomy operation. This period can be extended in case of any post operative complications.

17) What is Medical Bonus?

- A. Medical Bonus is Lump sum payment made to an insured woman or an insured person in respect of his wife for each confinement to meet the confinement expenses, if the confinement occurs at a place where necessary facilities under the ESI Scheme are not available. At present the confinement expenses paid is Rs. 5000/- per confinement w.e.f. 01/10/2013

18) What is benefit admissible after retirement of an employee?

- A. An insured person who leaves the insurable employment on attainment of the age of superannuation or retires under a voluntary retirement scheme or takes premature retirement, after being an insured person for not less than 5 years, shall be eligible to receive medical

benefit for himself and his spouse subject to production of proof thereof, and payment of a nominal contribution of rupees one hundred and twenty for one year. In case the insured person expires, his spouse is entitled to the medical benefit for the remaining period for which the contribution was made, and she can continue to receive the medical benefit on payment of the contribution @ 120/-p.a. for further period.

19) Benefit for Permanent Disablement caused due to Employment Injury?

- A. This Medical benefit is also admissible to an insured person who ceases to be in employment on account of permanent disablement caused due to employment injury for himself and his spouse on payment of similar contribution till the date on which he would have vacated the employment on attaining the age of superannuation, had not sustained such permanent disablement.

20) Important Information for the Employers:-

- a. Employer should get factory / establishment registered Online, immediately on applicability of ESI Act to his unit.
- b. Employer should get his employee including the employee employed through the contractors registered online and T.I.C generated immediately after taking him in insurable employment.
- c. The Employer should direct and pursue his employees to get photographed for Pehchan card.
- d. The Employer should not re-register a new employee, if he / she was already registered with ESIC while working with another employer.
- e. The Employer should immediately inform the RO/SRO about the permanent closure or transfer of factory / establishment within 21 days of such closure / transfer.
- f. No claim needs to be submitted for PDB / DB payment.
- g. PDB/DB claims to be settled within one month from date of termination of TDB and from date of submission proper accident report.

21) Who are persons not to be counted for coverage of ESIC under a Factory?

- A. Following are the persons are not to be counted: -
- A proprietor or a partner whether drawing salary or not.
 - A Contractor lending the services of his employee.
 - An apprentice engaged for the first time under the Apprentice Act, 1961
 - Persons employed on contract for service, e.g. legal technical, tax consultants;
 - Persons employed in branch / sales offices etc. away from the factory premises are not be counted for the purpose of covered as employee under Sec 2 (9), if their wages does not exceed the ceiling limit prescribed.

22) Can an establishment get itself covered under the ESI Act voluntarily?

- A. There is no provisions for voluntary coverage under ESI Act.

23) Are the casuals employees to be covered under the ESI Act?

- A. Casual or temporary employees will be liable to be covered under the act from the date of their joining the services.

24) What is the procedure for availing sickness benefit under the ESI act?

A. The employee is issued medical certificate from ESI dispensary / hospital. The medical certificate, issued by the dispensary, is deposited with the local office of the ESI corporation from where the employees gets the payment.

25) If an employee will cease to be the member of ESI in the month of May, 2012. Will Estb. required to pay his contribution till October, 2012 or that it will discontinue? Also, what will be the position with regard to medical benefit available to the employee?

A. Since the employee was coverable at the beginning of contribution period i.e. 1st April and will cease to be covered in the middle of contribution period, he will have to be covered till 30th Sept i.e. till the end of contribution period and he is entitled to all the medical benefits.

26) After serving an establishment for 10 years with the membership of ESI, if that employee will retire at end of the year, then will he be get benefits under ESI Act?

A. If the employee is attaining the age of superannuation or under voluntary retirement scheme or taking pre-mature retirement and in insurable employment for a minimum of 3 years then that particular employee can avail the Medical Benefits by paying Rs. 120/- per year in advance to the ESI Corporation, Medical benefits are available to the insured person and his/her spouse only.

27) What is procedure to availing sick leave?

A. For availing sick leave, the sick insured person has to visit the ESI dispensary/ hospital and obtain medical certificate for the sickness which has to be produced in the branch office of ESI Corporation to avail cash benefits for the period of sickness.

28) If any office is renovated through a contractor, is ESI contribution payable on that expenditure & if yes then on what amount?

A. Yes ESIC is payable if office is covered under ESI Act, and since the contract awarded is with material as such 25% of the amount will be considered as wage and on this amount of wage both employer and employees share of contribution is required to be paid w.e.f 1st July 2019 4.00% (3.25% Employers Contribution + 0.75% Employees Contribution).

29) Its is correct that now a member of the ESI can avail treatment in any dispensary all over India? However, in case a dispensary is not available nearby, can such a member avail the treatment from a private hospital/nursing home and will charges be reimbursed?

A. ESI Corporation is issuing smart cards, on the basis of which an insured person can avail medical benefits in any ESI hospital/ dispensary. In case no ESI Hospital / dispensary is available, the insured person can go to nearest Govt. Hospital / Dispensary. However, in emergency the treatment can be obtained from nearest private clinic / hospital and charges can be reimbursed. This facility is available only in emergencies only and the earliest opportunity thereafter, he/she must report to ESI Hospital / dispensary or Govt. Hospital / dispensary.

30) How long an employer is required to maintain records under ESI Act?

A. As per latest amendments in the ESI Act (Section 45-A), ESI Corporation cannot determine contribution beyond a period of five years from the date on which the contribution shall become payable. It means you have to maintain the records for a period of five years from the date on which the contribution was payable.

31) If loading and unloading done through outside labour contractors and if they don't have their own PF & ESI Code Numbers. Then if principal employer, pays PF & ESI

Contribution under his code number. Apprehensions are that such employees can claim that they are the employee of principal employer, how far it is justified?

- A. Merely that a principal employer has deposited the provident fund contribution on its Code Number for the workers of the contractor, it cannot entitle them for seeking their regularization. In one case, the Madras High Court has clarified that the principal employer has discharged its obligation in paying the provident fund contributions of the workers of the contractor, it cannot be a ground for regularization of workers of the contractor since the principal employer can recover the amount, as paid, from the contractor. Hindustan Petroleum Corporation was paying contributions to the employees provident fund and that the employee were entitled to the provident fund, cannot also help the workers in any manner. The liability to pay the employees provident fund is mandatory irrespective' of the nature of the employment. Under section 2(f) of the Employees' Provident Fund Act, 1952, which defines the expression "employee", includes any employee by or through a contractor in connection with the work of the establishment. Therefore, the liability to pay the provident fund would arise even in respect of an employee under a contractor. Under section 3A(sic), the amount of contribution paid or payable by the employer may be recovered by the employer from the contractor either by deduction of any amount payable under the contract or as a debt payable by the contractor. It is, thus, clear that the liability to pay the provident fund is mainly on the principal employer and thereafter it is open to the employer to recover from the contractor. Therefore, the fact that the employees are covered by the provident fund scheme, is not relevant for deciding the status of the petitioners. It would be desirable that a representation to taken from the contractor that for want of Code Number, his employees be enrolled as member of Provident Fund and ESI and he will be responsible for deduction and payment of contributions and that no relationship of employer and employee will come into existence between his employees and the principal employer.

Petroleum Workers Union V. Hindustan Petroleum Corp. Ltd. 2004 (2)LLN451(Mad;HC)

- 32) In order to make renovations, painters who are paid over Rs. 700/- per day , what will be the position with regard to their coverage under the ESI Act?**

Ans:- For Computing wages of daily-rated employees for the purpose of coverage under section 2(9) of the ESI Act, it has to be decided on the basis of notional wages arrived at by multiplying the daily wage earned by employee with 26. If the total wage, so computed is Rs. 15,000/- or less, the employee will be coverable.

- 33) If contractor carry on certain activities who also pays ESI contribution. but the same contractor do not deposit ESI contributions for their workers although they receive the same from the principal employer through their regular bill. How can we ensure that the contractor is depositing the ESI contributions regularly?**

Ans:- when you engage the contractor who is independently covered, ask him to give his code number. Also obtain the attendance record and copy of the challan through which he has deposited the contributions. Being a principal employer, you should have all the record and also you can get monthly ESI contribution details by getting history of ESI Payment.

- 34) ESI Authority is claiming contributions for the contractors employees from us as a principal employer. The said contractor has its own Code Number. My plea is that why should we be liable when the ESI authority has allotted an independent code number to the contractor on completion of all formalities?**

Ans:- Being principal employer, it is your responsibility that both the employee's and employers. Contributions is paid. Is such case where the contractors are engaged and the contracts is independently covered having separate code number, ask the contractors to pay

the contributions under his code number and you should obtain a copy of the challan from the contractor along with attendance register and salary sheet.

35) If employee's wife is expecting her delivery after about six months. Since he is a member of ESI, whether she will be entitled to get maternity benefit. Is there any procedure for prior permission from ESI for availing maternity benefit?

Ans:- That employee's wife is entitled for all the medical benefits including Pre-Natal, Delivery and Post Natal benefits but not cash benefits.

Complaint / Grievance / Suggestions

■ Contact:-

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- **ESIC TOLL FREE NUMBER FOR ANY DETAILS / INFORMATION ON ESI 1800 11 2526**
- **ESIC WEBSITE: - WWW.ESIC.NIC.IN ; WWW.ESIC.IN,**

No.X-11/14/6/2015-P&D			Date : 02.11.2020		
Sub : State Wise Updated List of implementation under ESIC 2.0/Vision-2022 (As on 01.11.2020)					
ESIC IMPLEMENTATION STATUS UNDER ESIC 2.0/VISION-2022 (AS ON 01.11.2020)					
State Wise Status of Implementation					
No. of Fully Notified States/UT's					
No. of Partially Notified States/UT's					
No. of Non Implemented States/UT's					
FULLY NOTIFIED STATES/UTs					
1. Andhra Pradesh	1. Andaman and Nicobar	13. Mizoram	1. Lakshadweep		
2. Chandigarh	2. Assam	14. Nagaland			
3. Dadra and Nagar Haveli	3. Bihar	15. Odisha			
4. Daman and Diu	4. Chhattisgarh	16. Punjab			
5. Delhi	5. Gujarat	17. Sikkim			
6. Goa	6. Himachal Pradesh	18. Tamil Nadu			
7. Haryana	7. Jammu and Kashmir	19. Tripura			
8. Karnataka	8. Jharkhand	20. Uttar Pradesh			
9. Kerala	9. Madhya Pradesh	21. Uttarakhand			
10. Rajasthan	10. Maharashtra	22. West Bengal			
11. Telengana	11. Manipur	23. Arunachal Pradesh			
12. Puducherry	12. Meghalaya				
Summary of Implementation of Districts		(Previous Status)	Present Status		
No. of Fully Notified Districts		381	387		
No. of Partially Notified Districts (DHQ & Centers)		185	188		
No. of Non Notified Districts		158	161		
Total		722	736		
1. ANDAMAN & NICOBAR ISLAND					
Partially Notified Districts					
1. South Andamans	1. Nicobar	2. North & Middle Andaman			
2. ANDHRA PRADESH					
Fully Notified Districts					
1. Ananthapur	5. Guntur	9. West Godavari	13. Vizianagaram		
2. Chittoor	6. Krishna	10. Kurnool			
3. Cuddapah	7. Prakasam	11. Nellore			
4. East Godavari	8. Srikakulam	12. Visakhapatnam			
3. ARUNACHAL PRADESH					
Fully Notified Districts					
1. Papum Pare	1. Anjaw	10. Longding	19. Upper Siang		
	2. Changlang	11. Lower Dibang Valley	20. Upper Subansiri		
	3. Dibang Valley	12. Pakke Kessang	21. West Kameng		
	4. East Kameng	13. Lower Subansiri	22. West Siang		
	5. East Siang	14. Namsai	23. Lepa Rada		
	6. Kamei	15. Siang	24. Lower Siang		
	7. Kra Daadi	16. Tawang			
	8. Kurung Kumey	17. Shyomoli			
	9. Lohit	18. Tirap			
4. ASSAM					
Fully Notified Districts					
1. Dibrugarh	1. Barpeta	11. Udalguri	1. Baksa		
2. Joypur	2. Bishwanath	12. Bongaigaon	2. Charaideo		
3. Kamrup Rural	3. Chirang	13. Cachar	3. Dime Hasao		
4. Sonitpur	4. Darrang	14. Golaghat	4. Hailakandi		
5. Kamrup Metropolitan	5. Dhemaji	15. Morigaon	5. Hojai		
6. Tinsukia	6. Goalpara	16. Nagaon	6. Karimganj		
	7. Lakhimpur	17. Dhubri	7. Kokrajhar		
	8. Majuli	18. Karbi Anglong (Bokajan)	8. South Salmara-Mankachar		
	9. Nalbari		9. West Karbi Anglong		
	10. Sivasagar				

No.X-11/14/6/2015-P&D		ANNEXURE-A Date : 02.11.2020
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Sub : State Wise Updated List of Implementation under ESIC 2.0/Vision-2022 (As on 01.11.2020)

5. BIHAR

Fully Notified Districts		Partially Notified Districts	
1. Begusarai	9. Muzaffarpur	1. Araria	12. Lakhisarai
2. Bhagalpur	10. Patna	2. Arwal	13. Madhepura
3. Bhojpur	11. Rohtas	3. Aurangabad	14. Madhubani
4. Buxar	12. Samastipur	4. Banka	15. Nawada
5. Darbhanga	13. Saran	5. East Champaran	16. Purnia
6. Gaya	14. Sitamarhi	6. Gopalganj	17. Saharsa
7. Katihar	15. Vaishali	7. Jamsui	18. Sheikhupura
8. Munger	16. Nalanda	8. Jehanabad	19. Sheohar
		9. Kaimur	20. Siwan
		10. Khagaria	21. Supaul
		11. Kushinagar	22. West Champaran

6. CHANDIGARH

Fully Notified District			
1. Chandigarh			

7. CHHATTISGARH

Fully Notified Districts		Partially Notified Districts	
1. Baloda Bazar	1. Balod	12. Mahasamund	
2. Bilaspur	2. Balrampur	13. Mungeli	
3. Dhamtari	3. Bastar	14. Narayanpur	
4. Durg	4. Bemetara	15. Sukma	
5. Ganahand	5. Bijapur	16. Surajpur	
6. Janjgir-Champa	6. Dantewada	17. Surguja	
7. Korba	7. Jashpur		
8. Raigarh	8. Kabirdham		
9. Rajpur	9. Kanker		
10. Rajnandgaon	10. Kondagaon		
11. Gaurela-Pendra-Marwahi	11. Kotiya		

8. DADRA AND NAGAR HAVELI AND DAMAN AND DIU

Fully Notified Districts			
1. Dadra and Nagar Haveli	2. Daman	3. Diu	

9. DELHI

Fully Notified Districts			
1. Central Delhi	4. North Delhi	7. Shahdara	10. South West Delhi
2. East Delhi	5. North East Delhi	8. South Delhi	11. West Delhi
3. New Delhi	6. North West Delhi	9. South East Delhi	

10. GOA

Fully Notified Districts			
1. North Goa	2. South Goa		

11. GUJARAT

Fully Notified Districts		Partially Notified Districts		Non Notified Districts
1. Vadodara	1. Ahmedabad	11. Navsari	1. Amreli	
	2. Anand	12. Panchmahal	2. Aravalli	
	3. Bharuch	13. Porbandar	3. Banaskantha	
	4. Bhavnagar	14. Rajkot	4. Botad	
	5. Gandhinagar	15. Sabarkantha	5. Chhota Udaipur	
	6. Jamnagar	16. Surat	6. Dahod	
	7. Junagadh	17. Surendranagar	7. Dang	
	8. Kheda	18. Valsad	8. Devbhoomi Dwarka	
	9. Mehsana		9. Gir Somnath	
	10. Morbi		10. Kutch	
			11. Mahisagar	
			12. Narmada	
			13. Palan	
			14. Tapi	

12. HARYANA

No.X-11/14/6/2015-P&D		ANNEXURE-A Date : 02.11.2020	
Sub : State Wise Updated List of Implementation under ESIC 2.0/Vision-2022 (As on 01.11.2020)			
Fully Notified Districts			
1. Ambala	7. Hissar	13. Mahendragarh	19. Rohtak
2. Bhiwani	8. Jhajjar	14. Nuh	20. Sirsa
3. Charkhi Dadri	9. Jind	15. Palwal	21. Sonipat
4. Faridabad	10. Kaithal	16. Panchkula	22. Yamuna Nagar
5. Fatehabad	11. Kamal	17. Panipat	
6. Gurgaon	12. Kurukshetra	18. Rewari	
13. HIMACHAL PRADESH			
Fully Notified Districts		Non Notified Districts	
1. Bilaspur	5. Simla	1. Chamba	4. Kullu
2. Kangra	6. Solan	2. Hamirpur	5. Lahaul and Spiti
3. Mandi	7. Una	3. Kinnaur	
4. Shimla			
14. JAMMU AND KASHMIR			
Fully Notified Districts		Partially Notified Districts	
1. Badgam	5. Reasi	1. Anantnag	8. Kupwara
2. Jammu	6. Samba	2. Bandipora	9. Poonch
3. Kathua	7. Srinagar	3. Baramulla	10. Rajouri
4. Puhama	8. Udhampur	4. Doda	11. Ramban
		5. Ganderbal	12. Shopian
		6. Kishtwar	
		7. Kulgam	
15. JHARKHAND			
Fully Notified Districts		Partially Notified Districts	
1. Bokaro	6. Koderma	1. Chatra	9. Latehar
2. Deoghar	7. Ramgarh	2. Dumka	10. Lohardaga
3. Dhenbad	8. Ranchi	3. Gomia	11. Pakur
4. East Singhbhum	9. Seraikela Kharsawan	4. Godda	12. Palamu
5. Gidh		5. Gumla	13. Sahibganj
		6. Hazarbag	14. Simdega
		7. Jamtara	15. West Singhbhum
		8. Khunti	
16. KARNATAKA			
Fully Notified Districts			
1. Bagalkot	9. Chitradurga	17. Kodagu	24. Shivamogga
2. Ballari	10. Dakshina Kannada	18. Kolar	25. Tumakuru
3. Belagavi	11. Davanagere	19. Koppal	26. Udupi
4. Bengaluru Rural	12. Dharwad	20. Mandya	27. Uttara Kannada
5. Bengaluru Urban	13. Gadag	21. Mysuru	28. Vijayapura
6. Bidar	14. Hassan	22. Raichur	29. Yadgir
7. Chamarajanagar	15. Haveri	23. Ramanagara	30. Chikkamagaluru
8. Chikkaballapur	16. Kalaburagi		
17. KERALA			
Fully Notified Districts			
1. Alappuzha	5. Kasaragod	9. Malappuram	13. Thiruvananthapuram
2. Ernakulam	6. Kollam	10. Palakkad	14. Wayanad
3. Idukki	7. Kottayam	11. Pathanamthitta	
4. Kannur	8. Kozhikode	12. Thrissur	
18. LADAKH			
Partially Notified Districts			
1. Kargil	2. Leh		
19. LAKSHADWEEP			
Non Notified Districts			
1. Kavarali			

No.X-11/14/6/2015-P&D		ANNEXURE-A Date : 02.11.2020																																																																					
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24. MIZORAM

Partially Notified Districts		Non Notified Districts	
1. Aizawl	1. Champhai	5. Mamit	9. Khawzawl
	2. Kolasib	6. Saiha	10. Saitual
	3. Lawngtlai	7. Serchhip	
	4. Lunglei	8. Hnaihthial	

25. NAGALAND

Partially Notified Districts		Non Notified Districts	
1. Dimapur	1. Kiphire	5. Phek	9. Noklak
2. Mokokchung	2. Longleng	6. Tuensang	
3. Kohima	3. Mon	7. Wokha	
	4. Peren	8. Zunheboto	

26. ODISHA

Fully Notified Districts		Partially Notified Districts		Non Notified Districts	
1. Angul	11. Jagatsinghpur	1. Gajapati	1. Boudh (Bauca)		
2. Bhadrak	12. Khordha	2. Kendrapara	2. Debagarh (Deogarh)		
3. Balangir	13. Kendujhar (Keonjhar)	3. Nayagarh	3. Kalahandi		
4. Jargarh (Baragarh)	14. Koraput	4. Nabarangpur	4. Kandhamal		
5. Balasore	15. Mayurbhanj	5. Malkangiri	5. Malkangiri		
6. Cuttack	16. Puri	6. Nuapada	6. Nuapada		
7. Dhenkanal	17. Rayagada				
8. Ganjam	18. Sambalpur				
9. Jharsuguda	19. Subarnapur				
10. Jagur	20. Sundargarh				

27. PUDUCHERRY

Fully Notified Districts			
1. Karaikal	2. Pondicherry	3. Mahe	4. Yanam

28. PUNJAB

Fully Notified Districts			Partially Notified Districts	
1. Amritsar	6. Hoshiarpur	15. Pathankot	1. Firozpur	
2. Barnala	9. Jalandhar	16. Patiala		
3. Bathinda	10. Kapurthala	17. Rupnagar		
4. Faridkot	11. Ludhiana	18. SAS Nagar		
5. Fatehgarh Sahib	12. Mansa	19. Sangrur		
6. Fazika	13. Moga	20. SBS Nagar		
7. Gurdaspur	14. Sri Muktsar Sahib	21. Tarn Taran		

29. RAJASTHAN

Fully Notified Districts			
1. Ajmer	9. Bhilwara	17. Jhunjhunu	25. Nagaur
2. Alwar	10. Churu	18. Jalore	26. Pali
3. Bikaner	11. Chittorgarh	19. Jodhpur	27. Pratapgarh
4. Barmer	12. Dausa	20. Jaipur	28. Rajsamand
5. Banswara	13. Dholpur	21. Jaisalmer	29. Sikar
6. Bharatpur	14. Dungarpur	22. Jhalawar	30. Sawai Madhopur
7. Baran	15. Ganganagar	23. Karauli	31. Sirohi
8. Bundi	16. Hanumangarh	24. Kota	32. Tonk
			33. Udaipur

30. SIKKIM

Fully Notified Districts	Non Notified Districts		
1. East Sikkim	1. North Sikkim		
2. South Sikkim	2. West Sikkim		

31. TAMIL NADU

Fully Notified Districts	Partially Notified Districts	Non Notified Districts
1. Chennai	1. Ariyalur	14. Salem



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2. Virudhunagar	2. Coimbatore	15. Sivaganga	2. Kallakurichi
3. Tiruvarur	3. Dharmapuri	16. Tiruchirappalli	
4. Namakkal	4. Dindigul	17. Thanjavur	
5. Theni	5. Erode	18. Thoothukudi	
6. Kanyakumari	6. Kanchipuram	19. Tiruvallur	
7. Tirupur	7. Karur	20. Tiruvaranamalai	
8. Tirunelveli	8. Krishnagiri	21. Vellore	
9. Cuddalore	9. Madurai	22. Viluppuram	
10. Tenkasi	10. Nagapattinam	23. Chengalpattu	
	11. Nilgiris	24. Mayiladuthurai	
	12. Pudukkottai	25. Ranipet	
	13. Ramanathapuram	26. Tirupattur	

32. TELANGANA

Fully Notified Districts

1. Adilabad	10. Khammam	19. Nirmal	28. Wanaparthy
2. Bhadravathi	11. Komram Bheem	20. Nizamabad	29. Warangal (rural)
3. Hyderabad	12. Mahabubnagar	21. Peddapalli	30. Warangal (Urban)
4. Jagtial	13. Mahbubnagar	22. Rajanna	31. Yadadri
5. Jangaon	14. Mancherla	23. Ranga Reddy	32. Narayanpet
6. Jayashankar	15. Medak	24. Sangareddy	33. Mulugu
7. Jogulamba	16. Medchal	25. Siddipet	
8. Kamareddy	17. Nagarkurnool	26. Suryapet	
9. Karimnagar	18. Nalgonda	27. Vikarabad	

33. TRIPURA

Fully Notified Districts	Partially Notified Districts	Non Notified Districts
1. West Tripura	1. Dhalai	1. Khawai
	2. Gomati	2. South Tripura
		3. Unokoti

34. UTTAR PRADESH

Fully Notified Districts	Partially Notified District	Non Notified Districts
1. Agra	22. Jhansi	1. Kannauj
2. Aligarh	23. Kanpur Dehat	20. Kasganj
3. Allahabad	24. Kanpur Nagar	Non Notified Districts
4. Amethi	25. Lucknow	1. Ambedkar Nagar
5. Amroha	26. Mathura	2. Auraiya
6. Barabanki	27. Mai Nath Bhanjan	3. Azamgarh
7. Bareilly	28. Meerut	4. Bagpat
8. Bijnor	29. Mirzapur	5. Bahraich
9. Bulandshahr	30. Moradabad	6. Ballia
10. Chandauli	31. Muzaffarnagar	7. Balrampur
11. Etawah	32. Raebareli	8. Banda
12. Farrukhabad	33. Rampur	9. Basti
13. Fatehpur	34. Saharanpur	10. Budaun
14. Firozabad	35. Sant Kabir Nagar	11. Chitrakoot
15. Gautam Buddha Nagar	36. Sant Ravidas Nagar	12. Deoria
16. Ghaziabad	37. Shahjahanpur	13. Etah
17. Ghazipur	38. Sitapur	14. Faizabad
18. Gorakhpur	39. Sonbhadra	15. Gonda
19. Hapur	40. Unnao	16. Hamirpur
20. Hardoi	41. Varanasi	17. Jalaun
21. Hathras		18. Jaunpur

35. UTTARAKHAND

Fully Notified Districts	Non Notified Districts
1. Dehradun	4. Udhampur Singh Nagar
2. Haridwar	5. Pauri Garhwal
3. Nainital	6. Tehri Garhwal
	1. Almora
	2. Bageshwar
	3. Chamoli
	4. Champawat
	5. Pithoragarh
	6. Rudraprayag
	7. Uttarkashi

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36. WEST BENGAL																																
<table border="1"> <thead> <tr> <th>Fully Notified Districts</th> <th>Partially Notified Districts</th> <th>Non Notified Districts</th> </tr> </thead> <tbody> <tr> <td>1. Bankura</td> <td>10. Murshidabad</td> <td>1. Alipurduar</td> </tr> <tr> <td>2. East Bardhaman</td> <td>11. Nadia</td> <td>2. Dakshin Dinajpur</td> </tr> <tr> <td>3. West Bardhaman</td> <td>12. North 24 Parganas</td> <td>3. Purulia</td> </tr> <tr> <td>4. Birbhum</td> <td>13. Paschim Medinipur</td> <td>4. Uttar Dinajpur</td> </tr> <tr> <td>5. Hooghly</td> <td>14. Jhargram</td> <td>5. Kalimpong</td> </tr> <tr> <td>6. Howrah</td> <td>15. Soputh 24 Parganas</td> <td></td> </tr> <tr> <td>7. Jalpaiguri</td> <td>16. East Midnapur</td> <td></td> </tr> <tr> <td>8. Kolkata</td> <td>17. Darjeeling</td> <td></td> </tr> <tr> <td>9. Maldah</td> <td></td> <td></td> </tr> </tbody> </table>			Fully Notified Districts	Partially Notified Districts	Non Notified Districts	1. Bankura	10. Murshidabad	1. Alipurduar	2. East Bardhaman	11. Nadia	2. Dakshin Dinajpur	3. West Bardhaman	12. North 24 Parganas	3. Purulia	4. Birbhum	13. Paschim Medinipur	4. Uttar Dinajpur	5. Hooghly	14. Jhargram	5. Kalimpong	6. Howrah	15. Soputh 24 Parganas		7. Jalpaiguri	16. East Midnapur		8. Kolkata	17. Darjeeling		9. Maldah		
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9. Maldah																																

List of Secondary Medical Arrangements made in Nine (9) Districts valid upto 30 Sep 2020

Sr. No.	District	Address of the Nursing Home	Email Address	Mobile No	Specialities
1	Ahmednagar	Niramay Hospital, A.p - Supa, Tal - Paner, Dist - Ahmednagar, Mahunshira - 414 301.	dr.vijayastapadi@gmail.com	02488211390 / 9767755950	General Medicine, General Surgery, Obstetrics and Gynecology, Orthopedics, ENT, Diagnostic Facility.
2	Ahmednagar	City Care Trust Hospital, Viraj Estate, Opp. Tarkapur Bus Stand, Ahmednagar - 414 003.	celthospital@gmail.com	0241 - 2339105 / 106 / 108 / 9823296431	General Medicine, General Surgery, Orthopedics, ENT, Ophthalmology, Diagnostic Facility.
3	Ahmednagar	Oskar Hospital, Near Rajput, Supa, Tal - Parner, Dist - Ahmednagar.	unkar@oskarindia@gmail.com	9850391717 / 02488-213284 / 9850391717	General Medicine, General Surgery, Obstetrics & and Gynecology, Orthopedics, Diagnostic Facility.
4	Ahmednagar	Akashy Childrens Hospital & Maternity Home, 272/33, Nr. Cosmic Hsg Scty, Balkathiram Road, Ahmednagar-414003	uptax@yahoo.in	9822399691 / 9422740888	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, USG.
5	Bed	Shivkamal Hospital, Behind Mantri Bank, Jalsi Road, Bed - 431 122.	doctam@gmail.com	8446539646	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Ophthalmology, Diagnostic Facility.
6	Bed	Kanai Hospital, Jay Nagar near Bus-Stand, Parli - Vaijnath, Dist - Bed - 431515.	kandbalashesh@gmail.com	9422240866 / 9422932166	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
7	Bed	Shri Sant Dynameshwar Hospital, Jalalpur Road, Vaijnath Parali-Vaijnath, Dist - Bed - 431 515.	hanshchandawane77@gmail.com	9422241930 / 8208379557 / 8999407079 / 8698145986	General Medicine, General Surgery, Obstetrics and Gynecology, Orthopedics, ENT, Diagnostic Facility.

List of Secondary Medical Arrangements made in Nine (9) Districts valid upto 30 Sep 2020

Sr. No.	District	Address of the Nursing Home	Email Address	Mobile No	Specialities
8	Bhandara	Chaudum Multispeciality Hospital Pvt. Ltd. Citycare Multispeciality Hospital, Takiya Ward, Nagpur Bypass Road, Bhandara, Dist - Bhandara - 441 904.	smhbbsunder@gmail.com smhbbandara@gmail.co m	9890674002 / 9623277093	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, ENT, Ophthalmology, Diagnostic Facility.
9	Bhandara	Nakoda Hospital, Behind Honda Showroom, Nagpur Road, Bhandara.	nakodanursesnghombhband ani@redifmail.com	0422348225 / 8788451207 / 9401958323/07184- 250825	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
10	Jalna	Sunjeevan Multipeciality Hospital, Plot No.17, Rushi Park, Ambad Chophally, Jalna - 431 203.	sunjeevan@sunjeevan@gmail.co m insurance@sunjeevan@gmail.com	9146022483 / 02482- 231322 / 224322 / 7507342222	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
11	Jalna	Vivekanand Hospital A Unit of Jalsa Medical Foundation & Research Center (P) Ltd., Opp. JDCC Bank, Devalgam Raja Road, Jalna - 431 203.	vims.in@vims.in vinayak_jl@rediffmail.co m	9960634597 / 9422216276	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
12	Jalna	Om Multispeciality Hospital & Research Centre Pvt. Ltd., Near Shivaji Statue, Jalna - 431 203.	omhospital@omhospital.co m riteshbhalna@rediffmail.co m	9422215303 / 9422216800 / 9405060505 / 02482- 230905 / 231905	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
13	Jalna	Deepak Hospital (A unit of Deepak Health and Wellness Ltd.), C/o. Deepak Hospital, Town Hall Road, Jalna - 431 203.	deepakhospital@msn.com	8806669794 / 9765066995 / 9370289332	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
14	Latur	Alpha Superspeciality Hospital, Opp. Mukti Mangal Karyak, Shamb Nagar, Ambajogai Road, Latur.	alphasch@outlook.com	9371396111 / 9823780807 / 7507777967/	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.

List of Secondary Medical Arrangements made in Nine (9) Districts valid upto 30 Sep 2020

Sr. No.	District	Address of the Nursing Home	Email Address	Mobile No	Specialties
15	Latur	Vivekanand Medical Foundation and Research Centre's Vivekanand Hospital, Vidya Nagar, Signal Camp, Latur - 413 512.	yhatari@gmail.com / maheshshambhu123@vivekanandhospital.in	9423076984 / 9423735272 / 9860075381 / 8484057579	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Ophthalmology, Diagnostic Facility.
16	Latur	Chandak Hospital, Near Jai Mandir, Latur Bawali Road, At Post - Murud, Dist - Latur - 413 510.		9423348405	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility.
17	Osmanabad	Suvadha Hospital & ICU Centre, Shri Limesh Gore Complex, Bawali Naka, Osmanabad.	suvadha24365@gmail.com @gmail.com	9156101414 / 842122300 / 9405749707 / 02472- 224520	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, X-ray.
18	Osmanabad	Niranjan Hospital & Critical Care Center, Vidya Nagar, Tamboli Vithlog, Osmanabad - 413 501.	niranjanhospitalosmanaba d@gmail.com	9822622148 / 9527038589 / 02472- 222431	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Ophthalmology, Diagnostic Facility.
19	Osmanabad	Shendge Hospital And Research Centre Pvt. Ltd.23, Near Amar Petrol Pump, Main Road Omanga, Osmanabad-413606	shendgeshospital@gmail.com @gmail.com	9422464564 / 9545046093	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Diagnostic Facility
20	Sinchchudurg	SSPM Medical College & Lifetime Hospital, A/n. Padve (Vajarewadi), Tal - Kudal, Dist - Sindhudurg - 416534.	vijay.savali@sspmgroup.e m.com / 996000303 / 02367- 234000 / 234100 harmalkar.prathmesh91 @gmail.com	996000303 / 02367- 234000 / 234100	General Medicine, General Surgery, Obstetrics and Gynecology, Pediatrics, Orthopedics, ENT, Ophthalmology, Diagnostic Facility
21	Yavatmal	Shri Datin Hospital And Research Centre (Swami Health Care Pvt.Ltd.), Plot No.6 & 7, Raviraj Nagar Layout, Near TATA Motors, Ami Road, Wadgaon Road, Yavatmal - 445 001.	stchinde@gmail.com / sahyoti@gmail.com / drse1@redifmail.com	9623271010 / 7841059631 / 07232- 243010	General Medicine, General Surgery, Obstetrics and Gynecology, Orthopedics, ENT, Diagnostic Facility

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
1	Annavai	Suyash Hospital, Congress magar road, Vijay Colony, Annavai- 444606	Neurology, Neurosurgery	----	0721-2674252, Dr. Hrashikesh Soodkar - 9370164080, Dr. Saktharam Deshpande - 7350974715	drsoodkar@gmail.com	01.02.2017	30.09.2020
2	Aurangabad	Sumananjali Nursing Home, Plot No.3, N-2, CIDCO, Airport Road, Aurangabad - 431210	Neurology, Oncology, Oncosurgery, Urology, Ursurgery, Gastroenterology, Burns Management, Plastic Surgery, Reconstructive Surgery	----	0240-2486900, 5900, 9823236900, 8623090249, Dr. Milind Deshpande - 9923002200	sumananjali@live.com... sumananjali@hotmail.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	From	To	Validity
3	Aurangabad	Sangeevani Children's Hospital, 14-15, Kushal Nagar, Near Patidar Bhawan, Julta Road, Aurangabad - 431001	Paediatric Surgery, Neurology & Neurosurgery, Cardiology, Nephrology, Oncology, Gastroenterology & GI Surgery, Urology, Endocrinology	—	0240-2363457, 9960150487, Dr. Prashant Jadhav - 9822038400	sangeevanichildrenshospital@gmail.com	01.02.2017	30.09.2020	
4	Aurangabad	AIMS Hospital & Trauma Center Pvt Ltd, Sector - A, Plot No.20, N-11, CIDCO, Jalgaon Road, T V Center, Aurangabad - 431003.	Cardiology & Cardiothoracic Vascular Surgery, Neurology, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastro surgery, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, PET Scan, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	0240-2390735, Dr. Vinodra Jaiswal - 9170590973	vijaiswal@yahoo.com	01.02.2017	30.09.2020	

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
5	Aurangabad	Manik Hospital & Research Center Pvt Ltd., Shivnagar Nagar, Near Jawahar Nagar Police Stn., Garkhed, Aurangabad.	CTVS, Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery	CT Scan, Echocardiography	0240-2335079 / 2345879, 9822038859, Dr. Rajendra Pradhan - 9923176000, Dr. Jyotsna Pathak - 8690983210	manikhospital@yahoo.co.in, kondepalle@gmail.com	01.02.2017	30.09.2020
6	Dhule	Om Multispecialty Hospital & Critical Care Center, Agrawal Nagar, Malegaon Road, Dhule - 424001	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan,MRI,PET Scan,Echocardiogra phy, Bone Scan & Screening of other parts of body,Specialized Biochemical, Immunological Investigations	02562, 283318241313, 8623072786, Dr. Manish Jakbete - 9422961803	emericitacare@gmail.com	01.02.2017	30.09.2020

Adv. Ramesh L. Soni

M.B.A. (HR) , B.Sc. (Hons.) , LL.B., D.L.L. & L.W. , D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

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Website: www.rlsconsulting.in

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity	
							From	To
7	Ichalkaranji	Nirmaya Hospital, Unit of Ichalkaranji Medical & Research Centre, 69111, Nirmaya Hospital, Ichalkaranji	Cardiology & CTVS, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology	ECHO, CT Scan	Dr. M. A. Borgave - 0230-2437517 / 819, 9764019003	nirmayahospital@gmail.com	01.02.2017	30.09.2020
8	Jalgaon	Gajre Hospital, 25, 26, Gandhi Nagar, Near S T Bus Stand, Jilha Peth, Jalgaon - 425001	Neurology	CT Scan, MRI, Echoangiography	0257-22228139 / 22223656, Dr. Sunil Gajre - 98223032622, Dr. Triptima Gajre - 9823017936	s_gajre@hotmail.com, sunilgajre986@gmail.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity From	Validity Upto
9	Jalgaon	Shree Gajanan Heart & Eye Hospital Pvt Ltd., Plot No.370, Omkar Nagar, Opposite General Post Office, Jilgaon - 425001	CTVS & Cardiology	Echocardiography, Spl. Bio, Imm. Invig.	0257-2236293 / 2241293, Dr. Vivek D Chaudhari - 9823011550	gajanan.heart14@yahoo.in	01.02.2017	30.09.2020
10	Jalgaon	Orchid Multi Super Specialty Hospital, (A Unit of Advaai Medicare & Research Inst.), 271, 272 (P), Jilgaon - 425001	CTVS, Cardiology,Neurology, Oncology, Osscesurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology	CT Scan, Echoangiography	0257-2228969 / 2228970, Mr. Mukesh Pathak - 8390000283, Dr. Nandkishor Deshmukh - 8390005455	ceo@orchidhospital.co.in, ceo.orchidhospital@gmail.com	01.02.2017	30.09.2020

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M.B.A. (HR) , B.Sc. (Hons.) , LL.B., D.L.L. & L.W. , D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity
From	To						
11	Jalgao	Gayatri Urological Surgical Hospital, Radha Krishna Colony, National Highway No.6, Jalgao - 425002	Oncology, Oncosurgery, Urology, Uro surgery, Gastroenterology, Gastro surgery, Paediatric Surgery, Plastic Surgery, Reconstructive Surgery	-	0257-2254408 / 2254409	gayatri.hosp@bsnl.in, gayatrihosp@gmail.com, amitpatil346@yahoo.com	01.02.2017 - 30.09.2020
12	Jalgao	Khadke Hospital & Healthcare Pvt Ltd., M.J College Road, Near Bhaskar Market, Jalgao - 425001	Neurosurgery, Gastro surgery, Paediatric Surgery, Plastic Surgery, Reconstructive Surgery	-	0257-2234443 / 2234474, 9423296945, Dr. Anil Khadke - 9373365980, Dr. Suchita Khadke - 9881744070	khadkehospital@yahoo.com	01.02.2017 - 30.09.2020

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M.B.A. (HR) , B.Sc. (Hons.), LL.B., D.L.L. & L.W. , D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation Contact	Email id	Validity	
						From	Upto
13	Kolhapur	Morya Hospital, 1987, E Ward, 9th Lane, Rajarampuri, Kolhapur,	Neurology, Neurosurgery, Oncology, Onco surgery, Urology, Uro surgery, Gastroenterology, Gastro surgery, Paediatric Surgery, Endocrine surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	-	0231-2529006 / 2529009, Dr. Santosh Nimbalkar - 9822680914	01/02/2017	30/09/2020
14	Thane	Swami Sarvanand Hospital, Near Old Bus Terminal, Ulhasnagar, Ulhasnagar - 421005	Neurology, Dialysis, Uro surgery	-	0251-2524251 / 2527467/ 2520487, Mr. Mohan Balani - 7219809400, Ms. Meena Pujabi - 7219809409	01/02/2017	30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity From	Validity Upto
15	Mumbai	Surana Sethia Hospital & Research Centre, Sion Trentham Road, Chembur Mumbai.	Cardiology, Cardiathoracic Vascular Surgery, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine surgery, Reconstructive Surgery.	CT Scan, MRI, PET Scan, ECHO, Bone Scan, Sp. Bio. Imm. Inv.	9167901664, Mr. D. C. Surana - 9819495570, Mr. M. L. Sethia - 9930070905	dhiraj@suranahospital.in	01.02.2017	30.09.2020
16	Thane	Shivam Hospital, Plot No.57, CRW CHS, Near MIDC Water Tank, Kalyan Road, Dombivli	Neurology, Neurosurgery, Oncology, Nephrology, Dialysis Emergency, Urology, Urosurgery, Gastroenterology, Gastroscopy, Burns Management, Plastic Surgery, Reconstructive Surgery	-	02151-2800330/244314414 5, Dr. Anil Barnwal - 9820635105	shivamhospitaldombivli@gmail.com	01.02.2017	30.09.2020

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	From	Validity Upto
17	Nagpur	Lotus Hospital & Research Center, 205, Om Nagar, Near Trivago Square, Sakandara Police Station Road, Nagpur - 440009	Oncology, Oncosurgery, Unsurgery, Gastroenterology, Gastroscopy, Endocrine Surgery, Plastic Surgery	-	0712-2706020, Dr. Kanhaiya B. Chinchak - 9822230613	contact@onhospi.com	01.02.2017	30.09.2020
18	Nagpur	Platina Heart Hospital, Near Hotel Hardeo, Sitabuldi, Nagpur - 440012,	CTVS& Cardiology	Echo, Spl. Bio, Imm. Inv.	0712-24664555, 9767703032, Dr. Majusha Joshi - 9923200617, Mr. Rajesh Selokar - 9850386970	plainheart@hospiinstnagpur.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	From	Validity Upto
19	Nagpur	Sengupta Hospital Research Institute, Ravinasagar Square, Nagpur - 440033	CTVS& Cardiology	Echocardiography	0712-2532697, 9923190925, Dr. Shantanu Sengupta - 9823570925, Mr. Partha Santhi Nag - 9823022633	seguptplash@gmail.com	01.02.2017	30.09.2020
20	Nagpur	Asia Hospital, AIMS & Research Center Pvt Ltd, NH-7, Near Lekhanagar, Connement, Dist- Kamptee, Nagpur - 441001	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Urology, Urosurgery, Gastroenterology,	CT Scan, Echocardiography, Specialized Biochemical, Immunological Investigations	07109-288741/ 288411, Dr. Rajendra Agrawal - 8007755544, Alka Agrawal - 8806644411	drajenaagrawal@gmail.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
21	Nagpur	Sparsh Heart Institute & CTVS & Cardiology Research Center Ind. Pvt. Ltd., 31, Kasum Plaza, Off. Chitale Marg, Dhantoli, Nagpur - 440012	-	0712-2443003/6453003/2443333, Dr. H.M. Marlikar - 0712-2443003	spodis@yahoo.co.in, mukarand69@rediffmail.com	01.02.2017	30.09.2020	
22	Nagpur	Radiance Hospital Pvt Ltd, 268, Central Avenue, Near Ambedkar Square, Warthanan Nagar, Nagpur - 440008	CTVS & Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Endocrinology, Endocrine Surgery, Plastic Surgery, Reconstructive Surgery	Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	0712-2769898/2779898, 9890000641, 982309373, Dr. Manoj Purabji - 9823093873	info@radiancehospital.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity
						From	To
23	Nagpur	Rainbow Medicova Diagnostic Services, 282, Central Bazar Road, Ramdasgadh, Nagpur - 440010	-	CT Scan, MRI, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	0712-6616666/ Dr. Rishendra Dakhane - 9823037420	rainbowdiagnostics@yahoo.com	01.02.2017 - 30.09.2020
24	Nagpur	Kunal Hospital Komdi, Main Road, Mankapur, Nagpur - 440030	Cardiology/Non Invasive,Neurology, Neurosurgery, Oncology, Otolaryngology, Urology, Dialysis, Urology, Urosurgery, Gastroenterology, Gynaecology, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI,Echocardiography 25917707172, Dr. Shishir Shrivastava - 08230204069, Dr. Chandan Bhoyar - 9923303830	0712- admin@kunalhospital.com	01.02.2017 - 30.09.2020	

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity From	Validity To
25	Nagpur	Crescent Hospital & Heart Center, Plot No.2, 5, Near Lokmat Square, Dhamtoli, Nagpur - 440012	Cardiology & Cardionthoracic Vascular Surgery, Neurology, Neurosurgery, Nephrology, Dialysis, Gastroenterology, Paediatric Surgery, Endocrinology	CT Scan, MRI , Echocardiography, Bone Scan & Screening of other parts of body , Speciated Biochemical, Immunological Investigations	0712-6640786, 7421822, 2423813, 2460013, 9765404950	kbandraiz@gmail.com, ganesha11@gmail.com	01.02.2017	30.09.2020
26	Nagpur	Aarogyaam Super speciality Hospital, 34, Sitin Nagar, Front of Green Valley Lawn, Wardha Road, Nagpur	Neurosurgery, Plastic Surgery, Reconstructive Surgery	-	8237168000, 8237138000, Dr. Alok Umre - 9822237977	aarogyamnagpur@gmail.com	01.02.2017	30.09.2020

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
27	Nagpur	Lain Mangeshkar Hospital, S.YMCA Complex, Mahant Bagh Road, Sinhuli, Nagpur - 440001	Neurology, Neurosurgery, Oncosurgery, Nephrology, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, PET Scan, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	0712-2530347, Dr. Rohini Darodkar - 92703323411, Dr. Harsh Deshmukh - 9822713949	tpalmhospitals@gmail.com	01.02.2017	30.09.2020
28	Nasik	Six SIGMA Medicare & Research Ltd., Sadguru, Opp. Mahatma Nagar Water Tank, Mahatma Nagar, Nasik - 422007	CTVS, Cardiology, Neurology, Neurosurgery, Oncology, Oncotherapy, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery	CT Scan, Echocardiography	0253-6619810, 6619811, Dr. Swapnil Panikh - 9881252575, Mr. Sandeep Khirwansar - 9822196081	info@sixsigmamedicare.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
29	Nashik	Vedant Hospital, Shrechari Kite Marg, Near Mumbai Naka, Nashik - 422002	Plastic Surgery, Reconstructive Surgery	-	0253- 2313811/2576360, Dr. Rajendra Nehete - 9423971725, Dr. Anita Nehete - 9423971726	vphnashik@gmail.com, rajendranehete@gmail.com	01.02.2017	30.09.2020
30	Nashik	Shree Sai Baba Heart Institute & Research Center, Near Kalidas Kala Mandir, Shalimar, Nashik - 422002	CTVS, Cardiology,Dialysis	Echocardiography	Dr. Pallavi Dharmadhikari/ Dr. Shivani Sabale . 0253-2507001/2445, 9158887574	shribabhairstitute@yahoo.com	01.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity
From	To						
31	Thane	Dr R N Patil's Suraj Hospital, Neurological & Multispecialty, Sun Palm View, Plot No.1 & 14, Sector - 15, Sarsapadu, Navi Mumbai	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Uroscopy, Gastroenterology, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI/PET, Echoangiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	022-27810099/0599, Dr. R. N. Patil - 9820332608	rajaran.com@yahoo.com	01-02-2017 - 30-09-2020
32	Pune	Pawana Hospital, Gut No. 167, Somnathne Phata, Taluka Mayal, Pune - 410506	Cadiology & CTVS, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Urology, Gastroenterology, Paediatric Surgery, Endocrinology, Endoermsurgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, ECHO, Bone Scan, Sp. Bio. Imm. Inv. 9822056717	02114 - 22107677, Dr. Varsha Wadhokar - 99960232100	director@pawanahospital.com, pawanabilling@gmail.com, pawanasic@gmail.com	01-02-2017 - 30-09-2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	To
33	Pune	Global Hospital & Research Centre, 577/2, Near Dattawadi Police Chowki, Off Sinhgad Road, Dattawadi, Pune- 411030	Cardiology & CTVS, Neurology, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, ECHO 24522400, 8975599000, Mr. Vijay D. Shendkar - 9822034138, Dr. Kausabh Shendkar - 9763060066	020 - 24522452 / 24522400, 8975599000, Mr. Vijay D. Shendkar - 9822034138, Dr. Kausabh Shendkar - 9763060066	admin@globalhospitalpune.com	01.03.2017	30.09.2020
34	Sangli	Kulkoli Hospital, Near Railway Gate, Vishrambag, Sangli- 416415	Cardiology, CTVS, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography 230132972302329,	0233- Dr. Samosh Kulkoli - 942273615	kulkolihospital@yahoo.in	01.03.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
35	Solapur	Gangani Hospital, Plot No. 1, CS No. 279/2, Modikhana, Near railway underpass, Solapur - 413004	Neurology, Neurosurgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, Echo, Sp. Bio., Imm. Inv.	(0217 - 2381849, 9765999835, 9765999848, 9049998913, Dr. S. Prathikar - 9765999849	ganesh25hospital@gmail.com	01/02/2017	30/09/2020
36	Thane	S. S. Hospital & Research Centre, Pavaipura Enclave, Sy No.90, Opp. Jain Mandir, Kalher, Bhivandi - 421302	CTVS & Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastrsurgery, Endocrinology, Endocrine Surgery, Reconstructive Surgery	CT Scan, MRI, PET Scan, Echocardiography, Specialized Biochemical, Immunological Investigations	9167901664, Mithalai Shih - 9929070905, Ankil Sofia - 9835558815, Sunny 8879716839	cashless@ss-hospital.com, dhrai@ss-hospital.in, accounts@ss-hospital.com	01/02/2017	30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region Hospital	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity From	Validity Upto
37	Thane	Klasturi Medicare Pvt. Ltd., Harsh Niketan, Behind Navrang Hotel, Gaondevi Road, Bhayander (West)	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosgery, Gasterenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	-	022-28147676/64547676, Dr. Rajeev Agarwal - 9324547676	dr.rajeev@klasturihospital.com	01/02/2017	30/09/2020
38	Thane	KCON Heart Center, Unit of AHCPL, 6th Level KCON Hospital, Manjula Road, Opp. Malaveer Nagar Corner, Dombivli (E) - 421201	CTVS, Cardiology	-	0231-2446995, Dr. Anuj Bhasin - 9167400400	dr.anujbhasin@gmail.com	16/02/2017	30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity	
							From	Upto
39	Sangli	Sastruta Plastic Surgery & Burns Hospital, Near Gaspir Chowk, Civil Hospital Road, Sangli - 416416	Neurosurgery, Oncosurgery, Gastroscopy, Pediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	--	0233-2329829 / 2322822, 9970239896, Dr. Avinash Patil - 9822010474	runkalitpranavawad99@gmail.com.	10.02.2017	30.09.2020
40	Sangli	Kranti Cardiac Centre, Behind Kranti Clinic, Stand Road, Sangli - 416416	Cardiology, CTVS, Neurology, Gastroenterology	--	0233-2530755, 2531246, Dr. Ashish Magdum - 9822114430, 9404284899	ashishmagdum@hotmail.com, kranticardiaccentre@gmail.com	10.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
41	Thane	Sayasi Platinum Hospital, Old Sevaniketan Hospital, Near Attar Talkies, Ulhasnagar - 421003	CVTS & Cardiology Neurology, Neurosurgery, Oncology, Onco-surgery, Nephrology, Dialysis, Urology, Uro-surgery, Plastic Surgery, Reconstructive Surgery	Echocardiography	(0251)-2567256, Dr. Sanjiv Patel - 9370471117/0251- 2565479, Mrs. Pravita Patel - 9325959115	info2@platinumhospitals.in	10.02.2017	30.09.2020
42	Nagpur	Central India Institute of Hematology & Oncology, Plot No 14/2, Park Corner, Balraj Marg, Near Lokmat Square, Dhamoli, Nagpur	Oncology, Oncosurgery	+	0712-2430038/ 6464198, Dr. Avinash Popalkar - 9822225767, Dr. Surekha Popalkar - 9822723264	clibhoenur@gmail.com	10.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
43	Jay singpur	PIOS & Multi Speciality Hospital, Kolhapur Road, Sangli, Jay singpur - 416101	Cardiology & CTVS, Neurosurgery, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gynaecology, Paediatric Surgery, Burns Management Reconstructive Surgery	CT Scan, MRI, ECHO, Bone Scan, 228674, Dr. Satishkumar Patil - Sp. Bio. Imm. Inv. 99601209699	patilprowin49@gmail.com	16.02.2017	30.09.2020	
44	Aurangabad	United CMCMA Institute of Med. Science P Ltd., Plat No.6, 7, Shahnoorwadi, Dargah Road, Aurangabad - 431005	CVTS, Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gynaecology, Endocrinology, Endocrine Surgery, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	0240-2366666, Dr. Umesh Takalkar - 98220142425, Dr. Ajay Rote - 8888844586	16.02.2017	30.09.2020	

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity From	Upto
45	Sangli	Aditya Hospital Sangli, Main Chowk, Vishrambag, Tal-Miraj, Dist-Sangli, Sangli- 416415	Cardiology, CTVS, Neurology, Neurosurgery, Oncosurgery, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	--	0233-2305686, Dr. Sharad Sawant - 7798953295	drsharad.s@yahoon.com, drsharad1410@gmail.com	16.02.2017	30.09.2020
46	Nashik	Soham Hospital & Medical Foundation Pvt Ltd., 3rd Floor, Shivaji Marg, Suyojit Sankul, Shanapur Road, Next to Rajiv Gandhi Bhawan, Nasik - 422002	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Plastic Surgery, Reconstructive Surgery	--	0233-2315661, 2314661, Mrs. Minnit Kamojin - 9420695957, Dr. Ajay Pardeshi - 9420695959	soham.hospital@gmail.com	16.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Tpto
47	Kolhapur	Kolhapur Cancer Centre, R.S 238, Gokhale, Shirgaon, Kolhapur.	Oncology, Oncosurgery, Radiotherapy	CT Scan, Sp. Bio. Imm. Inv.	Dr. Reshma Pawar - 9850046368, Dr. Suraj Pawar - 9422014908, Dr. Aarap Yogesh - 9420635556, 0231- 26779901/3, 8380010580	claim.kolhapurcancercentre@gmail.com tpt@kolhapurcancercentre.com	16.02.2017	30.09.2020
48	Nashik	Ashwini Accident Multispecialty Hospital, Govind Nagar Chowk No.5, Behind Petrol Pump, Mumbai Naka, Nashik - 422009	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastro surgery, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	-	0253-2572552/ 5531, 8888871151, Dr. Girish Antade - 9822060200, Dr. Jitajeet Verma - 9850114225	unitednj@gmail.com	16.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity
						From	To
49	Thane	Shah Lifeline Hospital, Greta Nagar, Phase - 7, Mira - Blayender Road, Mira Road (E), Thane - 7	CTVS& Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Nephrology, Dialysis, Urology, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Reconstructive Surgery	CT Scan, Echocardiography	9892400451, 9869125336, Dr. Kamlesh Shah - 9820026831	shah.lifelineira@gmail.com	01.02.2017 30.09.2020
50	Mumbai	Riddhi Vinayak Critical Care & Cardiac Center, 559/1, Riddhi Vinayak Temple Lane, Nr. N.L. High School, S.V Road, Malad (W), Mumbai - 400064	CTVS & Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Uroscopy, Gastroenterology, Gastroscopy, Endocrine Endocrinology, Endocrine Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	022-28663984/84- (88), Dr. Venkat Shivaji Goyal - 9223186500, Dr. Vinay Shivaji Goyal - 9820230213	riddhivinayak@hotmail.com	16.02.2017 30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity
						From	Upto
51	Solapur	Shri Siddheshwar Cancer Hospital & Research Centre, Holgi Road, Near Dainik Sanchar, Solapur - 413003.	Oncology, Onco-surgery, Radiotherapy	CT Scan, MRI, PET Scan, Specialized Biochemical, Immunological Investigations	0217 - 2607433 / 44, Sh. Dharmaraj Kaludi - 9422068288, Sh. Balashibh Bhogade - 9669047676 Shri Hanumant Patil 8805450565	shrisiddhcancer@gmail.com	10.02.2017 30.09.2020
52	Nagpur	National Cancer Institute, Manoran Chambers, WHC Road, Bharampeth, Nagpur - 440010.	Oncology, Oncosurgery, Radiotherapy, Reconstructive Surgery	-	Shailesh Joglekar - 0712-4612277 Dr. Rajat 855520800000/ 92264001550	rci.jgi@vivessingh@gmail.com	01.02.2017 30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity From	Validity Upto
53	Palghar	Riddhi Vinayak Multispeciality Hospital, 302, Near Railway Carshed, Ahead of Fun Festh, Virar Naliaspurn Link Road, Naliaspurn (W), Distt. Thane.	CTVS&Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Nephrology, Dialysis, Urology, Urosurgery, (Gastroenterology, Gastroscopy, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	Dr. Venkat Goyal - 9223186550, 9223186561, 9223186505, 9004427537	rvmh@hotmaill.com	16.02.2017	30.09.2020
54	Nagpur	Keshav Hospital, 117, Munewada Square, Ring Road, Nagpur	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Urology, Urosurgery, Paediatric Surgery, Endocrinology, Endocrine Surgery, Plastic Surgery, Reconstructive Surgery	-	0712-2701700 / 2701705, 7387391110, Dr. Ravindra Husukale - 9975640310, Dr. Shilpa Husukale - 9890462713	keshavmultihospital@yahoo.com	16.02.2017	30.09.2020

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Website: www.rlsconsulting.in

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity	
							From	Upto
55	Nagpur	Mechare Multispecialty Hospital, 2nd Floor, Galmohar Complex, Chinchwadi Road, Marapur, Nagpur - 440008	Neurology, Neurosurgery, Orthosurgery, Urology, Urosurgery, Gastroenterology, Gastroscopy, Burns Management, Plastic Surgery, Reconstructive Surgery	-	0712-2586201, Dr. Aatul Kumar Vidyarthi - 9764754540, Dr. Sarita Vidyarthi + 9326806041	dravisharthi@gmail.com, medi_care_hospital@yahoo.com	16.02.2017	30.09.2020
56	Mumbai	Sapna Healthcare Centre Pvt. Ltd., A Wing, Bhaweshwar Plaza, Opp. Sanyas Cinema, Ghakopar (W), Mumbai	Neurology, Neurosurgery, Oncology, Orthosurgery, Urosurgery, Nephrology, Dialysis, Urology, Reconstructive Surgery	-	022 - 29006051 / 25094202, m	sapna_healthcare@rediffmail.co	16.02.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region Hospital	Name & Address of the Hospital	Specialty	SSI Investigation	Contact	Email id	Validity From	Upto
57	Nagpur	Zenith Hospital, 141, Shivaji Nagar, Noidh Ambajan Road, Behind Karan Kothari Jewellers, Nagpur - 440012	Oncology, Oncosurgery, Urology, Urosurgery, Gastroenterology, Gastro surgery, Endocrine Surgery, Plastic Surgery, Reconstructive Surgery	-	Dr. Makund Thaker - contactzenithhospital@gmail.com m.makund11@gmail.com 0712-2248794, 2248648		16/02/2017	30/09/2020
58	Dhule	Miramaya Hospital, 80 Ft Road, Nr Natraj Theatre, Dhule, Dhule - 424001	Cardiac & Cardiothoracic Surgery, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastro surgery, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery.	CT Scan, MRI, Echocardiography	02562-279381, Dr. Vinod Bafna - 9889065525, Dr. Madhuri Bafna - 9889065535	drmadhuri74@gmail.com, drvinod75@hotmail.com	16/02/2017	30/09/2020

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List of SST Tie up Hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity
						From	Upto
59	Thane	Sreshtha Heart Care Center & Specialty Hospital, Plot No.22 A, Palm Beach Road, Sector -6, Navi Mumbai - 400706	Cardiology & CTVS, Neurology, Neurosurgery, Nephrology, Dialysis, Gastroenterology/Gastric Surgery, Endocrinology, Burns Management, Plastic Surgery, Reconstructive Surgery	CTMRECH3, Spl. Bio. Imm. Inc.	(022)64596661-80, Dr. Smita Tarkar - 932226799, Dr. Anita Tarkar - 9322297834	hosptishreshthahospital@gmail.com	16.02.2017 30.09.2020
60	Jalgum	Indo American Hospital, Visanji Nagar, Opposite Golani Market, Jalgum - 425001	CTVS & Cardiology, Neurology, Neurosurgery, Oncosurgery, Oncology, Dialysis, Nephrology, Urology, Urology, Urology, Endocrinology, Gastroenterology, Gastric Surgery, Paediatric Surgery, Endocrinology, Endocrine Surgery, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography	(027)-2234777/2228749, 224095, Dr. Tushar M. Rane - 8406881481, 9671996429	jhl.jlgm@gmail.com, jhl.jlgm@yahoo.com	16.02.2017 30.09.2020

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	To
61	Nagpur	Rashtrasant Tukdoji Regional Cancer Hospital, Research Center, Tukdoji Square, Marwadi Road, Nagpur - 440027	Oncology, Oncosurgery, Radiotherapy	Echocardiography, CT Scan	0712-2744441/2748995, 9423687661	admin@rlssearch.com	16.02.2017	30.09.2020
62	Raigad	Lifeline Hospital, Opp S T Stand, Panvel, Dist - Raigad - 410206	CTVS, Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography, Specialized Biochemical, Immunological Investigations	022 - 61567000 / 01 / 02, Dr. Prakash Patel - 02267567077, Dr. Jayashree Patel - 022-67567099	lifelineservice@gmail.com	01.03.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region Hospital	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity
							From Upto
63	Sangli	Walvekar Hospital, Ganesh Nagar, Gowpit, Sangli - 416416	Neurosurgery, Oncology, Urology, Uroscopy, Gastroenterology, Gastroscopy, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI	0233-2374224, Dr. Ravinda Walvekar - 9822338610	ravindrawalvekar@gmail.com	01/03/2017 30/09/2020
64	Aurangabad	Asian Critical Superspeciality Hospital, Motiwala Square, Anakshayani Signal, Jatra Road, Aurangabad	Neurology, Neurosurgery, Oncosurgery, Nephrology, Dialysis, Urosurgery, Paediatric surgery, Endocrinology, Burns management, Plastic Surgery, Reconstructive Surgery, Cardiology, CVTS	CT Scan, Echocardiography	0246-3058100, 3058200, 3058145 Mr Navaz	asiancriticalhospital.ans@gmail.com, asiancriticalhospital@gmail.com	01/04/2017 30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity	
							From	Upto
65	Mumbai	Gopalkrishna Piramal Memorial Hospital, Piramal Tower, Annex, 2nd Floor, Ganpatrao Kadamb Marg, Lower Parel, Mumbai - 400013	Dialysis	-	022- 30463927/3046832, Ms. Shilini Chaitanya - 996701989; Mr. Ganesh Dimal - 9920322064	piramalhospital@piramal.com, schainani@piramal.com	01.04.2017	30.09.2020
66	Kolhapur	Swastik Hospital, Plot No. 29, Behind Sai Darslan Hotel, Tararam Chowk, Kolhapur - 416003	Cardiology & CTVS	Echocardiography	0211-2533573, Dr. Ajun Adnai - 7709112222, Dr. Renu Adnai - 9370412233	dmdnaik@yahoo.com, swastikhospital.kolhapur@gmail.com	01.04.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation		Contact	Email id	From	Validity Upto
				SST	Investigation				
67	Thane	Sayash Hospital, 51-Ugam Complex, Sector - 40, Seawood (W), Navi Mumbai - 400706	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gynaecosurgery, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	022-27718033/ 32, Dr. Dhaval Derasari - 7666969010, Dr. Lata Derasari - 7666707020, Mr. Shailesh Chourasia, 9323392072	sashless@sayash.co	01-04-2017	30-09-2020	
68	Nagpur	Metro Scan, Achini Arikar, Beside Union Bank & Amar Jyoti Complex, Lokmat Square, Wardha Road, Dhanioli, Nagpur - 440012		CT Scan, MRI, Echocardiography	0712-6628666, 2450085, 7276136100, Dr. Abil Dakhole - 9370966466, Dr. Anjali Dakhole - 9373117814, Dr. Sandeep Mahajan - 72198334605, Dr. Vinod V. Soekhal - 7219874112	drabil.dakhole@gmail.com, narendramero@gmail.com, metrowashish12@gmail.com	01-04-2017	30-09-2020	

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
69	Nashik	Rishikesh Hospital, 9, Mukund Colony, Gangapur Road, Nasik - 422002	Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Uro surgery, Gastroenterology, Cistro surgery, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, Echocardiography	(0241-2232561)2/3/4, Dr. Bhushanesh More - 9373922911	rishikeshhospital@gmail.com	01.04.2017	30.09.2020
70	Nashik	Chipla Medicare & Research Center Pvt Ltd., (Magman Heart Institute) Pall Lane No. 1, Near KBH Vidyalya, Canada Corner, Nasik - 422005	CTVS Cardiology, Nephrology, Dialysis	Echocardiography	(0233- 23162000)1/2/3/4 , Dr. Manoj Chopda - 9823021613, Dr. Rashmi Chopda - 9822064445 Dr. Shoenal 8809028242	magmanheartinstitute@gmail.co m, rish_manoj@yahoo.com	01.04.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	To
71	Nanded	Lotos Hospital, 2nd Floor, Doctor's Plaza, Doctor's Lane, Nanded - 431601	Cardiology, CVTS, Neurology, Neursurgery, Oncology, Onco surgery, Radiotherapy, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology	Echocardiography	Dr. Arun Kante - 9821125636, Dr. Sanjay Patilwar - 9345492000	lotus_hospital_nmd@yahoo.com	01.04.2017	30.09.2020
72	Raigad	Yash Hospital, Trinetra Arcade, Urani Naka, Purvel, Raigad - 410206	Orthosurgery, Neurosurgery, Urosurgery, Gastroenterology, Paediatric Surgery,Burns Management, Plastic Surgery, Reconstructive Surgery	CT, MRL, Echocardiography	022 - 27458975, 27468907, Dr. Gopal Lamture - 9819965866, 9769837302	yashhospital07@gmail.com	01.04.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	To
73	Satara	Satara Hospital & Research Centre, Plot No. 26, Kalyani Estate, Opp. ZP Office, Satara	CTVS & Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Endocrinology, Plastic Surgery, Reconstructive Surgery	CT Scan, MRL, ECHO	02162-222238/ 228288/ Dr. Suresh Shinde - 9850998899, Dr. Vilas Jadhav - 9822068388	satarahospital@gmail.com	01.04.2017	30.09.2020
74	Mumbai	Sevenhills Healthcare Pvt Ltd., Marol Maroshi Road, Andheri (E), Mumbai - 400059	CTVS & Cardiology, Oncosurgery, Radiotherapy, Chemotherapy, Nephrology, Dialysis	CT Scan, MRL, PET Scan, Echoangiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	022-67676767, 8450956388	shrikumar.k@sevenhillshospital.com, billingmumbai@sevenhillshospital.com	01.04.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	From	Validity
75	Aurangabad	CLIGMA Hospital, (CLIGMA Institute of Med. Science Pvt Ltd.), Plot No.3, Raghavner Nagar, Opp SFS School, Jalna Road, Aurangabad - 431005	CTVS Cardiology, Neurology, Oncology, Oncosurgery, Nephrology, Urology, Urosurgery, Gastroenterology, Gastroscopy, Plastic Surgery, Reconstructive Surgery	-	0240-2335751 / 2348810, 9822042425	cligmas.aurangabad@gmail.com, taknikar.unmeshsharma@gmail.com	01/04/2017	30/09/2020
76	Aurangabad	Seth Nandlal Dhot Hospital, A-1, MIDC Area, Chikalthana, Jalna Road, Aurangabad - 431210.	Radiotherapy, Cardiology, Cardiothoracic Surgery, Neurology, Nephrology & Urology, Oncosurgery, Oncology	C. T. Scan, M.R.I., Bio-immunological Specialised Investigations	0240-2478500, 2489001-10, Dr. Himanshu Gupta - 9225334166	administrations@dhoothospital. com	15/04/2017	30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
77	Mumbai	Forts Hospitals Ltd., Mulund Goregaon Link Road, Mulund, Mumbai - 400078	Radiotherapy, Dialysis, Renal transplant	-	022-43654365, Dr. S. Nirayani - 022-49254283, Hitesh Gupta - 022-49254303	manisha.neotia@fortishealthcare.com atul.jain@fortishealthcare.com	01.04.2017	30.09.2020
78	Thane	Asian Institute Of Medical Sciences, Milap Nagar, MIDC, Dombivli (E), Dombivli (E) - 421203	Cardiology & CTVs, Nephrology, Oncology, Oncosurgery, Radiotherapy, Nephrology, Dialysis, Urology, Uro surgery, Gastroenterology, Gastro surgery, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, Echoangiography	Dr. M.V. Shirodkar - amitneotia@gmail.com, infospinshospital.co.in 0251-247590001/3, 9870713939, 961968339	01.05.2017	30.09.2020	

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
79	Jalgarni	Atharva Hospital, Swadatra Chowk, Near India Garage, Jalgarni - 423001	Neurology, Oncology, Oncosurgery, Nephrology, Urology, Urosurgery, Gastroenterology, Gastroscopy, Endocrinology, Burns Management	0257-2234457, 9866991663, Dr. Prashant Jain - 9866991661	djiain1977@gmail.com	01/04/2017	30/09/2020	
80	Rajnand	Prachin Healthcare, Plot No. 69/2, Near Hotel Garden, Panvel - 410206	CTVS, Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastroscopy, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	022 - 71333258/ 59, Dr. Mangesh Dake - mangesh@prachinhealthcare.com 0821386986, Dr. Sangeeta Dake - 9892987852	accounts@prachinhealthcare.com mangesh@prachinhealthcare.com	01/04/2017	30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
81	Thane	Highway Hospital, Dev Adish CH, Maratha Square, Thane (W). 400604	CTVS& Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Nephrology, Urology, Uro surgery, Gastroenterology, Gastro surgery, Endocrinology, Endocrine Surgery	-	022-25822683, 69995952, Dr. Shrikar Suradkar - 9826645614	highway25hospital@yahoo.com	08.05.2017	30.09.2020)
82	Nashik	Nephro Plus, C.O. Supreme Kidney Care, Om Chambers, Opp. Near MICO Circle, Bhuleswar Colony, Nasik - 422005	Nephrology, Dialysis	-	8275273653	vinit.sainamphoplus.mnbh.nsk.wrx.cro@gmail.com	08.05.2017	30.09.2020)

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity From	Validity Upto
83	Thane	Aareyam Hospital, Renuka Apartment, Opp. Mangal High School, Thane (E)	Nephrology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastric Surgery, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	-	022-65100866, 9820512118	amayyan2011@gmail.com	11.05.2017	30.09.2020
84	Solapur	Dr. Raghaji Kidney Hospital & Research Centre, 1422, Railway Lines, Near Old RTO, Solapur - 413001.	Nephrology, Dialysis, Urology, Urosurgery	Echocardiography	Mr. Sagar Jadhav 957953923	drdushyant@gmail.com	16.05.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2021)

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
85	Jalgan	Ganguli Hospital, N H 6, Vidya Nagri, Akashvani Chowk, Jalgan - 425001	CTVS & Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Nephrology, Dialysis, Urology, Urosurgery, Gastroenterology, Gastric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Paediatric Surgery	CT Scan, MRI, Echocardiography	Dr. Shital Oswal - 9889027257, 982727257, 0257- 2227257, 9860991674	tejas2885@gmail.com, gamtihalthearcentres@gmail. com, shitaloswal@yahoo.com	15.06.2017	30.09.2020
86	Mumbai	Lifeline Medicare Hospital Pvt Ltd, Ground Floor, DLH Park, Near MTNL, Signal, S V Road, Ghatkopar (W), Mumbai - 400062	CTVS & Cardiology, Neurology, Neurosurgery, Oncology, Oncosurgery, Radiotherapy, Nephrology, Dialysis, Urology, Urosurgery, Gynaecosurgery, Gastric Surgery, Paediatric Surgery, Endocrinology, Endocrine Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, PET Scan, Echocardiography, Bone Scan & Screening of other parts of body, Specialized Biochemical, Immunological Investigations	022-24758100/06, 8291988347, 9829497795	lifelineimedicalhospital@gmail. com	01.09.2017	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region Hospital	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email ID	Validity
						From	To
87	Nashik	HCG Manava Cancer Center, Opp Mahanarg Bus Stand, Munshi Naik, Nasik - 422004	Oncology	CT Scan, PET Scan	0253-2223600, Dr. Raj Nagarkar - 9823061929	centrenavimager@gmail.com entre.com	02/01/2018 30/09/2020
88	Miraj	Dr. Isipure Orthopaedic Hospital, Lokmanya Tilak Nagar, Miraj - 416410	Neurosurgery, Gastroenterology, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRI, PET Scan, Echotendoscopy	Dr. Vilayam Isipure - 08940125848	isipurehospital@gmail.com	24/07/2018 30/09/2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity	
							From	Upto
88	Miraj	Shanti Institute of Orthopedics & Trauma Center, Sangal Miraj Road, New Miraj Bhawan, Miraj - 416410	Pediatric Surgery, Plastic Surgery, Reconstructive Surgery	-	Dr. Sameer Shaikh - 9890641411, 9881355319, 0233-221199	shantihospitals.miraj@gmail.com	24.07.2018	30.09.2020
89	Pune	Aditya Birth Mezazir Hospital, Survey No. 31, Aditya Birth Hospital Marg, P. O. Chinchwad, Pune - 411033	Cardiothoracic, Vascular Surgery, Cardiology, Nephrology, Diabetis, Gastro surgery, Endocrinology, Oncology (including radiation therapy)	CT Scan, MRI, PET Scan	Mr. Rekha Dakey - 020-30717879, Dr. Akhil Neogal - 020-30717655, 020-30717590-501	healthcare@adityafrica.com	03.08.2018	30.09.2020

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List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
91	Mumbai	K.E.M. Hospital, Parel, Mumbai	All SST procedures	-	-	-	continued w.e.f. 2009	
92	Mumbai	TATA Hospital, Parel, Mumbai	Cancer Treatment	-	-	-	31.01.2019	30.01.2021

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	From	Upto	Validity
93	Nagpur	Shrawan Hospital & Kidney Institute, 239, Nandanvan, Cement Road, Beside Shikshak Sahakari Bank Ltd., Nagpur - 440009	Nephrology, Dialysis	-	0712-2711737, Dr. Prakash Khetan - 9823071748	shrawanhospital@gmail.com, prakashkhn@gmail.com	01.03.2017	30.09.2020	
94	Raigad	Ashvinayak Hospital, Plot No. 29, sector 06, Khandek Colony, New Panvel (W), New Mumbai - 410206	Neurosurgery, Oncosurgery, Urology, Gastroenterology, Paediatric Surgery, Burns Management, Plastic Surgery, Reconstructive Surgery	CT Scan, MRL, Echocardiography	022 - 27453468/183, Dr. Akashdeep Agarwal - 9819194395	ashvinayakhospital@gmail.com	01.04.2017	30.09.2020	

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email id	Validity	
							From	Upto
95	Nagpur	SST Multispeciality Hospital Plot No 13, New Sneh Nagar, Near Jainrakash Nagar Metro Station, Nagpur 440 015	Dialysis	-	0712-2295358	semail@specialtyhospital.com	01.05.2020	30.09.2020
96	Nagpur	Columbia Hospital & Research Centre, 3rd Floor, Hyatt Medicine, Dr. N. B. Khare Marg, Dhantoli, Nagpur 440 012	Dialysis	-	0712-2420005 Dr. Praveen Ghatawar	info@columbihospital.info	01.05.2020	30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation	Contact	Email Id	Validity
					From	To	
97	Pune	Dr. D. Y. Patil Medical College, Hospital and Research Centre, Pimpri, Pune 411 018	Dialysis	-	020-6711 6400 Dr. H. H. Chavhan	sst.mech@pdu.edu.in	01.05.2020 - 30.09.2020
98	Mumbai	Shree Sai Nursing Home and Polytechnic, Vishwakarma Tower, Plot No. 4, Sector 21, Tata Hospital Road, Kharghar 410 210	Dialysis	-	022-27741116 Dr. Utkamkumar Shinde	sstresumaindusone@gmail.com	01.05.2020 - 30.09.2020

List of SST Tie up hospitals upto 30 Sep 2020

Sr. No.	Region	Name & Address of the Hospital	Specialty	SST Investigation Contact	Email Id	Validity Upto
From	To					
99	Mumbai	M/s Mukta Kidney and Dialysis Clinic, 1st Floor, ST Depot Building, Gokhale Road South, Opposite Modil Oswal Towers, Prabhadevi, Mumbai 400 025	Dialysis	91-22-24362525, 7738877259	ansikidney@gmail.com	19.06.2020 30.09.2020
100	Mumbai	MALLIKA HOSPITAL,	Dialysis	91-22-26798885/ 7171, 9819419256	hospital.may@gmail.com	Upto 30.09.2020



मुख्यालय
Headquarters
कर्मचारी राज्य बीमा निगम
Employees State Insurance Corporation
पंचदीप भवन, सी.आई.जी. मार्ग, नई दिल्ली-02
Panchdeep Bhawan, C.I.G. Marg, New Delhi-02

No:-P-11/12/Misc./SST Misuse/2019-Rev. II

Dated 01.01.2021

To,

All RDs / Directors (I/c) / JDs (I/c) / DDs (I/c),
Regional Office / Sub- Regional Office.

Subject: - One-time Relaxation to those Employers who could not file Return of contribution for the contribution period April, 2020 to September, 2020 within 42 days i.e. upto 11.11.2020.

Sir,

Keeping in view the problem being faced by the Employers in filing ESI contribution for the contribution period April, 2020 to September, 2020 within 42 days, the Director General, in exercise of powers vested under regulation 100, has relaxed the provisions as entered in regulation 26 of The Employees' State Insurance (General) Regulations, 1950.

Accordingly, one-time opportunity has been given to those Employers who could not file ESI contribution for the contribution period April, 2020 to September, 2020 within 42 days after end of the contribution period. The Employers are now allowed to file this contribution for the Contribution Period from 1st April, 2020 to 30th September, 2020, up to 15.01.2021. Further, it is made clear that: -

1. This one-time relaxation is limited to the contribution period ending **September, 2020 only** and no further relaxation in limitation for other contribution period is allowed.
2. Such relaxation is not extended to other older or new contribution period.

In this regard it is advised to give wide publicity to the above relaxation in Local Media, Employers, Trade Associations and Employers' Unions etc.

This issues with the approval of Director General.

Yours faithfully,

(RAKESH KUMAR)
Dy. Director (Rev.)

Copy to:-

1. ICT Division, Hqrs. Office for necessary action.
2. Website Manager, with the request to upload the above letter on the website of ESI Corporation.
3. P. R. Branch for publicity.

Dy. Director (Rev.)



मुख्यालय/Headquarters
कर्मचारी राज्य बीमा निगम /Employees' State Insurance Corporation
पंचदीप भवन, सी आई जी मार्ग/Panchdweep Bhawan, CIG Marg
नई दिल्ली/New Delhi - 110002



N-15/14/3/PP/2020-P&D
Dated: 30.12.2020

सेवा में,
सभी क्षेत्रीय निदेशक
क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम।

विषय : सामाजिक सुरक्षा संहिता, 2020 के अंतर्गत क.र.बी. का कार्यालयकरण।
Sub : Implementation of ESI under Code on Social Security, 2020.

महोदय/Sir,

A major change has been brought about in the coverage under ESI in the Code on Social Security, 2020 (No. 36 of 2020), as notified in the Gazette of India, Extraordinary dated 29.09.2020. The previous concept of notification under Section 1(3) for geographical extension to new areas and notification under Section 1(5) for coverage of establishments by the appropriate Government under ESI Act, 1948 has been done away with under the Code. All establishments, as defined in Section-2(29) of the Code shall be covered. The definition of establishment now also includes factories. The threshold for coverage under ESI has been retained at the present 10 or more persons. However, for factories not using power, the threshold shall be 20 employees [Section- 2(32) of the SS Code, 2020]. The Code has provision for coverage of establishments employing less than 10 persons on voluntary basis. Employers of plantations can also opt for coverage under ESI by giving willingness to the Corporation. Establishments engaged in hazardous or life-threatening occupation will be coverable irrespective of no. of employees. The Central Govt. by notification shall notify the hazardous industries and life-threatening occupation. For establishments which carries on hazardous or life-threatening occupation, as notified by Central Government, the threshold for coverage shall be one employee.

These provisions are likely to enhance the coverage under ESI tremendously. However, a new provision has been inserted in the code vide which contributions from the employer and employees of an establishment shall be payable only from the date on which any benefits are made available by ESIC to the employees of the establishment and such date shall be notified by the Central Government. This would make it imperative on the part of the ESIC to ensure availability of benefits in all the districts of the country, when the Code comes into effect.

I would therefore, urge upon you to begin the process to ensure availability of Branch Office/Dispensary/DCBO, tie up for secondary and tertiary care where such direct ESI facilities are not available throughout the country and review the position at an early date, so that no hindrance is caused at the time of notification by the Central Government. District wise data would be required at the time of issue of this notification under the Code, by the Central Government.

This issues with the approval of the Director General.

भवदीप,

(एस. रघुचन्द्रन)
अगर आमुक्त (बौद्धि)

प्रतिलिपि प्रेषित :-

- प्रधान नियुक्ति सचिव (महानिदेशक/वित्त आयुक्त/मुख्य सतर्कता अधिकारी/बीमा आयुक्त/चिकित्सा आयुक्त)।
- उप निदेशक (जल संपर्क शाखा) को मुख्यालय की वेबसाइट पर अपलोड करने हेतु।

ESIC Beneficiaries to Get Health Services in All 735 Districts of India from 01st April, 2021

At present, ESIC's health services are fully available for its insured persons in 387 districts and partly in 187 districts, while there are 161 districts that do not have such services at all.

Employees' State Insurance Corporation (ESIC) insured persons (IPs) would get access to health services under the ESI scheme in all 735 districts of the country from April 1, an official said. At present, ESIC's health services are fully available for its IPs in 387 districts and partly in 187 districts, while there are 161 districts that do not have such services at all.

The ESIC provides health services to IPs through its health centres and hospitals as well as empanelled hospitals. The ESIC has planned to provide health services to IPs through hospitals and health centres empanelled under the Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (ABPMJAY). An agreement for the purpose was inked a few months ago.

S P Tiwari, member of the Standing Committee of the ESIC, told PTI, The Standing Committee in its meeting held on Wednesday approved the budget proposals for implementing an arrangement under which ABPMJAY empanelled hospitals will provide health services to its IPs across the country in all districts from April 1, 2021. Tiwari, who is general secretary of the Trade Union Coordination Centre (TUCC), attended the meeting held on Wednesday. He said to ensure the availability of medical care in newly implemented areas, the ESIC has already entered into a Memorandum of Understanding (MoU) with the National Health Authority to enable the ESIC beneficiaries to access services of ABPMJAY empanelled hospitals.

Under this arrangement, ESIC beneficiaries shall be able to avail benefits from portability of services provided by ABPMJAY empanelled hospitals across the country and vice versa. Thus, the ABPMJAY beneficiaries would have access to the health services provided by ESIC hospitals and health centres. In the 221st meeting of the Standing Committee on Wednesday, revised estimates for 2020-21, budget estimates for the next fiscal and performance budget for 2021-22 of the ESIC were approved.

The panel approved the estimate budget for construction of five 100-bedded hospitals in Bawal, Haryana; Bareilly, Uttar Pradesh; Bahadurgarh, Haryana; Tripur, Tamil Nadu; and Visakhapatnam, Andhra Pradesh. It also approved budget for a 200-bedded hospital in Butibori, Nagpur. Besides, it approved upgradation of a 300-bedded hospital in Nandnagar, Indore, Madhya Pradesh to 500 beds and upgrading a 50-bedded hospital in Phulwari, Patna, Bihar to 100 beds.

मुख्यालय
कर्मचारी राज्य बीमा निगम
पंचदीप भवन, सी.आई.जी.मार्ग
नई दिल्ली-110002
नई दिल्ली-110002



Headquarters
Employees' State Insurance
Corporation
Panchdeep Bhawan, C.I.G. Road
New Delhi-110002

No. V-13/14/38/2009 Med -I (ESIC/SC)

Date: 17.02.2021

To

All DIMSs/AMOs/MS
State ESI Schemes/ESIS Hospitals

All RDs/Deans/MSs/SMOs/Director/DDI/c
ROs/Medical Colleges/Hospitals ESIC

Subject:- Approval for allowing ESI beneficiaries to seek medical services from nearby empaneled hospital directly without referral, in case of non-availability of ESI health care system i.e. Hospital/Dispensary/IMP etc. within a radius of 10 KM of his/her residence.

Madam/ Sir,

As you are aware, in recent years there has been a sizeable increase in ESI beneficiary base subsequent to expansion of ESI Scheme across the country and efforts are constantly being made to develop/strengthen ESI health infrastructure facilities to match the ground needs. It is observed that in the present circumstances ESI beneficiaries may, at times, be required to travel long distances for availing medical benefits from ESI health facilities which are located at a relatively far distance.

2. Accordingly, in order to avoid hardship to such ESI beneficiaries in availing medical services and as a stop gap arrangement till the time ESI healthcare delivery system comes up in the vicinity, ESI Corporation during its 183rd meeting held on 07.12.2020 has granted approval for allowing such ESI Beneficiaries to avail medical services directly from ESIC empanelled hospitals as per following operational guidelines :-

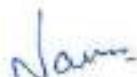
- i. ESI beneficiaries of those areas (newly as well as already implemented) where no ESIC/ESIS health care delivery facility i.e. hospital, dispensary, IMP, etc. exists within the radius of 10 KMs of IPs residence, shall be eligible.
- ii. ESI beneficiaries of such areas may approach nearest ESIC empanelled hospital with ESI card or print out of online Health Pass book or "ePehchaan Letter" issued by the employer for availing the required medical consultation.
- iii. Once the ESI beneficiary attends the empanelled hospital, the *prima facie* verification regarding identity of the beneficiary in terms of genuineness shall be ascertained by the empanelled Hospital after cross verifying with Aadhaar card or any Govt. issued photo I Card. Additionally, the eligibility shall be verified through UTI application by feeding in the IP Number. UTI portal has been integrated with Panchdeep Module of ESIC. This verification shall be done by the person authorised by empanelled hospital for such purpose.
- iv. Once OPD consultation of the beneficiary is carried out, the empanelled hospital shall upload the photo of IP / beneficiary and photocopy of Aadhaar on UTI portal alongwith bill raised at CGHS rate. Further, as and when Aadhaar is implemented, an Aadhaar based online verification system shall be

- devised and incorporated in the system.
- v. Such Beneficiaries may seek reimbursement of purchased medicines prescribed during OPD consultation through nearest DCBO or Regional office where DCBO is not available. Further, an online system shall be developed in due course for processing and settlement of such reimbursement claims.
 - vi. All the guidelines, process validation related to rendering health service and various health service definition of ESIC shall be applicable to the empanelled hospitals of such area.
 - vii. In case, patient requires investigations/hospital admission, the empanelled hospital will be required to seek permission from respective RD/SMO office. Such permission shall be obtained online within 24 hours as per existing ESIC guidelines for direct admission in emergency conditions.

A process flow chart depicting steps in availing of medical benefit by such beneficiaries is also enclosed for easy reference.

3. In view of the above, you are requested to take cognizance of this decision of ESI Corporation for compliance and implementation. Issues, if any, may be brought to the notice of this office for smooth implementation of above decision.

This issue with the approval of the Competent Authority.



Dr Naveen Saxena
OSD (Medical)

Copy to:

1. WCM with the request to upload on the website.
2. Corporate Cell for circulation to all Members.

PROCESS FLOW CHART ON ESI BENEFICIARIES SEEKING MEDICAL SERVICES FROM NEARBY ESIC EMPANELLED HOSPITAL DIRECTLY WITHOUT REFERRAL IN CASE OF NON-AVAILABILITY OF ESI HEALTHCARE FACILITY WITHIN A RADIUS OF 10KM OF IPS RESIDENCE



Such beneficiary reports at nearest ESIC empanelled hospital for availing medical service without referral from ESI dispensary/IMP etc.

1

Cross-verification regarding genuineness of identity by authorized person of empanelled Hospital with ESI card /ePehchaan Letter/Health Passbook alongwith Aadhaar or any other Government issued photo Identity card



2

3

Eligibility checked through appropriate field of UTI module linked to 'Panchdeep' module of ESIC

Beneficiary provided with OPD Consultation by empanelled hospital



4



Photo and Aadhaar uploaded on UTI portal alongwith consultation bill following all UTI portal/ESIC process validation

5

Reimbursement of prescribed medicines from nearest DCBO or Regional office if DCBO is not available on bill submission by IP



6



In case patient requires investigations/ hospitalization, online permission to be obtained by empanelled hospital within 24 hours from nearest ESIC approving authority as per existing ESIC guidelines for direct admission in Emergency

7

Mandatory health check-ups for older workers: Responsibility shifted to ESIC

FE BUREAU

New Delhi, February 8

IN WHAT COULD be a relief to the factory and mine owners and construction companies, the labour ministry is planning to waive the requirement of conducting mandatory free annual medical check-up for their employees above 45 years of age.

Instead, the ministry will entrust the job with the Employees State Insurance Corporation (ESIC) which will provide free annual medical check-up to those employees or insured persons registered with it.

"ESIC will provide free medical check-up to those employees registered with it, thereby, the burden of the employers will come down," said labour and employment secretary Apurva Chandra.

The draft rules mandated the employers to foot the bill for annual free-of-cost medical examination for all factory, mine and construction workers above 45 years of age, apart from making regular contribution to the ESIC. The Employees' State Insurance Act, 1948 applies to non-seasonal, manufacturing establishments employing 10 or more workers earning up to ₹21,000 a month.

The government had earlier indicated that the labour codes might be implemented any time after January.

The changes will be brought in the final rules



which are nearing finalisation.

"The government has to take a call when the rules will be implemented under the four codes," he said.

The secretary also said that, aimed at providing flexibility, the government may allow companies to reduce the number of working days to four per week, translating into a 12-hour working day. However, the maximum working hours in a week will remain the same at 48, beyond that overtime at double the salary has to be paid. Also, the remaining three days of the week has to be paid leave.

"It will provide flexibility; but has to be with the consent of the employer and the employees," Chandra said.

Chandra said Uttar Pradesh, Punjab and Madhya Pradesh are also framing

their own set of draft labour code rules, which will be released in the coming days.

Labour min to finalise rules under 4 codes by this week to make reforms a reality soon

The ministry of labour and employment is likely to complete the process to finalise the rules under the four labour codes paving the way for making reforms are reality soon.

Besides, the ministry is also progressing to roll out a web portal by June 2021 for registration and other facilities of workers in the unorganised sector, including gig and platform workers and migrant workers as enshrined in her budget speech this year by finance minister Nirmala Sitharaman.

—PTI

Adv. Ramesh L. Soni

M.B.A. (HR), B.Sc. (Hons.), LL.B., D.LL. & L.W., D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

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ESIC join hands with National Health Authority

FE BUREAU

New Delhi, February 13

IN A BIG leap taken by Employees' State Insurance Corporation (ESIC) to ensure better accessibility of medical facilities for its beneficiaries, the corporation has joined hands with the National Health Authority (NHA) to leverage the medical infrastructure available under Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (AB PM-JAY) in Maharashtra.

The tie-up with PM-JAY was initially implemented on a pilot basis in Maharashtra in the district of Ahmednagar and now has been extended to the entire state sans the south Mumbai region, Pune and Kolhapur districts.

This implies that in addition to the hospitals already empanelled by ESIC in the state, a broad network of 807 PMJAY empanelled hospitals would now be available to provide medical care to such workers and their dependants who are insured beneficiaries of the ESI Act in Maharashtra. With han-

The tie-up with PM-JAY was initially implemented on a pilot basis in Maharashtra in Ahmednagar and now has been extended to the entire state sans the south Mumbai region, Pune and Kolhapur

sle-free procedures, this convergence is expected to provide doorstep access of medical facilities to the beneficiaries.

"It has been our longstanding aim to provide doorstep delivery of medical care services in Maharashtra and this is a positive step in that direction. This convergence is going to bolster the medical infrastructure available for 1.77 crore ESIC beneficiaries in Maharashtra," said Pranay Sinha, additional commissioner and regional director of ESIC for Maharashtra.

Additionally, ESIC has recently issued a clarification in view of the distress caused to some genuine claimants of the Atal Beemit Vyakti Kalyan Yo-

jana (ABVKY) who are not able to claim 50% of three months wages for being rendered unemployed during Covid-19 period.

In cases where the employer has shown '0' contribution in respect of an employee for some time before exiting him from the system, even though the employee had actually been unemployed for the duration of the '0' contribution period, it has now been decided that such claims incorporating the '0' contribution period shall also be allowed after due verification, subject to the condition that the beneficiary has been exited from the rolls of the employer, even at a later date and fulfils other ABVKY eligibility conditions.

This clarification is expected to not only bolster the number of beneficiaries claiming relief under Atal Beemit Vyakti Kalyan Yojana, but also ensure that genuine claimants under the scheme are not deprived of the benefits of ABVKY because of the omission caused by the employer.





भारत का राजपत्र

The Gazette of India

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असाधारण

EXTRAORDINARY

भाग III—खण्ड 4

PART III—Section 4

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, मंगलवार, फरवरी 9, 2021/माघ 20, 1942

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NEW DELHI, TUESDAY, FEBRUARY 9, 2021/MAGHA 20, 1942

कर्मचारी राज्य बीमा निगम

मसौदा अधिसूचना

नई दिल्ली, 8 फरवरी, 2021

सं. एन-12/13/1/2019-यो.एवं वि.—कर्मचारी राज्य बीमा निगम अधिनियम, 1948 (1948 का 34) की धारा 97 की उप-धारा (1) द्वारा प्रदत्त अक्षियों का प्रयोग करने हुए कर्मचारी राज्य बीमा निगम ने गंतव्य एन-12/13/1/2016-यो. एवं वि., दिनांक 04.02.2019 के माध्यम से दिनांक 15.02.2019 को भारत का राजपत्र, असाधारण भाग III धारा 4 में क्रम संख्या 67 पर प्रकाशित अटल बीमित व्यक्ति कल्याण योजना नामक राहत को अधिसूचित किया। आगे दिनांक 24.03.2020 से 31.12.2020 तक की अवधि के दौरान राहत की दर में चूंदि तथा पात्रता शर्तों में शिखिलता के साथ दिनांक 01.07.2020 से 30.06.2021 तक की अवधि के लिए इस राहत का विस्तार किया गया जो एन-12/13/1/2019-यो.एवं वि., दिनांक 14.10.2020 के माध्यम से दिनांक 16.10.2020 को भारत का राजपत्र, असाधारण भाग III। धारा 4 में क्रम संख्या 436 पर प्रकाशित की गई। अटल बीमित व्यक्ति कल्याण योजना के अंतर्गत राहत हेतु अपय-पत्र में दाता प्रस्तुत करने की शर्त में भी शिखिलता प्रदान की गई तथा एन-12/13/1/2019-यो.एवं वि., दिनांक 04.01.2021 के माध्यम से भारत का राजपत्र, असाधारण भाग III। धारा 4 में दिनांक 11.01.2021 की प्रकाशित की गई।

अतः यह निर्णय किया गया है कि भारत का राजपत्र असाधारण भाग III। धारा 4, दिनांक 14.10.2020 में क्रम संख्या 436 पर दिनांक 16.10.2020 को यथा अधिसूचित वही निवेशन और शर्तें तथा भारत का राजपत्र असाधारण भाग III। धारा 4, दिनांक 04.01.2021 में दिनांक 11.01.2021 को यथा अधिसूचित शर्तों में शिखिलता के साथ दिनांक

01.01.2021 से 30.06.2021 तक की अवधि के लिए अटल बीमित व्यक्ति काल्याज योजना की पात्रता शर्तों में राहत का विस्तार दिया जाए।

आपनि और सुलाल, चांदी कोई हो, तो श्री एस. विश्वास, बीमा आयुक्त, कर्मचारी राज्य बीमा निगम, पंचदीप भवन, श्री.आई.जी. मार्ग, नई दिल्ली 110002 (ई-मेल आईडी : dir-pnd@esic.nic.in) को संबोधित किए जाएं। अधिगृहन के संबंध में किसी व्यक्ति द्वारा संबंधित से प्राप्त आपनि द्वारा सुलाल अधिगृहन के प्रकाशन की निधि से तीन (30) दिनों की अवधि के भीतर कर्मचारी राज्य बीमा निगम द्वारा विचार किया जाएगा।

[एस. विश्वास, बीमा आयुक्त (द्वारा)]
[विज्ञापन-III/4/Exty./496/2020-21]

EMPLOYEES' STATE INSURANCE CORPORATION

DRAFT NOTIFICATION

New Delhi, the 8th February, 2021

No. N-12/13/01/2019-P&D.—In exercise of the powers conferred upon it under sub-section (1) of Section 97 of the Employees' State Insurance Act, 1948 (34 of 1948), the Employees' State Insurance Corporation had notified a relief namely Atal Beemit Vyakti Kalyan Yojana published on 15.02.2019 in the Gazette of India, EXTRAORDINARY Part III Section 4 at Sl. No 67 vide No. N-12/13/1/2016-P&D dated 04.02.2019. Further the relief was extended for the period from 01.07.2020 to 30.06.2021 along with enhancement of rate of relief and relaxation in the eligibility conditions during the period from 24.03.2020 to 31.12.2020 published on 16.10.2020 in the Gazette of India, EXTRAORDINARY Part III Section 4 at Sl. No. 436 vide N-12/13/1/2019-P&D dated 14.10.2020. The condition of submitting claim for relief under Atal Beemit Vyakti Kalyan Yojana in affidavit form was also relaxed and notified in the Gazette of India Extraordinary Part III Section 4 vide N-12/13/1/2019-P&D dated 04.01.2021 published on 11.01.2021.

Now it has been decided to extend relaxation in eligibility conditions in the Atal Beemit Vyakti Kalyan Yojana for period 01.01.2021 to 30.06.2021 with the same terms and conditions as notified on 16.10.2020 in the Gazette of India EXTRAORDINARY Part III Section 4 Sl. No. 436 dated 14.10.2020 and with the relaxation in the conditions as notified on 11.01.2021 in Gazette of India EXTRAORDINARY Part III Section 4 dated 04.01.2021.

The objections and suggestions, if any, may be addressed to Shri S. Biswas, Insurance Commissioner, Employees' State Insurance Corporation, Panchdeep Bhawan, C.I.G Marg, New Delhi 110002 (e-mail Id: dir-pnd@esic.nic.in). Objections or suggestions, received from any person or organization in respect of notification within a period of thirty (30) days from the date of publication, will be considered by the Employees' State Insurance Corporation.

[S. BISWAS, Insurance Commissioner (P&D)]
[ADVT-III/4/Exty./496/2020-21]



Regional Office Maharashtra
Employees State Insurance Corporation
Panchdeep Bhawan, 108, N.M. Joshi Marg,
Lower Parel, Mumbai - 400 013

No: 31-U/16/52/2019/SMO/DCBO

Date: 18/02/2021

To,
1) All SRO In-charge / Branch Offices, ESI Corporation
2) All AMOs and State Dispensaries / DIMS
3) All DCBOs, ESI Corporation
4) All Tie Up Hospitals, ESI Corporation

Subject :- Allowing ESI beneficiaries to seek medical services from nearby empaneled hospital directly without referral, in case of non-availability of ESI health care system i.e. Hospital/Dispensary/IMP etc. within a radius of 10 kms of his/her residence.

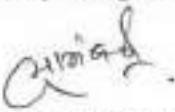
Sir/Madam,

ESIC Hqrs. vide its letter No. V-13/14/38/2009 Med - I (ESIC/SC), dated 17th February 2021 has informed about the decision taken by ESI Corporation in its 183rd meeting held on 07th December 2020. In this meeting ESIC has granted approval of allowing ESI Beneficiaries to avail medical services directly from ESIC empaneled hospitals. The guidelines provided vide above letter is as under:-

- 1) ESI beneficiaries of those areas (newly as well as already implemented) where no ESIC/ESIS health care delivery facility i.e. hospital, dispensary, IMP etc. exists within the radius of 10 Kms. of IPs residence shall avail the medical services.
- 2) ESI beneficiaries of such areas may approach the nearest ESIC empaneled hospital with ESI Card or print out of online Health Pass book or e-Pehchaan Letter issued by the employer for availing the required medical consultation.
- 3) The empaneled hospital will generate 'Emergency Claim ID' against R.O. Lower Parel or the nearest Dispensary Cum Branch Office in UTI Portal.
- 4) Once OPD Consultation of the beneficiary is carried out, the empaneled hospital shall upload the photo of IP/beneficiary and photocopy of Aadhar on UTI Portal along with bill raised at CGHS rate.
- 5) The reimbursement claim of purchased medicines prescribed during OPD consultation should be submitted to the nearest DCBO and Branch Office.

In View of above Hqrs. guidelines, you are directed to circulate immediately amongst all the concerned.

This issues with the approval of Competent Authority.


(Dr. Dattatreya M. Kamble)
State Medical Officer

Copy to:- 1) Co-ordination branch to circulate to all Trade Union / Stakeholders
2) MH-ESI Society, for information.


(Dr. Dattatreya M. Kamble)
State Medical Officer

D/L

"defamatory" responses.

ESIC converges with PM-JAY hospital network

EXPRESS NEWS SERVICE
MUMBAI, FEBRUARY 12

BENEFICIARIES OF the Employees' State Insurance Corporation (ESIC) in Maharashtra can now get medical care at 807 hospitals part of the Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (AB-PMJAY) network. The ESIC has joined hands with the National Health Authority to leverage infrastructure under AB-PMJAY in Maharashtra, barring south Mumbai, Pune and Kolhapur.

"This convergence is going to bolster the medical infrastructure available for 1.77 crore ESIC beneficiaries in Maharashtra," said Pranay Sinha, Additional Commissioner and Regional Director, ESIC (Maharashtra).



F. No. E-13/12/15/2019-PR

Dated: 22.02.2021

Press Release

ESIC takes Major Policy Initiatives for better services to Insured Workers/Insured Women

- I. Relaxation in contributory conditions to avail Sickness Benefit to the Insured Women availing Maternity Benefit
- II. Relaxation in contributory conditions to avail Sickness & Maternity Benefits for the benefit period of January to June'2021
- III. ESIC to construct 300 bedded Hospital including 50 Super Specialty beds at Haridwar, Uttarakhand
- IV. ESIC to construct 350 bedded Hospital with additional 50 bedded SST wing at Vishakhapatnam, Andhra Pradesh
- V. Establishment of Negative Pressure ICU at ESIC Super Specialty Hospital & Medical College at Hyderabad, Telangana
- VI. ESIC Corporation approves the Revised Estimates & Budget Estimates for the year 2020-21 & 2021-22 and Performance Budget for the year 2021-22

Employees' State Insurance Corporation (ESIC) during its 184th Meeting held on 22.02.2021 under the chairmanship of Shri Santosh Kumar Gangwar, Minister of State for Labour & Employment (Independent Charge), Govt. of India has taken several significant decisions to improve its service delivery mechanism and to strengthen the medical infrastructure benefiting

1. Relaxation in contributory conditions to avail Sickness Benefit to the Insured Women availing Maternity Benefit

After the enhancement in duration of maternity benefit from earlier 12 weeks to 26 weeks, in some cases Insured Women were not eligible to avail sickness benefit in the corresponding benefit period after availing maternity benefit as the mandatory contributory conditions of minimum 78 days were not met being the Insured Women under receipt of maternity benefit and leave.

In such cases, it has been now decided that an Insured Women will be qualified to claim sickness benefit in the corresponding benefit period if the contribution in her respect were paid or payable for not less than half the number of days available for working in such shorter contribution period.

The relaxation will be effective from 20.01.2017 i.e. the date from which the enhanced duration of Maternity Benefit is effective.

2. Relaxation in contributory conditions to avail Sickness & Maternity Benefits for the benefit period of January to June'2021

The country was placed into lockdown to curb the spread of Covid-19 pandemic, which resulted in the closure of factories/establishments for several months. It resulted in non-entitlement to avail sickness & maternity benefits for many Insured Persons/Women as the mandatory days of contribution couldn't be met. Considering the hardship being faced by Insured Persons, ESIC has now decided to extend the relief to the IPs by relaxing the contributory conditions for availing the Sickness & Maternity Benefits for the benefit period of 01.01.2021 to 30.06.2021.

Now, an Insured Woman will be entitled to avail Maternity Benefit, if the contributions in respect of her were payable not less than 35 days in immediately preceding two consecutive contribution periods.

In case of IPs/IWs appointed before the contribution period April-September, 2020 , the eligibility condition to avail sickness benefit will be decided on the basis of their contribution in previous contribution period i.e. September '19 to March '2020, whereas, the IPs/IWs appointed during the contribution period April-September, 2020 will be eligible for sickness benefit in the benefit period January-June '2021 if contribution in respect of them were payable for not less than half the number of days available for working to them during the contribution period April-September '2020.

3. ESIC to construct 300 bedded Hospital including 50 Super Specialty beds at Haridwar, Uttarakhand:

To meet the medical services needs of IPs in Haridwar & surrounding districts, the ESI Corporation has decided to construct 300 bedded ESIC Hospital including 50 bedded Super Specialty beds & Staff Quarters in 5 acres of land at Haridwar, Uttarakhand. After construction, the hospital will provide medical care services to around 2.55 lakh Insured Workers & their family members

4. ESIC to construct 350 bedded Hospital with additional 50 bedded SST wing at Vishakhapatnam, Andhra Pradesh:

Keeping its firm to provide good medical healthcare benefits to the Insured workers and to strengthen its medical care infrastructure, the ESI Corporation has approved the project of construction of 350 bedded

Hospital with an additional 50 bedded SST Wing and 128 Staff Quarters in a plot area of 8.72 acres (approx.) at Sheelanagar, Vishakhapatnam. The proposed hospital, after construction, will provide medical services to around 14 lakh beneficiaries covered under ESI Scheme in Vishakhapatnam & surrounding areas.

5. Establishment of Negative Pressure ICU at ESIC Super Specialty Hospital & Medical College at Hyderabad, Telangana:

The decision to establish Negative Pressure ICU at ESIC Super Specialty Hospital & Medical College at Hyderabad, Telangana was also taken during the meeting. The establishment of Negative Pressure ICU will decrease the burden of infection to the healthcare workers and will also decrease secondary infections to other critically ill patients admitted in the ICU.

6. Approval of Revised Estimates & Budget Estimates for the year 2020-21 & 2021-22 and Performance Budget for the year 2021.22 of ESIC:

The ESI Corporation has also approved the Revised Estimates & Budget Estimates for the year 2020-21 & 2021-22 and Performance Budget for the year 2021-22 during the meeting.

7. Besides these, around 25 other agenda items pertaining to improvement in service delivery mechanism were also reported and approved.

The other dignitaries to grace the occasion were Shri Apurva Chandra, Secretary, Ministry of Labour & Employment, Govt. of India, Smt.

Anuradha Prasad, Additional Secretary, MoLE, GoI & Director General, ESIC,
Hon'ble members of ESI Corporation, Smt. Sandhya Shukla, Financial
Commissioner, ESIC, Smt. Garima Bhagat, CVO, ESIC and many others.

PAYMENT OF BONUS ACT, 1965 & THE RULES

CHECKLIST

Applicability of Act Every factory where in 10 or more persons are employed with the aid of power or An establishment in which 20 or more persons are employed without the aid of power on any day during an accounting year. Sec.1	Establishment Establishment includes Departments, undertakings and branches, etc.
Computation of available surplus <ul style="list-style-type: none"> Income taxes and direct taxes as payable. Depreciation as per section 32 of Income Tax Act. Development rebate, investment or development allowance. Sec.5 	Components of Bonus Salary or wages includes dearness allowance but no other allowances e.g. over-time, house rent, incentive or commission. Sec.2 (21)
Disqualification & Deduction of Bonus On dismissal of an employee for <ul style="list-style-type: none"> Fraud; or riotous or violent behavior while on the premises of the establishment; or theft, misappropriation or sabotage of any property of the establishment or Misconduct of causing financial loss to the Employer to the extent that bonus can be deducted for that year. Secs. 9 & 18.	If profit and loss accounts are prepared and maintained in respect of any such department or undertaking or branch, then such department or undertaking or branch is treated as a separate establishment. Sec.3
Eligibility of Bonus An employee will be entitled only when he has worked for 30 working days in that year. Sec. 8	Computation of gross profit For banking company, as per First Schedule. Others, as per Second Schedule Sec.4
Time Limit for Payment of Bonus Within 8 months from the close of accounting year. Sec. 19	Payment of Minimum Bonus 8.33% of the salary or Rs.100 (on completion of 5 years after 1 st Accounting year even if there is no profit) Sec.10
Set-off and Set-on As per Schedule IV. Sec. 15	Submission of Return In Form D to the Inspector within 30 days of the expiry of time limit under Sec.19 Rule5
Maintenance of Registers and Records etc. <ul style="list-style-type: none"> A register showing the computation of the allocable surplus referred to in clause (4) of section 2, in form A. A register showing the set-on and set-off of the allocable surplus, under section 15, in form B A register showing the details of the amount of bonus due to each of the employees, the deductions under section 17 and 18 and the amount actually disbursed, in form C. Sec.26, Rule 4	
Act not applicable to certain employees of LIC, General Insurance, DockYards, Red Cross, Universities & Educational Institutions, Chambers of Commerce, Social Welfare Institutions, Building Contractors, etc. etc. Sec.32.	
PENALTY	For contravention of any provision of the Act or the Rule Upto 6 months or with fine upto Rs.1000. Sec.28

THE PAYMENT OF BONUS ACT, 1965

➤ **General :-**

The payment of Bonus Act, 1965 gives to the employees a statutory right to a share in the profits of his employer. Prior to the enactment of the Act some employees used to get bonus but that was so if their employers were pleased to pay the same.

➤ **Object :-**

The object of the Act is to maintain peace and harmony between labour and capital (i.e. employees & employers) by allowing the employees to share the prosperity of the establishment reflected by the profits earned by the contributions made by capital, management and labour.

➤ **Applicability :-**

The Act is applicable to

- a) Every factory
- b) Every other establishment employing 20 (Twenty) or more persons.
- c) The Government of Maharashtra by notification dt:- 11th April 1984 has made applicability of Bonus Act where 10 or more persons employed in any establishment or Factory.
- The Government can, however, apply the Act to any establishment employing less than 20 but not less than 10 persons.
- Once the Act applies it shall continuously remain in force irrespective of number of employees fall in number i.e. once covered always covered.

➤ **What about Public Sector?**

Public sector establishment which sells any goods produced or manufactured by it or renders any services in competition with private sector and earns income from such sell or services shall be covered by the Act.

➤ **Eligibility :-**

Every employee who is drawing a salary or wages up to Rs.21,000/- (Basic + DA) per month and has worked for a minimum period of 30 days in a particular year is entitled to get Bonus. As per above ceiling all employees drawing wages up to Rs.21,000/- (Basic + DA)per month shall be eligible for Bonus irrespective of his grade/ designation i.e. manager / part-time / casual / seasonal employee etc.(w.e.f. 01/04/2014 by Gazette Notification Dated : 1st Jan, 2016)

Section 32. Act not to apply to certain classes of employees.

Nothing in this Act shall apply to--

- (i) 1 [employees employed by any insurer carrying on general insurance business and the] employees employed by the Life Insurance Corporation of India;
- (ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);

(iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), and employed by registered or listed employers;

(iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;

(v) employees employed by--

- (a) the Indian Red Cross Society or any other institution of a like nature (including its branches);
- (b) universities and other educational institutions;
- (c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;

2 * * * * *;

* * * * *;

(viii) employees employed by the Reserve Bank of India;

(ix) employees employed by--

- (a) the Industrial Finance Corporation of India;
- (b) any Financial Corporation established under section 3, or any Joint Financial Corporation established under section 3A, of the State Financial Corporations Act, 1951 (63 of 1951);
- (c) the Deposit Insurance Corporation;

4 [(d) the National Bank for Agriculture and Rural Development;]

(e) the Unit Trust of India;

(f) the Industrial Development Bank of India;

5 [(fa) the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989);]

6 [(ff) the National Housing Bank;]

(g) any other financial institution 7 [(other than a banking company)], being an establishment in public sector, which the Central Government may, by notification in the Official Gazette, specify, having regard to--

- (i) its capital structure;
- (ii) its objectives and the nature of its activities;
- (iii) the nature and extent of financial assistance or any concession given to it by the Government; and
- (iv) any other relevant factor;

8 * * * * *;

(xi) employees employed by inland water transport establishments operating on routes passing through any other country.

1. The words in brackets shall stand omitted (date to be notified) by Act 62 of 1968, s. 41.
2. Clause (vi) omitted by Act 45 of 2007, s. 4 (w.e.f. 1-4-2006).
3. Clause (vii) omitted by Act 66 of 1980, s. 18 (w.e.f. 21-7-1980).
4. Subs. by Act 61 of 1981, s. 61 and the Second Schedule, for sub-clause (d) (w.e.f. 2-7-1982).
5. Ins. by Act 39 of 1989, s. 53 and the Second Schedule (w.e.f. 7-3-1990).
6. Ins. by Act 53 of 1987, s. 56 and the Second Schedule (w.e.f. 9-7-1988).
7. Ins. by Act 66 of 1980, s. 18 (w.e.f. 21-8-1980).
8. Clause (x) omitted by Act 23 of 1976, s. 20 (w.e.f. 25-9-1975).

➤ **On what Salary/Wages Bonus is payable :-**

For the purpose of calculation of Bonus Salary or Wages includes Basic Salary, Dearness Allowance / Special Allowance only, but does not include other allowances such as Overtime, House Rent Allowance, Conveyance, Travelling Allowance, Monthly Bonus, Contribution to Provident Fund, Retrenchment compensation, Gratuity or commission.

➤ **Calculation of Bonus :-**

- ✓ The employee who is drawing salary or wages not exceeding Rs.7,000/- (Basic + DA) per month, is entitled to get bonus on entire salary/wages or Minimum Wages whichever is higher.
- ✓ Employee drawing salary or wages between Rs.7,001/- (Basic + DA) per month and Rs.21,000/- (Basic + DA) per month Bonus payable to him is to be calculated as, if his salary or wages were Rs.7000/- (Basic + DA) per month or Minimum Wages for the scheduled Employment whichever higher is to be considered.
- ✓ An employee getting a salary or wage exceeding Rs.21000/- (Basic + DA) per month – Not entitle for Bonus as per the Act.

➤ **Minimum & Maximum Bonus :-**

- 1) The employer is bound to pay his employees every year a minimum Bonus of @ 8.33% of the yearly salary or wage or Rs.100/- which, ever is higher, whether he has allocable surplus or not. If any year the allocable surplus exceeds the amount of Minimum Bonus payable to the employees, the maximum Bonus payable by the employer to his employee in that particular year is @ 20% of the yearly salary or wages.
- 2) Hence, Bonus is payable to the employee between 8.33% & 20% as per availability of allocable surplus.
- 3) An employer is disabled from paying bonus in excess of 20% even if bonus is linked with production or productivity.

1. Available Surplus & Allocable Surplus :-

The Bonus payable under the Act is linked with profits of the company. The employer has to calculate "Gross Profit" of his establishment in the manner specified in section 4. Then from Gross Profit so calculated he has to deduct the sums referred to in section 6 as prior charges. The balance amount is called available surplus i.e. a percentage of available surplus calculated in accordance with the provisions of sub-section (4) of section 2 is called allocable surplus.

Where, allocable surplus exceeds the amount of minimum Bonus payable to the employee, the Employer must pay to every employee in respect of that year Bonus in proportion to the salary or wages earned by the employee during the year subject to maximum of 20% of such salary or wage.

2. What is Set On & Set Off of Allocable Surplus :-

Set On:-

Where for any year the allocable surplus exceeds the amount of maximum Bonus payable to the employees, than the excess shall (subject to limit of 20% Bonus of total salary / wages) be carried forward for being set on in the succeeding year and so on to be utilized for the purpose of Bonus.

Set Off:-

Where for any year there is no surplus in respect of that year falls short of the amount of minimum Bonus payable i.e. 8.33% to the employees and there is no amount or sufficient amount carried forward and Set On which could be utilized for the purpose of minimum Bonus, than such minimum amount or the deficiency as the case may be shall be carried forward for being Set Off in succeeding year and so on.

Deductions from Bonus:-

1. In any year the employer has paid any amount to an employee as customary / pooja bonus than he can deduct such amount from Bonus payable to the employee for that year
2. If any employee is found guilty or misconduct causing financial loss to the employer can deduct the amount of loss from the amount of Bonus payable to the employee for the year in which he was found guilty of misconduct.

Time limit for payment of Bonus:-

1. Bonus must be paid within a period of 8 months from the close of accounting year as per Income Tax Act i.e. April to March.
2. If any dispute about the payment of Bonus pending before any authority than Bonus must be paid within one month from the date of Awards.

Remedy for recovery of Bonus:-

If any employer fails to pay Bonus to the employee, he can make the application for his recovery of Bonus to the competent Authority & Authority issues a certificate to the collector to recover the same as an arrears of land revenue i.e. Attachment of Property & Assets. However, the time

limit for application to the Authority is within one year from the date on which Bonus amount became due.

Productivity Bonus:-

Bonus paid on production or productivity or under a formula different from that under the Act can be allowed but subject to the Provisions of the Act in respect of the payment of minimum or maximum Bonus. However, Attendance Bonus or any other allowances are outside the purview of payment of Bonus Act.

If a Management has a number of departments, under takings or branches, should they be treated as separate establishments or as one composite establishment?

If an establishment consist of different departments or undertaking or has branches, whether situated in the same place or in different places, unless a separate balance-sheet and profit and loss account are prepared and maintained in respect of them, all such departments or undertaking or branches should be treated as parts of the same establishments for the purpose of computation of bonus, and once they are treated as parts of the same establishment, they should be continued to be treated as such.

Customary Bonus:

Customary bonus is bonus which is being paid by way of tradition or custom at a uniform rate over a number of years and which has no link with profit.

Contractors Employees Bonus Payable???

Section 32 provides that the Act shall not apply to certain classes of employees clause (vi) of the said section refers to "employees employed through contractors on building operation". This clause is deleted by the Payment of Bonus Amendment Ordinance, 2007 with retrospective effect from 1 April 2006. The said class of employees is therefore, entitled to get bonus with retrospective effect from 1st April 2006

Excluded categories:-

Following categories are excluded from application of the Bonus Act:

1. L.I.C. of India
2. Reserve Bank of India
3. Unit Trust of India
4. Universities & other Educational Institutions
5. Any other establishments permitted by Government for a specified period and subject to specified conditions.

Newly set-up establishment:-

The newly set-up establishment is exempted from paying Bonus to its employees in the first 5 (Five) years, if it does not make any profit. If however, employer derives profit in any of the first five years, it loses the exemption under the Act and he has to pay Bonus for that year. The provisions of Set-On & Set-Off are not applicable in such cases.

Disqualifications for receiving Bonus :-

Employee is disqualified from receiving Bonus if he is dismissed from the service for
 (A) Fraud (B) Riotous or Violent behavior while on the premises of the establishment (C)
 Theft, misappropriation or sabotage of any property of Establishment.

Agreement or Settlement of Bonus:-

Employees can enter into an agreement or a settlement with their employer for granting them bonus under a formula different from that under the Act, i.e. bonus linked with production or productivity; but subject to the provisions of the Act in respect of payment of minimum and maximum bonus.

Attendance Bonus:-

As attendance bonus which was being paid by the establishment was outside the purview of the Payment of Bonus Act, 1965, workmen of the establishment can claim the bonus payable under the act over and above the attendance bonus

Is Seasonal Worker entitled to get Bonus?

Section 8, relates to the eligibility for Bonus. The Only requirement of that section is that the employee should have worked in an establishment for not less than thirty working days in an accounting year. Therefore, if a seasonal worker has worked in an establishment for more than thirty working days, he shall be entitled to get bonus.

Records to be maintained :-

3. A register in "Form No. A" showing Computation of Allocable Surplus.
4. A register in "Form No. B" showing Set-On & Set-Off of the allocable surplus.
5. A register in "Form No. C" showing details of the Bonus due to each of the employee & deductions under Section 17 & 18 and the amount actually disbursed.

6. Annual Return:-

Purpose	When to Submit	Form/ Return	By Whom	To Whom	Relevant Section / Rule
1	2	3	4	5	6
Submission of Annual Return (Online - on Shram Suvidha Portal) to be submitted on or before 01 st February of following year.	1 st February of following year	Form - D	Every employer	(Online - on Shram Suvidha Portal)	The payment of Bonus (Amendment) Rules, 2019 Rule 5

Offences / Punishments:-

If any persons contravenes the provision of the Act or any rule made there under or fails to comply with any directions given to him he would be punished with imprisonment up to six (6) months or with fine up to Rs.1,000/- or both.

Recent Court Judgement:-

1) Religious Institute & Trading

The institute is a religious institute and it has a temple. Over 20 persons are employed but the establishment has halls which are given for seminars, marriage purpose etc. It is not even registered under the Shops and Estb. Act. The rent earned from hiring out the hall is quite huge and the employees are not being paid any bonus although the salaries are paid regularly

Are not the employees entitled for Bonus?

The Institute appears to be an establishment not covered under the Shops & Estb. Act and it is not at all a factory or commercial establishment. The Bonus Act applies to every factory and other establishments in which more than 20 persons are employed. Being a religious institutions one cannot call it a commercial establishment. But at the same time the commercial outlook and approach of the institution cannot be ignored if the money earned from letting out of the hall for marriages and other culture functions it is required to be examined whether the trust is making profits out of the annual income. The institution may have developed the hall and designed with profit out of the annual income. The institution may have developed the hall and designed with profit motive although it may or may not make profit. If the temple is not earning profits and whatever income which is derived is spent for development of religious and renaissance of religious, culture activities you cannot treat it as a commercial venture. The fact that it is attached to a ashram or a temple, it cannot be treated as an integral of the religious institutions, it all depends on the merit of each case. If the letting out of the hall is with a commercial outlook certainly the employees employed therein are entitled for bonus.

1980 - AIR (S.C) - 604 - Workmen of Tirumala Tirupati Devasthanam v. Management & Ors.

2011 - I CLR - 919 - Shri Vatavriksha Swami Maharaj Devasthan, Akkalkot v. State of Maharashtra through its Secretary to the Ministry of Industry, Labour & welfare, Mantralaya & Ors.

Summary:-

The Payment of Bonus Act applies to all factories and establishments employing 20 or more persons on any day during an accounting year. The term "employee" includes any person (other than an apprentice) employed on a salary or wage not exceeding Rs. 10,000 per month in any industry doing any skilled, unskilled, manual, supervisory, managerial, administrative, technical, or clerical work or hire or reward.

Information on Payment of Bonus, 1965

THE PAYMENT OF BONUS ACT, 1965

The Payment of Bonus Act, 1965 provides for the payment of bonus to persons employed in certain establishments, employing 20 or more persons, on the basis of profits or on the basis of production or productivity and matters connected therewith.

The minimum bonus of 8.33% is payable by every industry and establishment under section 10 of the Act. The maximum bonus including productivity linked bonus that can be paid in any accounting year shall not exceed 20% of the salary/wage of an employee under the section 31 A of the Act.

Details of amendments to the Payment of Bonus Act, 1965:

S.No	Year Of Amendment	Eligibility Limit (Rs. Per Month)	Calculation Ceiling (Rs. Per Month)
1.	1965	Rs. 1600	Rs.750
2.	1985	Rs.2500	Rs. 1600
3.	1995	Rs. 3500	Rs. 2500
4.	2007	Rs. 10000	Rs. 3500
5.	2015	Rs. 21000	Rs. 7000 Or the minimum wage for scheduled employment, as fixed by the appropriate Government, whichever is higher.

The last amendment of 2015 was notified on 1st Jan., 2016 and is effective from 1st April, 2014.

Link : <https://labour.gov.in/wageboard/information-payment-bonus-1965>

THE PAYMENT OF BONUS (AMENDMENT) ACT, 2015

w.e.f 1st APRIL, 2014

(Gazette Notification Dated 1st Jan., 2016)

The proposed amendment in The Payment of Bonus Act received the assent of the President on the 31st December, 2015, & Deemed to have come into force on 1st April 2014.

Key provisions of Amendment Act - Eligibility of Employees:

The Act provides for enhancing Bonus calculation ceiling from the existing Rs 3,500 to Rs 7,000 per month or the Minimum wages for the Scheduled Employment whichever is higher that shall be considered for calculation of Bonus.

It also seeks to enhance the eligibility limit for payment of bonus from Rs 10,000 per month to Rs 21,000 per month.

Calculation of bonus: Employees drawing salary more than Rs. 3,500/-p.m. as per Section 12 of the Act, had the bonus computed on a maximum salary of **Rs. 3,500/=p.m.** only. Now the Amendment Act raises this calculation ceiling of bonus to **Rs. 7,000 per month** from present from Rs 3,500/- per month ceiling. Accordingly, the Maximum Bonus payable to an employee under the Payment of Bonus Act (20% of Rs. 3,500X12) worked out to **Rs. 8,400/=pa.** Because of the salary ceiling being raise to Rs 7,000/= p.m. the Bonus of 20% would now become **Rs. 16,800/=** for the year or more if minimum wages are more than Rs. 7000/- pm.

The Act has been amended retrospectively from 1st April 2014. In respect of the Financial Year, April 1, 2014 to 31st March 2015 Bonus was due to be paid with the close of 8 months of the Accounting Year i.e. November 30, 2015. Payments made even earlier to this (some companies pay in advance as Bonus Advance – need to rework their payments to comply with the legislative changes.)

Bonus Calculation Method

- Bonus Salary ceiling = Rs. 7,000/- or the minimum wages applicable to respective schedule industry / employment whichever is more.

Salary of Employee (Basic + DA)	Industry Minimum Wage (Basic + DA)	Salary to be considered for Bonus Calculation
25,000/-	9,000/-	Not eligible for bonus as ceiling is Rs. 21,000/-
19,000/-	10,000/-	10,000/-
6,500/-	9,500/-	9,500/-
6,000/-	6,500/-	7,000/-

IN THE HIGH COURT OF KERALA AT ERNAKULAM
Present:
THE HONOURABLE MR.JUSTICE V.CHITAMBARESH
Wednesday, the 27th day of January 2016/7th Magha, 1937
WP (C) No. 3025/2016(C)

PETITIONERS/

1. THE UNITED PLANTERS' ASSOCIATION OF SOUTHERN INDIA,
'GLENVIEW', COONOR, NILGIRIS DISTRICT,
TAMIL NADU, REPRESENTED BY ITS SECRETARY GENERAL
SRI ULLAS MENON.
2. S.B.PRABHAKAR
SHOLAYAR ESTATE, PAMPADAMPARA GROUP OF ESTATES
PAMPADAMPARA P.O., IDUKKI DISTRICT.

RESPONDENTS/

UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT
MINISTRY OF LABOUR & EMPLOYMENT
SHRAM SAKTHI BHAVAN, RAFI MARG, NEW DELHI-110001.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation and implementation of the Payment of Bonus (Amendment) Act, 2015, pending disposal of the Writ Petition (Civil).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.R.K.NANDAKUMAR, Senior Advocate along with M/S.M.GOPIKRISHNAN NAMBIAR, D.GOPINATH MENON, BENNY P.THOMAS, K.JOHN MATHAI, JOSON MANAVALAN, KURYAN THOMAS, Advocates for the petitioner and of SRI.A.R.GANGADAS, Central Government Counsel for the respondent, the court passed the following:

O R D E R

Admit.

Mr.A.R.Gangadas, Central Government Counsel takes notice for the respondent.

Ext.PI amendment to the extent it gives retrospective effect from 01.04.2014 is hereby stayed. Ext.PI amendment, in other words shall be implemented from 2015-16 pending disposal of the writ petition.

27-01-2016

Sd/- V.CHITAMBARESH, JUDGE

/true copy/

ASSISTANT REGISTRAR

EXHIBIT-PI: TRUE COPY OF THE PAYMENT OF BONUS (AMENDMENT) ACT, 2015
PUBLISHED IN THE GAZETTE OF INDIA NOTIFIED IN THE GAZETTE
OF INDIA ON THE 1ST JANUARY 2016

R.S.L.Soni
#

Law to increase workers' bonus faces fresh hurdles

State-level industry bodies across India approached the courts for relief

SOMESH JHA &
VIKAS DHOTI

NEW DELHI: The government's attempt to appease the working class by paying higher bonus under a 2015 law, applicable with retrospective effect from April 2014, has hit an embarrassing roadblock with High Courts in eight states staying the payment of such benefits.

The Payments of Bonus Act of 2015, passed by Parliament in December 2015 and notified on January 1, doubled the statutory bonus paid to employees and made more workers eligible for bonus by raising the salary ceiling under the law from Rs 10,000 a month to Rs 21,000 a month. While the original Bill was to be effective from April 1, 2015, it was made applicable from April 2014 following a personal intervention from Prime Minister Narendra Modi, Labour Minister Bandaru Dattatreya had said after its passage.

High courts in at least eight states have already stayed the retro-active provisions of the law in the last two months — three of them in the last ten days — forcing the Labour Ministry to consult the Law Ministry on resolving the deadlock, possibly by approaching the Supreme Court.

"It is very unfortunate. The Payment of Bonus law is in the interest of the crores of workers and was unanimously supported by political parties in Parliament," Mr. Dattatreya told *The Hindu*.

Industry captains had

BONUS HURDLES	
Courts in at least 8 states have already stayed the retroactive provisions of the law in the last 2 months	
High Court where stay was granted	Date of passing interim order
Kerala	Jan. 27, 2016
Karnataka	Feb. 2, 2016
Allahabad	Feb. 12, 2016
Madras	Feb. 25, 2016
Rajasthan	March 18, 2016
Gujarat	April 5, 2016
Punjab & Haryana	April 8, 2016
Madhya Pradesh	April 11, 2016



warned the ministry about the financial implications of the retro-active amendments on employers and pointed out that distributing bonus for the previous year after the books of accounts are closed is a difficult prospect.

However, the minister countered this view. "It is an incentive for the industry as giving bonus to workers will lead to more productivity. We are having consultations on the next plan of action following the High Courts' stay," he said.

State-level industry bodies across the country approached the courts for relief and the first stay on the retrospective applicability of the law was secured from the Kerala High Court on January 27. The court said the Act will be implemented from April 2015 till the plea is disposed. Since then, employers in Karnataka, Uttar Pradesh, Tamil

Nadu and even Bharatiya Janata Party-ruled states such as Gujarat, Rajasthan and Haryana have procured similar stays from respective High Courts.

Perturbed, a few states like Madhya Pradesh even voluntarily issued a directive that local industries need not make bonus payments for the period before April 2015 as directed by the courts. The Centre, however, castigated the state administration for its *suo moto* action and asked it to withdraw the diktat.

"Unless the High Court having territorial jurisdiction passes any interim order of like nature, it was or is not necessary to issue any order for compliance of the same," said a missive from the Union Labour Ministry to the MP government, reviewed by *The Hindu*. However, employers in the state got an interim stay from the courts on

April 11. "Day by day, employers in more states are moving the High Court. In some states, there are multiple cases being heard. At present, we are defending all the cases. We are trying to move the Supreme Court and the consultation process with the law ministry is on," said a senior labour ministry official, on condition of anonymity.

When asked if the labour ministry will challenge the interim orders in the Supreme Court, Labour secretary Shankar Aggarwal said: "We have sought the opinion of the law ministry and will take necessary action as per their advice."

According to the law, an employer is mandated to give a minimum bonus of 8.33 per cent of salary to employees earning upto Rs 21,000 a month.

However, for the purposes of calculating the bonus, only Rs 7,000 a month is considered as the salary.

Industry representatives argued in the various courts that companies have already distributed the bonus for 2014-15 to its workers as per the eight month time limit (after the last day of a financial year) set for such payments under the law.

The Federation of Gujarat Industries termed the new law "unconstitutional" and questioned the Centre's attempt to justify the retrospective aspect of the law by arguing that the Parliament could not take up the amendment in time for various reasons, in its petition to the Ahmedabad High Court.

BONUS HURDLES	
Courts in at least 9 States have already stayed the retroactive provision (1st April 2014 to 31st March, 2015) of The Payment of Bonus Act since last month	
High Court where stay was granted	Date of passing interim order
Kerala	Jan. 27, 2016
Karnataka	Feb. 2, 2016
Allahabad	Feb. 12, 2016
Madras	Feb. 25, 2016
Rajasthan	March 18, 2016
Gujarat	April 5, 2016
Punjab & Haryana	April 8, 2016
Madhya Pradesh	April 11, 2016
Bombay High Court	June 13, 2016

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 29th January, 2019

G.S.R. 58(E).—Whereas a draft of certain rules further to amend the Payment of Bonus Rules, 1975, among other rules, were published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i) *vide* notification of the Government of India in the Ministry of Labour and Employment number G.S.R. 413(E), dated the 23rd April, 2018, inviting objections and suggestions from all persons likely to be affected thereby, within a period of three months, from the date on which copies of Official Gazette containing the said notification were made available to the public;

And whereas copies of the said Official Gazette were made available to the general public on the 23rd April, 2018;

And whereas the objections and suggestions received on the said draft rules from the public have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 38 of the Payment of Bonus Act, 1965 (31 of 1965), the Central Government hereby makes the following rules further to amend the Payment of Bonus Rules, 1975, namely,—

1. (1) These rules may be called the Payment of Bonus (Amendment) Rules, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Payment of Bonus Rules, 1975, for rule 5, the following rule shall be substituted, namely:-

‘5. Annual return.- Every employer shall, on or before the 1st day of February in each year, upload unified annual return in Form D on the web portal of the Central Government in the Ministry of Labour and Employment giving information as to the particulars specified in respect of the preceding year:

Provided that during inspection, the inspector may require the production of accounts, books, registers and other documents maintained in electronic form or otherwise.

Explanation.- For the purposes of this rule, the expression “electronic form” shall have the same meaning as assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000).’

[No. Z-20025/24/2018-LRC]

MANISH KUMAR GUPTA, Jt. Secy.

Note: The Payment of Bonus Rules, 1975 was published in the Gazette of India dated the 6th September, 1975 *vide* notification number G.S.R. 2367, dated the 21st August, 1975 and lastly amended *vide* notification number G.S.R.1115(E) dated the 6th December, 2016.

Tips on

The Payment of Bonus Act, 1965

The Payment of Bonus Act, 1965, gives to the employee a statutory right to a share to a share in the profits of his employer. Prior to the enactment of the Act some employees used to get bonus but that was so if their employers were pleased to pay the same.

The Act enables the employees to get a minimum bonus equivalent to one month's not. But the act also puts a ceiling on the bonus and the maximum bonus payable under the Act is equivalent to about 2 ½ month's salary or wage (20% of annual earnings).

It is to be noted that as per Act No. 6 of 2016 employees drawing salary or wage exceeding Rs. 21,000 per month are not entitled to get any bonus under the Act.

Q. What is the Payment of Bonus Act, 1965?

A. The object of the Act is to maintain peace and harmony between labour and capital by allowing the employees to share the prosperity of the establishment reflected by the profits earned by the contributions made by capital, management and labour.

Note: - Observation of the Supreme Court of India in M/s. Jalan Trading Co. v. Mill Mazdoor Sabha, 1966 I LLJ 546.

Applicability of the Act

Q. To which establishments in the Act applicable?

A. The Act is applicable to:

- (a) Every factory,
- (b) Every other establishment employing 20 or more persons.

The Government to which the Act applies shall continue to be governed by the Act irrespective of any fall in the number of persons employed therein.

Note:- The Government of Maharashtra, by a Notification dated 11.04.1984, has applied the Act to factories and other establishments employing 10 or more but less than 20 persons, with effect from the accounting year 1983.

Q. Are the establishments in public sector covered by the Act?

A. According to sub-section (2) of Section 20, save as otherwise provided in sub-section (1), nothing in the Act shall apply to the employees employed by any establishment in public sector. By the said sub- section 1) the provisions of the Act are made applicable in relation to an establishment in public sector which sells any goods produced or manufactured by it or renders any services in competition with an establishment in private sector and earns income from such sale or services or both and quantified in the said sub-section.

S.20

Q. Who are entitled to be paid bonus?

A. Every employee who is drawing a salary or wage upto Rs. 21,000 per month and who has worked for minimum per month and who has worked for minimum period of 30 days in a year is entitled to be paid bonus.

S.2 (13) and 8

Q. Is the ceiling limit of a salary or wage of an employee fixed under Section 2(13) of the Act illegal and invalid?

A. The provision imposing the ceiling is constitutionally valid.

Note: Held in UCO Bank Empl. Assn v. Union of India, 2002 III C.L.R. 954 (Mad.H.C.)

Q. Can an employee be held ineligible for payment of Bonus under the Act on the ground that he is managerial employee?

A. An employee, irrespective of whether he is managerial or not, so long as he came within the definition of employee by virtue of drawing salary falling within the maximum prescribed under Section 2(13) of the Act, he would be eligible for payment of bonus under the Act.

Note:- Held in T N. Water Supply & Drainage Board Workers' Federation, Madras v. T. N. Water Supply & Drainage Board, 2002(1) L.L.N. 550 (Mad. H.C.)

Q. Is a seasonal worker entitled to get bonus?

A. Section 8 relates to the eligibility for bonus. The only requirement of that section is that the employee should have worked in an establishment for not less than thirty working days in an accounting year. Therefore, if a seasonal worker has worked in an establishment for more than thirty working days, he shall be entitled to get bonus.

Note: - Held in J.K Ginning & Pressing Factory v. The Presiding Officer, Second Labour Court, Akola & Ors. 1990 II CLR 868.

Q. What is to be included in and excluded from a salary or wage for the purpose of calculating bonus?

A. For the purpose of calculation of bonus a salary or wage includes a basic salary or wage and dearness allowance but does not include other allowances, overtime salary or wage, house rent allowance, travelling concessions, bonus, employer's contribution to provident fund, retrenchment compensation, gratuity or commission.

S. 2(21)

Q. Is an employee entitled to get bonus on the basis of his entire salary or wage?

A. (i) If an employee is drawing a salary or wage not exceeding Rs. 7,000 per month, he is entitled to get bonus on his entire salary or wage.

(ii) If an employee is getting a salary or wage exceeding Rs. 7,000 per month, or the higher minimum wages fixed for the Scheduled employment by the appropriate Government, but not exceeding Rs. 21,000 per month, the bonus payable to him is to be calculated as if his salary or wage were Rs. 7,000 per month or the minimum salary or wage fixed by the appropriate Government, whichever is higher.

(iii) An employee getting a salary or wage exceeding Rs. 21,000 per month is not force from 1.4.2014 as per Act No.6 of 2016.

S.12

Minimum and maximum bonus

Q. What is the amount of minimum bonus payable by the employer to his employees every year?

A. The employer is bound to pay to his employees every year a minimum bonus of 8.33% of the salary or wage or Rs. 100, whichever is higher, whether he has any allocable surplus or not. S.10

Q. What is the amount of maximum bonus payable by the employer to his employees in any year?

A. When in any year the allocable surplus exceeds the amount of minimum bonus payable to the employees, the maximum bonus payable by the employer to his employees in that year is 20% of the salary or wage.

S.11

Q. What is the mode of Payment of Bonus in Maharashtra?

A. All amounts payable to an employee by way of bonus under this Act shall be paid either by an account payee cheque drawn in favour of the employee or by crediting the same in the bank account of an employee.

Q. What is the meaning of “available surplus” and “allocable surplus”? What is the connection between allocable surplus and bonus?

A. Bonus payable under the Act is linked with profits. The employer has to calculate “gross profits” of his establishment in the manner specified in section 4. Then, from “gross profits” so calculated he has to deduct the sums referred to in section 6 as prior charges. The balance is called “available surplus”. A percentage of the available surplus calculated in accordance with the provisions of sub-section (4) of section 2 is called “allocable surplus”.

Where, in respect of any year the allocable surplus exceeds the amount of minimum bonus payable to the employees, the employer must pay to every employee in respect of that year bonus in proportion to the salary or wage earned by the employee during the year subject to a maximum of twenty per cent of such salary or wage.

Ss.2 (4), 4, 5, 6 & 11

Q. What is the principle behind fixing a minimum and maximum limit for payment of bonus?

A. The principle behind fixing a minimum and maximum limit for payment of bonus is that the rate of bonus should not fluctuate widely from year to year.

Note: - Held in M/s. Jalan Trading Co.v. Mill Mazdoor Sabha, 1966 II LLJ 546 (S.C.).

Q. What is the principle of set on and set off of allocable surplus?

A. The principle of set on and set off of allocable surplus is as follows: Where for any year the allocable surplus exceeds the amount of maximum bonus payable to the employees, then, the excess shall, subject to a limit of twenty per cent of the total salary or wages of the employees, be carried forward for being set on in the succeeding year and so on to be utilised for the purpose of payment of bonus. Where for any year there is no available surplus, or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees, and there is no amount or sufficient amount carried forward and set on which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set of in the succeeding year and so on.

S. 15

Q. Can any amount be deducted from the bonus?

A. (1) If in any year the employer has paid any amount to an employee as customary bonus, then he can deduct such amount from bonus payable to the employee for that year.

(2) If an employee is found guilty of misconduct causing financial loss to the employer, then the employer can deduct the amount of loss from the amount of bonus payable to the employee for the year in which he was found guilty of misconduct.

Ss. 17 and 18

Q. What is the meaning of customary bonus?

A. Customary bonus is bonus which is being paid by way of tradition or custom at a uniform rate over a number of years and which has no link with profit.

Note:- Held in Workmen of Kettlewell Bullen & Co. Ltd. V. Kettlewell Bullen & Co. Ltd. 1994 I CLR 511.

Time limit for payment of bonus

Q. What is the time limit for making payment of bonus to the employees?

A. If there is no dispute about payment of bonus, bonus must be paid within a period of 8 months from the close of the accounting year. If there is dispute about the payment of bonus pending before any authority, bonus must be paid within one month from the date on which the award in respect of such dispute becomes enforceable or the settlement in respect of such dispute comes into operation.

S. 19

Q. What is the remedy provided under the Act for recovering bonus due but not paid?

A. If any bonus is due to an employee under a settlement, award or agreement, he can make an application for its recovery to the Government and the Government may issue a certificate to the Collector to recover the same as an arrear of land revenue. Such application should be made within one year from the date on which bonus became due to the employee from the employer.

S. 21

Q. How to raise a dispute about bonus payable under the Act?

A. A dispute about bonus payable under the Act will have to be raised by the employees concerned in accordance with the provisions of the Industrial Disputes Act, 1947, or any corresponding State law, as is applicable to them, as such a dispute is deemed to be an industrial dispute within the meaning of such laws.

Ss.22 and 39

Offences

Q. What are the offences under the Act and what is the punishment for them?

A. If any person contravenes any provision of the Act or any rule made there under; or fails to comply with any direction given to him; he would be punished with imprisonment upto 6 months, or with fine upto Rs. 1,000, or with both.

S. 28

Q. Is it open to the employer to pay bonus based on production or productivity?

A. It is open to any employer to pay bonus linked with production or productivity instead of bonus based on profits, if there is an agreement to that effect between him and his employees, but subject to the provisions of the Act in respect of payment of minimum and maximum basis.

S. 31A

Q. Are there any categories of employees who are excluded from the application of the Act?

A. The employees of Life Insurance Corporation of India, Reserve Bank of India, Unit Trust of India, Central Government and State Government industrial establishments and universities and other educational institutions are some of the excluded categories.

S. 32

Q. Are employees employed through contractors on building operation entitled to get bonus?

A. S. 32 provides that the Act shall not apply to certain classes of employees. Clause (vi) of the said section refers to "employees employed through contractors on building operation". This clause is deleted by the Payment of Bonus Amendment Ordinance, 2007 with retrospective effect from 1st April, 2006. The said class of employees is, therefore, entitled to get bonus with retrospective effect from 1st April, 2006.

Q. Is it open to employees and employers to agree for grant of bonus under a formula different from that under the Act?

A. Employees can enter into an agreement or a settlement with their employer for granting them bonus under a formula different from that under the Act, i.e. Bonus linked with production or productivity; but subject to the provisions of the Act in respect of payment of minimum and maximum bonus.

Ss. 31A and 34

Q. Can an employer be required to pay bonus in excess of 20 per cent on the ground that bonus payable by him is linked with production or productivity in lieu of bonus based on profits?

A. An employer is disabled from paying bonus in excess of 20 per cent even if bonus is linked with production or productivity.

Note: Held in E. S. P. R. Employees' Association v. Additional Labour Commissioner 2004 III CLR 691 (Ker. H. C.)

Q. Can workmen of an establishment claim the bonus payable under the Payment of Bonus Act, 1965, over and above attendance bonus?

A. As attendance bonus which was being paid by the establishment was outside the purview of the Payment of Bonus Act, 1965, workmen of the establishment can claim the bonus payable under the Act over and above the attendance bonus.

Note:-Held in B. A. B. M. Union Patna v. Management of S. B. A. B. Pvt. Ltd. & Ors. 1984 I LLJ 116.

Q. Is the Government competent to exempt any establishment from the mandatory provision of the Act regarding payment of minimum bonus?

A. Both sections 10 and 36 are contemporaneous provisions in the Act. It is patent from the phraseology of section 36 that the Government has the competence to exempt any establishment even from section 10 notwithstanding that section 10 is mandatory.

Note:-Held in Associated Publishers (Madras) Ltd. v. Government of Tamil Nadu & Ors. 1985 I CLR 73.

Q. Is it permissible under the Act to exempt any establishment from the provisions of the Act?

A. The Act permits the Government to exempt any establishment from all or some of the provisions of the Act for a specified period and subject to specified conditions if, having regard to the financial position and other relevant circumstances of the establishment, it is of opinion that it will be in public interest to do so.

S. 36

Q. Is an establishment employing employees to whom the payment of Bonus Act is not applicable because of Section 32 of the Act required to seek any specific exemption under Section 36 of the Act?

A. An exemption under S. 36 of the Act from all or any of the provisions of the Act maybe sought by an establishment to which the Act is applicable and whose employees are otherwise entitled to bonus. In the case of establishment employing employees to whom the Act is not applicable because of S. 32, the question of seeking any specific exemption under S. 36 of the Act does not arise,

Note:-Held in Sita Bhateja v. Presiding Officer, Second Additional Labour Court, 1999 II CLR 725 (Karn. H. C.)

Q. Are the newly set up establishments exempted from paying bonus to their employees?

A. The newly set up establishment is exempted from paying bonus to its employees in the first five years following the year in which the employer sells the goods produced or manufactured by him. If, however, the employer derives profit in any of the first five years, he has to pay bonus for that year, he has to pay bonus for that year. The provisions of set on and set off are not applicable in such cases.

S. 16

Q. Can an establishment be deemed to be newly set up by reason of a change in the ownership of the establishment?

A. When the ownership of an establishment is transferred from one person to another, the establishment remains the same and it cannot be said to be a new establishment in the hands of the transferee.

Note 1: Held in Central Inland Water Transport Corporation Ltd. v. Their Workmen, 1975 I LLJ 117.

Note 2: An establishment will not be deemed to be newly set up by reason of change in its name, location or management.

S. 16, Explanation I

Disqualification for bonus

Q. In what circumstances an employee is disqualified from receiving bonus?

A. If an employee is dismissed from service for (a) fraud; (b) riotous or violent behaviour while on the premises of the establishment; (c) theft, misappropriation, or sabotage of any property of the establishment ; he is disqualified from receiving bonus. S. 9

Q. Is an employee, who is illegally dismissed from service and whose dismissal is set aside by the Labour Court, entitled to get bonus for the years during which he was out of service due to the dismissal, despite the provision of S. 8 of the Act that an employee is entitled to be paid in an accounting year, bonus, provided he has worked in the establishment for not less than thirty working days in that year?

A. Section 8 of the Act speaks of an employee working in the establishment for not less than thirty working days in a year to make him eligible for bonus for that year. But, when an employee, for no fault of his and involuntary, is prevented from working in the establishment for the prescribed number of days, it does not automatically follow that he is ineligible for bonus.

Note:-Held in Ahamed Hussain v. Mgmt. of Swadeshi Cotton Mills 1999 II CLR 59 (Mad.H.C.)

Q. Is an employee, who is dismissed from service on the ground that he had committed theft, fraud and dishonesty in connection with the business of the establishment in the accounting year 1984-85, disqualified from claiming bonus for the accounting year 1981-82?

A. if the employee is entitled to bonus for the accounting year 1981-82, the employer cannot say that the payment will not be made because the employee is dismissed on some future date.

Note:-Held in Electric Construction and Equipment Co. Ltd. v. Hukum Narayan Sharma & Ors. 1993 II CLR 466.

Note:-In pandian Roadways Corporation Ltd. v. The Presiding Officer, Principal Labour Court (1996 II CLR 1175) the Madras High Court has held that in the case of dismissal from service for any act of misconduct enumerated in S. 9 of the Act, the employee is disqualified from receiving any bonus under the Act.

Q. Is an employee entitled to be paid bonus for the period during which he is laid off and is paid lay off compensation?

A. According to section 14 of the Act an employee shall be deemed to have worked on the days on which he has been laid off. During the period of lay-off he is paid lay-off compensation which is not excluded from the purview of the definition of wages-under the Act. He is therefore entitled to be paid bonus for the period.

Note:-Held in Mohankumar v. Dy. Labour Commissioner, 1996 II CLR 154 (Ker. H. C.).

Q. Is an employee entitled to be paid bonus for the period during which he is suspended from employment and is paid subsistence allowance?

A. An employee must be taken to have not worked during the period of his suspension. During the period of his suspension he is paid subsistence allowance which is not salary or wages for work done and which is not an amount paid by way of remuneration. He is therefore not entitled to be paid bonus for the period.

Note:-Held in Motor Industries Co. Ltd. v. Popat Murlidhar Patil & Ors. 1997 I CLR 169 (Bombay).

Q. If a management has a number of departments, undertakings or branches, should they be treated as separate Establishments or as one composite establishment?

A. If an establishment consists of different departments or undertakings or has branches, whether situated in the same place or in different places, unless a separate balance-sheet and profit and loss account are prepared and maintained in respect of them all such department or undertakings or branches should be treated as parts of the same establishment for the purpose of computation of bonus, and once they are treated as parts of the same establishment, they should be continued to be treated as such.

S. 3

Q. Is the employer required to maintain any registers and submit the Annual Returns under the Act?

A. 1. Every employer is required to maintain, in the prescribed form, the following three registers

- (1) A register showing the computation of the allocable surplus;
 - (2) A register showing the set-on and set-off of the allocable surplus;
 - (3) A register showing the details of the amount of bonus payable to each of the employees, the amount of deductions if any, and the amount actually paid.
2. Every employer is also required to upload on or before the 1st day of February in each year annual returns in the Form D on the web portal of the Ministry of Labour and Employment giving information as to the particulars specified in respect of the preceding year within the time limit as per S. 19 of the Act.
3. Every employer on or before the 1st day of February in each year may file annual returns in the Form D to the Inspector giving information as to the particulars specified in respect of the preceding year.

S. 26 & R. 4 & 5

Highlights :

Code on Wages Bill, 2019

- 1) The wages should be more than 50% of the gross wages. Thereby, the employer may fix at least 50% as basic wages + DA + Retention Allowance (If Any) & rest 50% can be fixed other components as enumerated. However, no bifurcation of the minimum wages, either notify by the Central Government or the State Government, should be done for reducing the further statutory benefits of the employees.
- 2) Increase in Provident Fund Contribution from Employer and Employee's, due to increase in Basic+ DA+ Retention Allowance (Minimum 50% of Gross Salary)
- 3) Increase in liability of Payment of Gratuity, since increase in Basic+ DA+ Retention Allowance (Minimum 50% of Gross Salary)
- 4) Increase in liability of Payment of Bonus, since increase in Basic+ DA+ Retention Allowance (Minimum 50% of Gross Salary) and also code does not specify upper limit for applicability of Bonus Act.
- 5) Now, Leave Encashment will be payable on Gross Salary, hence liability of employer for payment of leave encashment will be increase.
- 6) Employee definition includes Supervisory, Administrative and Managerial employees too.
- 7) 24K sealing for employee definition dissolved.
- 8) Schedule Employment abolished. Thus now almost everyone will be covered under the definition of Employee.
- 9) OT double of normal wages VS current practice of double of Basic + DA
- 10) Consent of Employees for OT required.
- 11) There will be a National Floor wage. No state to have MW less than this.
- 12) F&F payment within 2 days after reliving
- 13) Inspector Vs Inspector-cum-Facilitator. Advisory role to Employer and Workers
- 14) Related Rules and Implementation date is pending. We need to wait.
- 15) Digital compliance enhanced
- 16) Basic + DA must be min 50% of gross wages
- 17) Wages paid in Kind cannot be more than 15% of the Gross wages.
- 18) Bonus shall be applicable to all even if the Basic + DA exceeds 21K. Need to wait for the rules for more clarity.
- 19) There is no gender discrimination in this code.
- 20) Conviction for Sexual Harassment stands as disqualification for Bonus applicability.
- 21) Web based inspection process introduced
- 22) Employee and Worker defined separately.
- 23) Electronic payments encouraged
- 24) Penalties will increase 10x
- 25) Now even an Employee and Trade Union can file a complaint against an Organisation. Earlier only the Inspector had this right.
- 26) Minimum Wages = Basic + DA + Retention Allow (Eg - Sugar Mills)
- 27) Minimum Wages will be revised every 5 years by Govt. Periodical revisions of DA will continue as it is.
- 28) Deductions from wages to be only as per prescription of law. No other deductions will be allowed.

29) 4 Central acts merged in this code, namely Minimum Wages, Payment of Wages, Bonus Act and Equal Remuneration Act. It has 9 Chapters.

Please note that final rules are yet to be notified.

Overview on
The Code on Wages, 2019

The Code on Wages, 2019 has been passed by both Houses of the Parliament and received Presidential assent and published in the Official Gazette on 8th August, 2019. It extends to whole of India.

The Final Rules under the Code on Wages are yet to be Notified.

The Code on Wages, 2019 shall subsume and repeal the following important Labour Laws:

- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Equal Remuneration Act, 1976

The Code on Wages, 2019 shall regulate wage and bonus payments in all employments and aims at providing equal remuneration to employees performing work of a similar nature in every industry, trade, business, or manufacture. The Code on Wages, 2019 also aims to transform old and obsolete labour laws, some of which were enacted in the pre-Independence era and meant primarily for Factories and Industrial establishments, into a more accountable and transparent law.

Coverage and Applicability:

The Code on Wages, 2019 will apply to employees in the organized and unorganized sectors. While the Central Government will continue making wage-related decisions for employments such as railways, mines, oil fields, central public sector undertaking etc., the State Governments shall make such decisions for all other employments including for private sector establishments.

The provisions of the Code on Wages relating to payment of wages shall extend to **all employees** irrespective of their wage ceiling and type of employment.

Definition of 'Wages' defined in Sec. 2(y):

The definition of 'Wages' under the Code on Wages has been defined to include Basic Pay, dearness allowance and retaining allowance. The definition lists down the specific items including certain allowances such as conveyance and house rent allowance which are excluded from the ambit of 'Wages'.

An interesting feature to be noted here is that the excluded components cannot exceed one half or such other percent as notified by the Central Government of all the remuneration payable to the employee. In the event that it does so, then the amount exceeding the one half or such percent as specified by the Central Government shall be considered as 'Wages'.

Distinction between 'Employee' and 'Worker':

The Code on Wages distinguishes between an '**Employee**' in Sec. 2(k) and '**Worker**' Sec. 2(z).

An '**Employee**' is any person (other than an apprentice engaged under the Apprentices Act, 1961), employed on wages by **an establishment** to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.

A '**Worker**' refers to any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any **industry** to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied; however excludes inter alia (i) someone who is employed mainly in a managerial or administrative capacity; or (ii) someone who is employed in a supervisory capacity drawing a monthly wage exceeding Rs. 15,000/- or such amount as may be notified by the Central Government from time to time. Only certain limited provisions under the Code on Wages that relate to fixation and payment of minimum wages uses the term '**Worker**'.

Prohibition of Discrimination on Ground of Gender (Sec. 3):

Consistent with the The Equal Remuneration Act, the Code on Wages prohibits discrimination amongst employees on the ground of gender in matters relating to payment of wages by the same employer, in respect of the 'same work or work of a similar nature done by any employee'. 'Same work or work of a similar nature' has been defined to mean work in respect of which the skill, effort, experience and responsibility required are the same, when performed under similar working conditions by employees and the difference if any, between the skill, effort, experience and responsibility required for employees of any gender, are not of practical importance in relation to the terms and conditions of employment.

Floor Wage (Sec. 9):

The Central Government has been tasked with fixing a floor wages a new concept being introduced by the Code on Wages, after taking into account the minimum living standards of workers and depending on the geographical areas. Basis the floor wage rate and consistent with the Minimum Wages Act, the appropriate government (Central or State) shall fix the minimum rate of wages payable to employees. The minimum wages prescribed by the appropriate governments cannot be lesser than the floor wage.

In the event that the existing minimum wages fixed by the Central or State Governments are higher than the floor wage, they cannot reduce the minimum wages. The minimum rate of wages shall be reviewed and revised in intervals not exceeding five years.

Working Hours & Overtime (Sec.13):

The Central or State Governments may fix the number of hours that constitute a normal working day.

In case employees work in excess of a normal working day or work on a rest day, they will be entitled to overtime wage, which must be at least twice the normal rate of wages.

Payment of Wages (Sec 15):

The Code on Wages provides for payment of all wages in current coin or currency notes or by cheque or by crediting the wages through digital or electronic mode in the bank account of the employee except in those industrial establishments as notified by the appropriate government.

It also specifies the time limit for payment of wages and clearly specifies that in the event that an employee is removed, dismissed, retrenched, resigns or becomes unemployed due to closure of an establishment, the wages shall be paid within two working days.

Permissible Deductions (Sec. 18):

Consistent with Payment of Wages Act provisions, an employee's wages may be deducted on certain limited grounds including: (i) fines, (ii) absence from duty, (iii) accommodation given by the employer, or (iv) recovery of advances given to the employee, among others. These deductions should not exceed 50% of the employee's total wages. In cases where the authorized deductions exceed 50% of the wages, the excess may be recovered by the employer in the manner prescribed in rules.

Payment of Bonus (Sec. 26):

Consistent with the Payment of Bonus Act, the chapter relating to bonus payments under the Code on Wages shall apply to only those establishments employing atleast 20 employees or if atleast 20 employees have been employed on any day in that accounting year. All employees whose wages do not exceed a specific monthly amount, notified by the Central or State government, will be entitled to an annual bonus. The bonus shall be at least 8.33% of his wages or Rs 100, whichever is higher. In addition, the employer will distribute a part of the gross profits amongst the employees. This will be distributed in proportion to the annual wages of the employee. An employee can receive a maximum bonus of 20% of his/her annual wages.

Disqualification for Bonus (Sec. 29):

The Code on Wages lists the criteria for disqualification of bonus i.e. fraud, riotous or violent behavior, theft, misappropriation or sabotage of property. However, the Code on Wages has added dismissal from service on the ground of conviction for sexual harassment as an additional ground which would disqualify an employee from receiving his/her statutory bonus.

Payment of undisbursed dues in case of death of Employee (Sec. 44):

The Code on Wages provides for payment of undisbursed dues of the employee in case of the employee's death. Such dues will be paid to the persons nominated by the employee and where there is no such nomination or for any reasons such amount cannot be paid to the person so nominated, then, the dues shall be deposited

with the authority as specified in the rules, who shall deal with the amount in the manner provided in such rules. The rules to the Code on Wage should prescribe the format of the nomination forms.

Records, Returns and Notices (Sec. 50):

The Code on Wages mandates the employer to maintain a register containing the details of the persons employed, muster roll, wages and such other details in the manner to be specified in the rules by the appropriate government. It also provides for the display of a notice on the notice board at a prominent place at the establishment containing the abstract of the Code on Wages, category-wise wage rates of employees, wage period, day or date and time of payment of wages and the name and address of the Inspector cum Facilitator having jurisdiction. There is also a provision for issuance of a wage slip.

Inspector cum Facilitator (Sec. 51):

With the objective of removing the arbitrariness and malpractices in inspection, the Code on Wages requires the appropriate Government to appoint Inspectors cum Facilitators (in the place of Inspectors), to carry out inspections and provide information to employers and employees for better compliance. Inspections will be done on the basis of a scheme to be decided by the Central or State Government.

Right to be Heard / Opportunity:

With the objective of facilitating compliance, the Code on Wages specifies that in the event that the employer violates provisions of the Code on Wages, the Inspector-cum-Facilitator shall not initiate any action against the employer unless the employer has been given an opportunity to rectify the non-compliance within a specified time period. However, in case of repetition of the same contravention within five years from the date on which such first violation was committed such an opportunity shall not be provided to the employer.

Offences (Sec. 54):

The Code specifies penalties for offences committed by an employer, such as Paying less than the due wages = Fine Rs. 50,000/- . Again found guilty of similar offence within 5 year of subsequent offence, on second or subsequent commencing of such offence shall be punishable with imprisonment for 3 month or fine Rs. 1,00,000/- or both.

Contravenes any other provision, rule or order = Fine Rs. 20,000/- . Again found guilty of above then shall be punishable with imprisonment upto 1 month or fine Rs. 40,000 or both.

Penalties vary depending on the nature of offence, with the maximum penalty being imprisonment for three months along with a fine of up to one lakh rupees.

Limitation Period: The period of limitation for filing of claims by a worker has been enhanced to three years, as against the existing time period varying from six months to two years. This would provide employees more time to protect their statutory rights under the Code on Wages.

Actions taken under pre-existing laws (Sec. 69):

The Code On Wages clarifies that any action taken under the repealed enactments including any notification, nomination, appointment, order or direction made there under or any amount of wages paid shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of the Code on Wages to the extent that they are not contrary to the provisions of the Code on Wages and until such time that they are repealed under the corresponding provisions of the Code on Wages or by a notification to that effect by the Central Government.

The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 are repealed.

Article by Adv. S. K. Gupta.

The Second National Commission on Labour reform has submitted its report in June'2002 , had recommended that existing labour laws should be broadly amalgamated the following groups , namely : (a) Industrial Relations ; (b) Social Security ; (d) Safety ; and (e) Welfare and working conditions . In order to rationalize , simplify , streamline and amalgamate into four following categories (Codes):

- (i) The Code on Wages, 2019
- (ii) The Code on Social Security ,2020 (iii) The Industrial Relations Code ,2020
- (iv) The Occupational Safety, Health and Working Conditions Code,2020

Labour and Employment" domain has seen enactment of some new legislations post the independence and there were some amendments in the existing legislations too. But no major reformation happened in the Labour Laws field. Fortunately, one such thing is being attempted now. Of course, even now, it is happening only in the central sphere. The existing 29 central legislations in the field are now getting compressed into just four labour codes, of course, without compromising on the essence of it. These codes, when implemented, would take in its purview the workers in the unorganized sectors too. The concept of minimum wages will now be applicable to all types of industries. The scope of the codes is thus getting widened. Permission for Fixed Term Employment, increase in threshold limit for applicability of Standing Orders Act, Factories Act, Contract Labour Act, current Chapter VB under ID Act, etc. should work in favour of the Managements. Allowing the industries to submit applications or returns, to maintain statutory registers, to remit statutory contributions and to make payments (of salary, bonus, etc.) to the workers electronically should ideally ease the otherwise complicated procedure. Some of the key terms are expected to have uniform definition in all the four codes. The quantum of penalty is substantially increased in order to lay emphasis on 'compliance'. The sessions are arranged to discuss the key changes that are likely to be brought about by the codes and the possible implications

THE CODE ON WAGES, 2019 :

The Code on Wages ,2019 is an amalgamation of the four Central Labour

Laws relating to "Wages & Bonus" i.e.

- (a) The Payment of Wages Act,1936 ;
- (b) The Minimum Wages Act,1948
- (c) The Equal Remuneration Act,1976
- (d) The Payment of Bonus Act,1965

APPLICABILITY :

This Code will apply to the whole of India, to all employees and workers, without providing threshold limit of employees/workers. However , as per Section 41 (2) of the Code, 2019 , the payment of Bonus will apply only for those establishments, having 20 or more persons with certain exemption clause.

THIS CODE IS HAVING 9 CHAPTERS AND 69 SECTION WHICH CAN BE CALSSIFIED AS UNDER :

- Chapter-I : Section 01 to 04 : Preliminary guide-lines in respect of applicability , definitions & Section 3 & 4 are connected to the Equal Remuneration;
- Chapter-II : Section 05 to 14 : Minimum Wages;
- Chapter-III : Section 15 to 25 : Payment of Wages;
- Chapter-IV : Section 26 to 41 : Payment of Bonus;
- Chapter-V : Section 42 : Formation of Advisory Board;
- Chapter-VI : Section 43 to 50 : Payment of Dues, Claim;
- Chapter-VII : Section 51 : Inspector Cum Facilitators;
- Chapter-VIII : Section 52 to 56 : Offence & Penalties;
- Chapter-IX : Section 57 to 69 : Miscellaneous

Important Definitions: Section 2 (a) to (z)

Section 2 (y) "wages" means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

- (i) basic pay;
- (ii) dearness allowance; and
- (iii) retaining allowance, if any, but does not include—
 - (a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment; (b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
 - (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (d) any conveyance allowance or the value of any travelling concession;
 - (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
 - (f) house rent allowance;
 - (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
 - (h) any overtime allowance;
 - (i) any commission payable to the employee;

(j) any gratuity payable on the termination of employment;

(k) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause: Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in clauses (d), (f), (g) and (h) shall be taken for computation of wage.

Explanation. –

Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;

IMPORTANT :

The wages should be more than 51% of the gross wages. Thereby, the employer may fix at least 51% as basic wages + DA & rest 49% can be fixed other components as enumerated in exclusion clause of 2(y) of b, d, e, f & i of the Code,2019. However , no bifurcation of the minimum wages , either notify by the Central Government or the State Goverbment , should be done for reducing the further statutory benefits of the employees.

Section 2 (z) "worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes—

(i) working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955; and

(ii) sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person

(a) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act,1957; or

(b) who is employed in the police service or as an officer or other employee of a prison; or

(c) who is employed mainly in a managerial or administrative capacity; or

(d) who is employed in a supervisory capacity drawing wage of exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time:

Worker:

Designations , Nomenclature & Salary limit are not real test of the worker definition or any consequence and also drawing wages above Rs. 15000/- pm will not take any person outside the ambit of term "worker". The true test is the nature of duties and not the designation. A pilot drawing Rs. 2,00,000/- per month will be a 'worker' but a 'Foreman' performing supervisory functions and drawing Rs.20000/- will be outside the scope of 'worker'.

Glaxosmithklin case 2007(3) SCT 822; S.K. Maini Case 1994(3) SCT 312; Burma Shell Oil case 1971 AIR (SC) 922 (F.B. SC); Sandoz (I) Ltd case 1994 AIR (SC) 2608 (C.B.) SC]. Sanjeev Kumar Gupta Vs. PO Labour Court , 2001 LLR 378 (P& H HC), Manganese Ore (India) Ltd. Vs. UOI , 2001 LLR 1135 (Bom. HC).

(e) An employee though designated as Account Officer but doing job of clerical nature , will be workman (worker) 2003 LLR 595 (Mad. HC)

Section 2(k) 'Employee' means any person (other than an apprentice engaged under the Apprentices Act, 1961), employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government , but does not include any member of the Armed Forces of the Union;.

IMPORTANT

All employees including Supervisors / Managers may also get protection for "Non-payment of Wages or Less Payment of Wages" or illegal deduction of wages" from their salary which were not available in the existing Acts to these categories of employees i.e. Managers/ Supervisors etc. However , the Central Government is having power to decide the salary limit.

Definitions in short :

- **Accounting year (AY) :** April to March
- **Appropriate Government (AP) :** For the Central Government organisation/establishment , AP is the Central Government (CG). For State's owned organisation, State Government .
- **Contractor :** A person who undertakes to produce a given result for the establishment except supply of Good (Supplier /Vendor) shall be treated contractor.
- **Contractor-Labour:** Except part time employee , all labour employed in or in connection of the establishment will be treated Contractor Labour including inter-state migrant worker
- **Establishment :** means any place where any industry ,trade, business , manufacture or occupation is carried on and includes government establishment

COMPARISON BETWEEN THE CURRENT LAWS AND & THE CODE ON WAGES

Provision	Current laws	The Code on Wages, 2019
Coverage	<ul style="list-style-type: none"> • Minimum Wages are fixed based on scheduled employment. • Payment of Wages Act: Applies to employees whose wages do not exceed Rs 24,000 per month. • Payment of Bonus Act: Applies to employments with 20 or more persons and for employees whose wages do not exceed Rs 21,000 per month. 	<ul style="list-style-type: none"> • Minimum wages will be applicable to all establishments without any limitation of scheduled establishments • Payment of Wages will apply to all employees, without having wages limit. However, the Central Government is having power to fix the rider of wages limit by issuing notification. • Bonus will apply to employees whose wages do not exceed a monthly amount notified by Central or State Governments, means, the Central Government is having power to fix the rider of wages limit for eligibility and calculation of bonus thereof.
Revision of minimum wages	<ul style="list-style-type: none"> • Minimum Wages Act: Minimum wages is being revised by the Central or State Governments at least once every five years. 	<ul style="list-style-type: none"> • Mandates that minimum wages to be revised in five-year intervals.
Fixation of Minimum wages	<ul style="list-style-type: none"> • Per hour / per day / per month 	<ul style="list-style-type: none"> • Per hour / per day / per month
National minimum wage	<ul style="list-style-type: none"> • No such provision 	<ul style="list-style-type: none"> • The Central Government may set a national minimum wage and may set national minimum wages for states and regions separately. • No employer shall pay less than minimum wages. • Central Government shall fix “Floor Wages” (Section 9),

		<p>different floor wage which will be fixed for different geographical area into three categories :</p> <ul style="list-style-type: none"> (i) Metropolitan ----More than 40 Lakhs (ii) Non-Metropolitan ----More than 10 & less 40 Lakhs (iii) Rural Area Not covered to the above categories <ul style="list-style-type: none"> • Floor Wages + DA (April & October) • It is also to be noted that the according to the Code, the minimum wages decided by the central or state governments must be higher than the floor wage. • Central or State government will review the minimum wage at an interval of not more than five years. • Central or State governments may take into account factors while fixing the minimum wage, (i) skill of workers, and (ii) difficulty of work.
Overtime wage	<ul style="list-style-type: none"> • Extra Wages for over time : works more than 9 hours or 48 hours in a week , <ul style="list-style-type: none"> (a) In agriculture sector: one & half time (b) In other Sch. Employment , double the ordinary rate of wages. 	<ul style="list-style-type: none"> • Sets overtime wage at double the ordinary rate of wages.
Gender discrimination	<ul style="list-style-type: none"> • Equal Remuneration Act: Prohibits gender discrimination in wage payment. • Prohibits gender discrimination in 	<ul style="list-style-type: none"> • No discrimination in the establishment on the ground of gender (Male/Female/transgender)

	<p>recruitment, transfers, and promotions.</p> <ul style="list-style-type: none"> No provision for transgender 	<ul style="list-style-type: none"> No reduction of the rate of wages on the basis of gender (Male/Female/transgender).
Period of Limitation for filing claims	<ul style="list-style-type: none"> Period of limitation for filing claims by worker under Minimum wages Act,1948 within 6 months and under the Payment of Wages Act,1936 within 12 months 	<ul style="list-style-type: none"> The period of limitation for filing claims by worker has been revised upward to 3 years.
Time line for Payment of Wages	<ul style="list-style-type: none"> Employers who are having strength more than 1000 workers, are required to pay on or before 10th day of the following month, & if strength less than 1000 employees , are required to pay on or before 7th day of the following month. 	<ul style="list-style-type: none"> Daily wagers : at the end of the shift (same day) Weekly at the end of week , before weekly off-day Fortnightly at the second day Monthly after expiry of 7 days When employee is separated/terminated from job : within 2 days

INSPECTION : Inspector is now designated as “ Inspector cum Facilitator and inspection will be done on random basis through web-based inspection system to remove the “Inspector-Raj”.

OFFENCE & PENALITIES:

- Complaint can be filed by following persons before the court (Judicial Magistrate of the First Class) for taking cognizance :
- Employee
- Trade Union
- Inspector cum Facilitator

REASONS OF COMPLAINT :

1.	<ul style="list-style-type: none"> Non-payment of due wages /bonus or less payment of wages /bonus Repetition of similar offence or subsequent offence within period of five years 	<ul style="list-style-type: none"> Fine up to Rs.50 K Fine up to 1 Lakh or 3 months punishment or both
2.	<ul style="list-style-type: none"> Contravenes of Code / Rules 	<ul style="list-style-type: none"> First violation : Fine Rs. 20 K Second violation : Repetition of similar offence or subsequent offence within period of five years --Rs.40 K or 1 month punishment or both
3.	<ul style="list-style-type: none"> Non-maintenance of Registers /Records 	<ul style="list-style-type: none"> Fine : Rs.10 K

- Before filing complaint , show cause Notice is must be issued to the employer :
- Above offence is compoundable.

IMPORTANT :

- If an employer is charged with an offence under provisions of the Code,2019 , the employer may bring actual offender for the for implementing the Code /Rules or officer who is or was responsible to follow the Code /Rules , then on making documentary evidence before the court , actual offender will be punished and the employer will be discharged accordingly.

The Code on Wages Rules, 2020 :

The Ministry of Labour and Employment has already drafted the Code on Wages Rules,2020 but yet to notify the same along with other 4 Labour Codes.

THIS CODE IS HAVING 9 CHAPTERS , 58 RULES , 5 SATATUTORY FORM AND 5 SCHEDULE WHICH CAN BE CALSSIFIED AS UNDER :

- Chapter-I : Rule 01 to 02 : Preliminary guide-lines in respect of applicability , definitions
- Chapter-II : Rule 03 to 10 : Minimum Wages, Revision of DA ,Shift working and number of working hours.
- Chapter-III : Rule 11 to 12 : Manner of fixing of Floor Wages;
- Chapter-IV : Rule 13 to 20 : Payment of Wages and its deduction procedure etc.;
- Chapter-V : Rule 21 to 27 : Payment of Bonus and its calculation procedure; (Schedule A , B & C i.e. Computation of Bonus)
- Chapter-VI : Rule 21 to 45 : Central Advisory Board;
- Chapter-VII : Rule 46 to 48 : Payment of Dues, Claim;
- Chapter-VIII: Rule 49 to 54 : Forms , Registers & Wage Slip
- Chapter-VIII : Rule 55 to 58 : Miscellaneous (timely payment of wages and responsibility of the minimum bonus upon the principal employer).

STATUTORY COMPLIANCE WITH RESPECT OF MAINTENANCE OF REGISTERS , BONUS COMPUTATION & DISPLAY OF ABSTRACT ETC.**Section 50 & Rule 50 / 51/ 52**

Form –I, (Register of Attendance , Wages , OT Fine deduction)

Form IV (Employee Register)

Form V (Wages Slip)

Form VI (Application for composition of offence) (As & when)

Bonus (shall be calculated as per Schedule-A , B & C) (old system)

Section 45 / 49 & Rule 49 & 50

Form –II (Application for dues wages/bonus u/s 45 of the Code,2019)

Form –III (Appeal u/s 49 of the Code,2019)

Schedule E (connected with category of Unskilled /Semi skilled /Skilled /Highly Skilled)

Display abstract of this code : Display abstract of this code , category-wise wage rate , wage period , day or date & time of payment of wages,
name & address of Inspector–cum-Facilitator should be done by the employer at Karamchari Gate / Notice Board.

UNPAID WAGES / UNPAID BONUS/ UNDISBURSED DUES (Important)**Rule 46 : In case , nominee**

Non-payment of wages due to death of employees or whereabouts is not known and the employer is unable to pay the nominee, then such unpaid wages after expiry of three months , has to be transferred to the Dy. Chief Labour Commissioner .

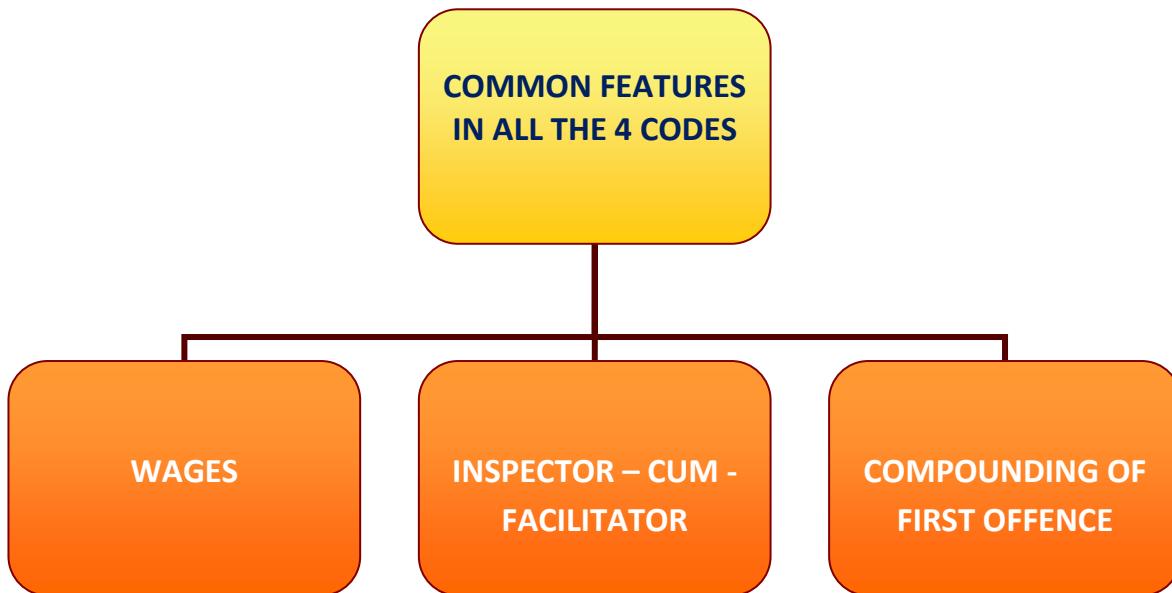
Rule 47 : In case , no nominee

Non-payment of wages due to death of employees or whereabouts is not known and the employer is unable to pay because of no nominee, then such unpaid wages after expiry of six months , has to be transferred to the Dy. Chief Labour Commissioner of the respective zone.

COMPARISON BETWEEN NEW CODE AND EARLIER LABOUR LAWS

Labour reforms when implanted would make Indian Economy more productive and competitive. Now the 14 Central Acts which had 1458 sections, requiring 937 compliance have been consolidated into four Codes with just 480 sections. Also when implanted, the industries would need to file just one return for all four codes. The ultimate goal of the Government is to see India gure in top 10 nations in ease of doing business index of World Bank with completion of long – pending labour reforms. These reforms could start a chain – reaction in the economy. With ease of compliance would come increased formality, which will lead to proliferation of larger enterprises and more organized jobs, which, in turn, will ensure that more firms and workers pay taxes, increasing government revenues.

COMMON FEATURES IN ALL THE 4 CODES



Wages: - In order to bring in consistency, the Codes have provided for a definition of the term 'wages' and includes all remuneration including House Rent Allowance, Conveyance and Other Allowances capable of being expressed in monetary terms. In order to bring in consistency, the Codes have provided for a uniform definition of the term 'Wages' and includes all remuneration capable of being expressed in monetary terms.

Inspector – Cum – Facilitator - The Codes provide for the appointment of an Inspector – Cum – Facilitator, whose role is enlarged to encompass not just inspection but also to advise the employers and workers with regards to the various compliances prescribed under the Codes. Inspection will be done on the basis of an inspection scheme which will include a web based inspection schedule. The inspection schemes will be decided by the Central Government.

Compounding of First Offence - Unlike the current legislations, the Codes permit compounding of the first offence committed under the Code by paying 50% of the maximum fine provided for such offence. However, if the violation of a similar nature is repeated within a period of 5 years from the date on which the first violation was committed, the subsequent offence cannot be compounded. For further detail kindly check the Codes.

4 Code on wages under HRD and Labour Law Reference –

Code on Wages, 2019	Code of Social Security, 2020	Industrial Relations Code, 2020	Occupational, Safety, Health and Working Conditions 2020
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CODE ON WAGES, 2019

Subject Matter	Code on Wages	Earlier Provisions
Applicability of	Applicable to all employees including in organized and unorganized sector.	Applicable only on scheduled employments under Minimum Wages Act, 1948
Fixation of Floor Wages	The Central Government will set a floor minimum wage and may set different minimum wages for different States and Regions.	No provision to fix floor wages under Minimum Wages Act, 1948
Time Limit for Claim for Wages	Claim could be made within 3 years.	Any claim for wages could be made within 6 months under Minimum Wages Act, 1948.
Under the Payment of Bonus Act, every eligible employee is entitled to receive a statutory bonus ranging from 8.33% to 20% of the wages, and similar rates have been reflected in the Code, too. The applicability of the PBA was however, limited to employees drawing wages not exceeding INR 21, 000/- per month. Under the Code, the wage threshold is to be fixed by the appropriate Government in relation to establishment over which they have jurisdiction.		
Applicability to Employees	All employees are protected without any wage limit including supervisor and managers.	Applied to those employees drawing less than Rs. 24, 000/- for filling
Accounting Year	Only year commencing with 1st April and ending on 31st March. No change of above accounting year permitted.	Not necessarily one starting on 1st April and ending on 31st March under Payment of Bonus Act, 1965. It could be changed also once by the employer and could change without permission. It could be more than 12 months also.
Disqualification for Bonus	For similar misconduct as enumerated earlier. Additionally disqualification on conviction for sexual harassment.	On dismissal misconducts i.e. fraud, riotous & disorderly behavior, theft and misappropriation under Payment of Bonus Act, 1965.
Mode of Payment	To be credited in the bank account of the employee.	To be credited in the bank account of the employee.
Bonus when dispute for higher bonus is referred for Adjudication	Employer liable bonus @8.33% when a dispute is referred to Industrial Tribunal in a dispute for payment of higher bonus.	No such provision under Payment of Bonus Act, 1965.
Gender Discrimination in fixation of Wages.	Prohibits gender discrimination in matters related to wages and recruitment of employees for the same work or work of similar nature. Work of similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.	Prohibited gender discrimination in Wage Payment under Equal Remuneration Act, 1976
Gender Discrimination in Recruitment	Prohibits gender discrimination in recruitment, transfer and promotion.	No reference prohibiting gender discrimination in recruitment under Equal Remuneration Act, 1976.
Territorial Jurisdiction for Inspector Cum Facilitator.	Not provided	Appointed area wise.
Registers & Returns	Only two registers are required to be maintained. Only one return to be filled	Over 10 Registers. Four Returns

CODE ON SOCIAL SECURITY, 2020

Subject Matter	Code on Social Security	Earlier Law
Registration and Cancellation of an Establishment. (Sec. 3)	Required only when there is no registration of establishment under any labour laws.	Registration was required under every Act.
National Social Security Board and State Unorganized Worker's Board. (Sec.6)	To be constituted comprising of 42 member.	Did not exist.
Appeal to Tribunal. (Sec. 23)	Appeal against provident fund authority entering on 25% of excess amount by EPF Authority.	It was upto 75%
Presumption as to Accident arising in course of employment. (Sec.34)	Protecting other person who could possibly be injured in an accident. Travelling any vehicle with permission of employer from the place of work.	Partly existed in different section.
Corporation's (ESI) Rights when an employer fails to register, etc. (Sec.42)	Expenditure incurred extended upon employee who was not timely insured by the employer.	Did not exist.
Liability of owner or occupier of factories, etc., for excessive sickness benefit. (Sec.43)	Insured person due to insanitary working condition. Insanitary condition of any tenements are occupied by insured person due to neglect of the owner. Liable for extra expenditure by the corporation.	Did not exist.
Schemes for Unorganized workers, GIG Workers and Platform Workers. (Sec.45)	Unorganized gig workers and platform workers and their family members providing ESI benefits against contributions.	Did not exist.
Framing of Schemes for Unorganized Workers. (Sec. 109)	<p style="text-align: center;"><u>Welfare Scheme by Central Government for Unorganized workers: -</u></p> <ul style="list-style-type: none"> * Life and disability cover, * Health and Maternity Benefits, * Old age protections, * Education and * Any other benefit as may be determined by the Central Government. <p style="text-align: center;"><u>Welfare Scheme for unorganized worker by State Government for: -</u></p> <ul style="list-style-type: none"> * Provident Fund, * Employment Injury Benefit, * Housing, * Educational Schemes for Children, * Skill upgradation of workers, * Funeral Assistance and * Old age homes. 	Did not exist.
Funding of State Government Schemes. (Sec.110)	Partly by State Government and partly by contributions (Central Govt. could also provided financial assistance.)	Did not exist.
Helpline, Facilitation Center, etc. for unorganized Workers, Gig Workers and Platform Workers. (Sec.112)	Appropriate Government provide toll free call center's for unorganized, gig and platform workers.	Did not exist.

Registration of Unorganized Workers, Gig workers & Platform workers. (Sec.113)	Gig workers to be registered on production of document including Aadhar Number.	Did not exist.
Schemes for Gig Workers and Platform Workers. (Sec. 114)	<p><u>Central Government to frame rules of gig workers and platform workers relating to –</u></p> <ul style="list-style-type: none"> * Life and Disability Cover, * Accident Insurance, * Health and Maternity Benefits, * Old age protection, * Crèche; and * If any other benefits as may be determined by the Central Government. <p>For their welfare to be funded by contributions towards social security fund and also a board will be constituted.</p>	Did not exist.
Appointment of Inspectors Cum – Facilitators and their powers. (Sec.122)	Besides inspectors they will advise the employer and employees for compliance of the Code.	Only Inspectors for inspect the establishments.
Maintenance of Records, Registers, Returns, etc. (Sec. 123)	Records pertaining to employment of employees number of dangerous apprentice their wages and other facilities, number of dangerous occurrences, accident injuries, statutory vacancies for suitable candidates and display of notice.	Did not exist in the manner as prescribed.
Assessment and Determination of dues from employer. (Sec. 125)	Enquiry by provident fund authority shall not be initiated after expiry of period of 5 years.	No limitation prescribed for enquiry under section 7A of EPF & MP Act.
Penalty for failure to pay contribution, etc. (Sec. 133)	<p>Penalties for non compliance of any requirement of Code including non payment of prescribed contributions.</p> <p>Impermissible deduction, non submission of any returns, reports, etc.</p>	Existed.
Enhanced punish in certain cases after previous conviction. (Sec.134)	Including enhanced punishment for subsequent offence.	Did not exist.
Reporting of vacancies to careers centers and exclusions from applications of this chapters. (Sec. 139 & 140)	<p>Before filling up establishments vacancies to the appropriate governments by the establishments.</p> <p>Other than employment agriculture, domestic service, for duration of 90 days.</p>	Existed in different in the Employment Exchanges (CNV) Act, 1959.
Power to defer or reduce the statutory contributions. (Sec. 144)	Central Government may defer for reduced employer / employees contributions for ESI, Provident Fund for a period of 3 months in the event of pandemic for natural disaster.	Did not exist.
Misuse of Benefits. (Sec. 148)	Any establishments or other person misusing benefits under the Code could be deprived from any benefit by the government.	Existed I different manner.

CONDITIONS OF APPLICABILITY OF CODE ON SOCIAL SECURITY, 2020

Chapter No.	Chapter Heading	Applicability
III	Employees' Provident Fund	Every establishment in which twenty or more employees are employed.
IV	Employees' State Insurance Corporation	<p>Every establishment in which ten or more persons are employed other than a seasonal factory:</p> <p>Provided that Chapter IV shall also be applicable to an establishment, which carries on such hazardous or life threatening occupation as notified by the Central Government, in which even a single employee is employed:</p> <p>Provided further that an employer of a plantation, may opt the application of Chapter IV in respect of the plantation by giving willingness to the corporation, where the benefits available to the employees under that Chapter are better than what the employer is providing to them.</p> <p>Provided also that the contribution from the employers and employees of an establishment shall be payable under section 29 pertaining to contributions on and from the date on which any benefits under Chapter IV relating to the Employees State Corporation are provided by the Corporation to the employees of the establishment and such date shall be notified by the Central Government.</p>
V	Gratuity	<ul style="list-style-type: none"> * Every Factory, mine, oilfield, plantation, port and railway company; and * Every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such shops or establishments as may be notified by the appropriate Government from time to time.
VI	Maternity Benefits	<ul style="list-style-type: none"> * To every establishment being a factory, mine or plantation including any such establishments belonging to Government; and * To every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such other shops and establishments notified by the appropriate Government.
VII	Employee's Compensation	Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom Chapter IV does not apply.
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the building and other construction work.
IX	Social Security for Unorganised Workers'	Unorganised sector, Unorganised workers', gig worker, platform worker.
XIII	Employment Information and Monitoring	Career centers, vacancies, persons seeking services of career center and employers.

INDUSTRIAL RELATIONS CODE, 2020

Subject Matter	Industrial Relation Code	Earlier Law
Industry	<p><u>Exclusive from the definition of 'industry' –</u></p> <p><u>Excluded any capital has been invested for the purpose of carrying on such activity; or such activity is carried on with a motive to make any gain or profit, but does not include –</u></p> <ul style="list-style-type: none"> - Institutions owned or managed by organizations wholly or substantially engaged in any charitable, social or philanthropic service; or - Any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defense research, atomic energy and space; or - Any domestic service; or - Any other activity as may be notified by the Central Government. 	Did not exclude except domestic service that too by judicial interpretations.
Fixed term Employment	Fixed term employment will be eligible to all statutory benefits including gratuity which will be available to him even for serving for one year.	Did not exist.
Retrenchment	Excludes terminations of service of workers as a result of completion of tenure of fixed term employment.	Did not exist.
Employee	Introduced in the Industrial Relations Code, 2020. Covers any skilled, semi-skilled, or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or rewards.	Never existed except 'workman' which has not been incorporated in the Code.
Worker	Includes working journalists and sales promotion employees.	Only 'workman' was defined under Industrial Disputes Act whereas in other relevant Acts reference was made to an 'employee'
Negotiating Union or Negotiating Council	It has plugged loophole; exploiting the multiplicity of unions in an establishment / organization by introducing concept negotiating union or negotiating council.	Did not exist.

Trade union forum for appeal	Appeal against Non – Registration or cancellation of registration lies only before Tribunal.	It lies before High Court also.
Industrial Tribunals.	Would consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.	Only single members was consisted in the Industrial Tribunal.
Re – Employment of retrenched workers	Re – employment of – within a period of one year only.	No such period was prescribed.
Flash strike.	Completely prohibited	No such prohibition
Prohibition of strike in Lockout.	Strikers required to give a notice at least 14 days in advance to the employers if they wanted to go on strike. Such notice valid upto 60 days. Strike prohibited during pendency of proceedings before tribunals or arbitrator.	Only in public utility services 14 days notice was to be given.
Workers Reskilling Funds	Consisted of the contributions of the employer of an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment, or such other number of days as may be notified by the Central Government, for every retrenched worker in case of retrenchment only.	Did not exist.
Prohibition of Strike	Workers could not resort to strike without 14 days notice during conciliation proceedings and seven days after their conclusion during adjudication proceedings and three months after their conclusion	Only in public utility services.
Prior permission for Lay Off, Retrenchment and Closure of Industrial Establishment.	Applies to an establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workers.	Applied for Industrial Establishment where 100 or more workers are employed.
Composition of Offences	Could be resolved for a sum of fifty percent. Of the maximum fine provided for such offence punished with fine only and for a sum of seventy – five percent provided for such offence punishable with imprisonment for a term which is not more than one year or with fine.	Did not exist.

OCCUPATIONAL, SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

Important Features	Code	Earlier Law
Registration	Every employer of any establishment to apply for registration electronically.	Separate registration was required under each different Act.
Appointment Letter	Appointment letter to be issued to every employee.	Did not exist.
Notices of certain Accident, Dangerous Occurrence and Disease	Notices to be authorities and for diseases as specified under Third Schedule of the Code.	Existed in different forms.
Rights of Employee (Sec. 14)	Every employee shall have right to obtain from employer information related to employee's health and safety and report to Safety Committee.	No such provision exists.
National Occupational Safety and Health Advisory Board.	Central Government to constitute the national occupational safety and health advisory board.	Not exists.
Welfare officer.	On 250 workers in factory, mine, plantation.	It is 500 workers in a factory.
Safety Committee and Safety Officer	On 500 workers in a factory, on 250 workers in hazardous process. On 250 workers in building or other construction. On 100 workers in a mine	When there are 1000 workers
Responsibility of Employer	For maintenance of health , safety and working conditions of the employees,	Existed in different forms
Welfare facility in the establishment.	Employer responsible to provide and maintain in his establishment such welfare facilities for the employees as may be prescribed by the Central Government.	Exist.
Daily and Weekly hours of work.	8 hours in a day and 48 hours in a week. For journalist maximum 144 hours during period of 4 consecutive weeks and not less than 24 consecutive hours during 7 consecutive days. Specific provision for working journalist and sales promotion employer pertaining to holidays casual leave and other kinds of leave.	Exist Does not exist Not existed.
Overtime working	Employer can take overtime work with consent of the worker.	No such provision exists.
Notice of periods of work.	Display of notice about period of work every day.	Exists in different form.
Annual leave with wages.	One day for every 20 days of his work.	Exists.
Special power of inspectors – Cum – Facilitators.	Steps to be taken apprehending serious hazard or imminent danger in a factory or mine.	Exists in different form.

Encashment of leave	Worker entitled to encash leave above ceiling as prescribed.	No such provision exist
Employment of women during night shift	Employer can employ women employee between 7 p.m. and 6 a.m. with her consent subject to conditions on safety, holiday and working hours.	Did exist.
Contract Labour	Licence for engaging contract labour can be obtained for working in more than one State, or for whole of India, valid for a period of five years.	No such provision exists. Validity of licence is twelve months.
No recovery from contract labour	Contractor shall not charge, directly or indirectly, whole or in part, any fee or commission from contract labour.	No such provision exists.
Welfare Facilities to contract Labour	Welfare facilities to contract labour to be provided by the Principal Employer.	Contractor is responsible to provide welfare facilities to his contract Labour.
Contract Labour in core activity	Permitted under certain condition.	Existed unless prohibited by government.
Code not to apply in certain cases	Excavation in mine being made for prospecting purpose only and not for the purpose of obtaining minerals for use or sale subject to the conditions specified etc.	Did not exist in this form.
Exemption from provision regarding employment	On breakdown of machinery on plant and equipment Workers to be exempted from work.	Did not exist in this format.
Employment of persons below eighteen years of age. (Sec. 70)	Relates to the employment of persons below 18 years age. It provides that no person below 18 years of age shall be allowed to work in any mine or part thereof but in case of apprentices and other trainees, such age limit is not below 16 years.	Existed in different format.
Factory licence to Industrial Premises and Person	Without licence no employer shall use or allow to use any place or premises.	Differently Existed.
Right of workers to warn about imminent danger	If workers in hazardous process apprehend like hood of imminent danger to lives or health, they may bring it to the notice of person in – charge for immediate correction.	No such provision exists.
Employment of Audio – Visual Worker	Employment with written agreement in prescribed form and registered with competent authority.	No such provision exists.
Offences and Penalties	Enhanced fines from and imprisonment terms for different contraventions.	Lesser fines and imprisonment period.
Gravity of Punishment	Almost double fine and imprisonment for subsequent offences.	Existed reasonably.

THE PROMINENT EFFECT OF THE NEW DEFINITION OF ‘WAGES’ UP ON THE ESTABLISHMENTS INCLUDING THE E - COMMERCE COMPANIES FROM THE FINANCIAL YEAR (FY) 2021-22.

The subject of the Labour legislation matters are enumerated in List-III in the 7th Schedule of the Constitution of India (Article 246, 7th Schedule, List –III – Concurrent List, Item 22 to 24). Therefore, as per Article 246 of the Constitution of India, the Central Government, as well as States’ Government, are empowered to legislate laws but there is a rider that the enactment of the State Labour laws should align with the Central ones. So, the Ministry of Labour and Employment had already instructed all to the Chief Secretaries of all States and union territories to expedite the Rule making process for implementation of the following four Labour Codes on time i.e. April’2021.

- a) The Code on Wages, 2019
- b) The Code on Social Security,2020
- c) The Industrial Relations Code,2020
- d) The Occupational Safety, Health, and Working Conditions Code,2020

The provisions of these codes, particularly the definition of “wages”, legislated uniformly in all four Codes, when implemented from April’2021, would take a new shape of “Wage-Structure” of all categories of employees (Top to bottom). Therefore, statutory coverage under the provisions of the Social Security Code,2020 will be increased incalculably, resulted more financial liabilities upon the employers with respect of statutory compliance of the Provident Fund Contribution and the ESI Contribution as well as payment of bonus and gratuity.

Therefore, to understand the correct interpretation of the definition of “wages” which is legislated in all 4 Codes uniformly as under:

“wages” means all remuneration whether, by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

- a) basic pay;
- b) dearness allowance; and
- c) retaining allowance, if any,

but does not include—

- a. any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;
- b. the value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or any service excluded from the computation of wages by a general or special order of the appropriate Government;
- c. any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- d. any conveyance allowance or the value of any traveling concession;
- e. any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
- f. house rent allowance;
- g. remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- h. any overtime allowance;
- i. any commission payable to the employee;
- j. any gratuity payable on the termination of employment;
- k. any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (a) to (i) exceeds one-half or such other percent. as may be notified by the Central Government, of all

remuneration calculated under this clause, the amount which exceeds such one-half, or the percent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in clauses (d), (f), (g), and (h) shall be taken for computation of wage.

Explanation. —Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen percent. of the total wages payable to him, shall be deemed to form part of the wages of such employee.

IMPORTANT VIEWS OF WRITER: If payments made under clause (a) to (i), except Tribunal's award amount, exceeds one-half or such other %, shall be deemed as remuneration and shall be accordingly added in 'wages' for statutory compliance under the provisions of the Social Security Code,2020

The wages (basic wages) should be more than 51% of the gross wages or cost to the company (CTC). Therefore, the employer has to fix at least 51% as basic wages + DA & the rest components of the allowances can be fixed not more than 49% as enumerated in the exclusion clause of wages definition. Thus, the bifurcation of the minimum wages should not be done because of the new definition of wages.

PROACTIVE APPROACH & ACTION PLAN OF THE HR PROFESSIONALS

To comply with this new definition of wages as defined as above, the concerned employers of the establishment will have to re-structure the basic wages component of their employees from TOP to BOTBAM tentatively from April'2021 which will be resulted/effectuated take-home monthly salary of employees and retiral benefits too as well as the balance-sheet of the companies/establishments due more statutory liabilities and retiral benefits too.

Example: Case Study No. 1

	Case Study 1	Case Study 2	Case Study 3
CTC Breakup	Amount	Amount	Amount
Basic Pay + DA	Rs 10,000	Rs 8,000	Rs 12,000
HRA	Rs 5,000	Rs 4,000	Rs 6,000
Conveyance	Rs 5,000	Rs 8,000	Rs 2,000
Total	Rs 20,000	Rs 20,000	Rs 20,000
Wages as per the Code	Rs. 10,000	Rs. 10,000	Rs. 12,000

EFFECT FROM NEXT FY 2021-22

- (i) **PF & ESI :** Coverage of the employees will be increased in numbers, followed by more statutory liability upon the establishments;
- (ii) **Gratuity liability** of the old employees will extraordinarily be increased because of the new definition of wages (50% concept) and last drawn wages concept too ;
- (iii) **Payment of bonus** liability may also increase due to the new definition of wages and that too , there is no salary rider.
- (iv) **Payment of the earned leave** liabilities because of the new definition of wages.

Case Study No. 2

Wages	A	B	C
Basic	15,000	50,000	15,000
DA	6,000	0	0
Retaining Allowances	0	0	0
EXCLUSIONS			
HRA	6,000	25,000	10,000
Advance Bonus (Monthly)	583	0	500
Conveyance	2,000	3,000	2,000
Sales Commission	0	3,000	3,000
PF Employer Shares	2,520	0	1,800
Over Time	3,000	5,000	3,000
Sum of Exclusions	14,103	36,000	20,300
Sum of Remunerations	35,103	86,000	35,300
50% Limit	17,551.5	43,000	17,650
Exclusions Exceeds 50%?	NO	NO	YES
Add to Wages?	0	0	2,650

How this new definition of 'Wages' (supra) will effect balance sheet of the establishments /companies /E-commerce companies from the Financial Year (FY) 2021-22?

- 1) Social Security benefits viz. Statutory payment of the PF Contribution and ESI Contribution will be effected with respect of the Coverage of the employees in numbers, and followed by more statutory liability of the PF & ESI.
- 2) Gratuity liability of the old employees will extraordinarily be increased because of the new definition of wages (50% concept) and last drawn wages concept too;
- 3) Payment of bonus liability may also increase due to the new definition of wages and that too, there is no salary rider fixed by the Central Government in the new Code.
- 4) Encashment of earned leave liabilities because of the new definition of wages as well as the new rider has been legislated under provision of OHS Code,2020 for payment of unused earned leave.
- 5) The Minimum Wages which is going to be notified in two-component i.e. Floor Wages (Basic Wages) and DA and both components of the minimum wages will qualify of the definition of "Wages" as defined under the four Labour Codes so now the outsourcing establishment i.e. contractors, manpower supply will not be allowed to bifurcate the minimum wages into different component to reduce statutory liabilities.
- 6) Additional liabilities will come on Aggregator Company/ E-Commerce business i.e. Ola, Uber, Jio-mart, Amazon, Courier Companies etc. as these E-companies are liable to ensure the social security of the Gig Workers, Platform Workers and these Aggregator Companies (specified under IIIrd Schedule of Social Security Code,2020) will have to contribute 1% of the total turn-over of the Aggregator Company or 5% of the salary or wages head of the Gig Workers / Platform Workers.

Presently, due to the concept of "Cost to Company" (CTC), mostly private companies have already constituted a wage structure of their employees to keep the non-allowance part of the total compensation (CTC) less than 50 %, and portion of the allowances i.e. exclusion wages / non-statutory wages has kept higher-side to reduce the statutory liabilities including bonus, and gratuity liabilities too. However, this CTC concept will be changed as soon as the provisions of the Social Security Code,2020 as well as the Code on Wages,2019 come into force from April'2021 which will be ultimately resulted more financial liability upon the companies/establishments / E-commerce company under the head of "Salary and Wages" in the balance-sheet of FY-2021-22 and so on.

By:

S K Gupta, Advocate, Supreme Court,

Adv. Ramesh L. Soni

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Website: www.rlsconsulting.in

Case Study No.3

THE ART OF WEALTH BUILDING WWW.THEARTOFWEALTHBUILDING.COM

BASIC SALARY HAS
TO BE ATLEAST 50%
OF TOTAL INCOME
OF AN INDIVIDUAL

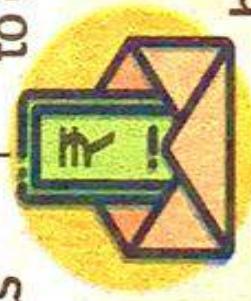
NEW WAGE CODE	EFFECTIVE	01-04-2021
OLD SALARY	NEW SALARY	
BASIC	50,000	65000
HRA	25,000	32,000
OTHER ALLOWANCES	55,000	33,000
TOTAL	1,30,000	
PF	6000	7800
IN HAND	1,24,000	1,22,200

WHAT WILL BE IMPACT ON SALARIES

- Under the new code, gratuity becomes mandatory for fixed-term employees, irrespective of five-year completion norm
- It also allows employees encashment of leave

Pay component changes will be different across levels:

High-salary range | Only impact will be in gratuity as well as superannuation payouts



Mid-salary range | Impact will be in bonus, gratuity & superannuation payouts. Some of the employees will get out of the purview of the statutory bonus too

Low-salary range | Cos will have to comply with the base floor rate fixed by the central government with basic+DA as wages. In future, salary heads will be reduced to basic, DA or VDA, & HRA. In this range, the contribution towards PF, ESI, bonus & gratuity will go up

How will this impact cos:

- Cos could see rise of 6-10% in the wage bill
- After Covid, cost-conscious cos are reviewing salary increment budgets for 2021

PAYMENT OF GRATUITY

ACT, 1972 & THE RULES

**Sec.
1**

Applicability

Every factory, mine, oil field, plantation, port, railways, company, shop, establishment or educational institutions employing 10 or more employees

**Sec.
2(s)**

Wages for Calculation

@ 15 days' wages for every completed year as if the month comprises of 26 days at the last drawn wages.

CHECKLIST

**Sec.
2(e)**

Employee

All employees irrespective of status or salary

Entitlement
On completion of five years' service except in case of death or disablement

Qualifying period

On rendering of 5 years' service, either termination, resignation or retirement.

**Rule
4**

Display of Notice

On conspicuous place at the main entrance in English language or the language understood by majority of employees of the factory, etc.

**Sec.
4**

Calculation Piece-rated employee

@ 15 days wages for every completed year on an average of 3 months' wages

Calculation Seasonal employee

@ 7 days' wages for every completed year of service.

**Sec.
4(3)**

Maximum Ceiling

Rs. 20,00,000 w.e.f

29th March 2018

**Rule
9**

Mode of payment

Cash or, if so desired, by Bank Draft or Cheque

**Rule
9**

Penalties

- Imprisonment for 6 months or fine upto Rs.10,000 for avoiding to make payment by making false statement or representation.

- Imprisonment not less than 3 months and upto one year with fine on default in complying with the provisions of Act or Rules.

**Sec.6
Rule 6**

Nomination

To be obtained by employer after expiry of one year's service, in Form 'F'

**Sec.
4(6)**

Forfeiture of Gratuity

- On termination of an employee for moral turpitude or riotous or disorderly behavior.
- Wholly or partially for willfully causing loss, destruction of property etc.

**Sec.
13**

Protection of Gratuity

Can't be attached in execution of any decree

**Sec.8
Rule 8**

Recovery of Gratuity

To apply within 30 days in Form I when not paid within 30 days

SOURCE : LLR

PAYMENT OF GRATUITY ACT, 1972

An employee expects and deserves, as a matter of right, some reward when he retires after a long meritorious service. The enactment of the payment of gratuity act, 1972 has fulfilled this expectation of an employee. This act has came into existence since 16th Sept 1972.

What is Gratuity?

Gratuity is a short of an award which an employer pays out of his Gratitude, to an employee for his long and meritorious services, at the time of his retirement, or termination of his services. Payment of Gratuity is however, compulsory for employers subject to Eligibility. (stated as below)

Under the act an employee become, entitle to earn gratuity after putting in service of minimum five years. When an employee dies while in service his nominee or heirs are entitle to get gratuity even if the employee had put in less than 5 yrs. service. The rate of gratuity is 15 days salary every year of service ; recently from 29th March 2018, Central Govt. by Gazette Notification enhance the limit upto Rs. 20,00,000/- (Rupees Twenty Lakhs).

Object:-

The payment of gratuity act, 1972 has been passed with the object of providing a uniform scheme for payment of gratuity to industrial workers throughout the country.

Applicability:-

1. Every factory (as defined in Factories Act), mine, oilfield, plantation, port and Railway Company.
2. Every shop or establishment to which Shops & Establishment Act of a state applies in which 10 or more persons are employed at any time during the year and
3. Any establishment employing 10 or more persons as may be notified by the Central Government.
4. Once act applies, it continues to apply even if employment strength falls below 10.
5. The Act also has been made applicable to :-
 - a) Motor Transport undertaking, b) Clubs, c)Inland Water Transport Establishments
 - d) Local Bodies and e) Solicitors Officers.

Eligibility:-

1. Any employee has to render minimum five years' of service.
2. At the time of retirement or resignation or on superannuation, an employee should have rendered continuous service of not less than five yrs.
3. In case of death or disablement, the gratuity is payable, even if he has not completed 5 yrs of service.

When employer has to pay gratuity to his employees :-

- ❖ When the service of the employee is terminated on superannuation or
- ❖ When the employee retires or resigns from the service (after 5 years of continue service) ; or
- ❖ When the employee dies while in service (then it will be payable to the nominee); or
- ❖ When the service of the employee is terminated on his disablement due to accident or disease.

Notice of Opening, Change or closure of An Establishment:-

An employer has to send a notice in Form A to the Controlling Authority of the area within 30 days of the Rules as becoming applicable. In addition to that, Form B is to be submitted within 30 days of any change in the name, address, employer or nature of business whereas an employer has to send Form C intending to close down the business atleast 60 days before intended closure.

It is permissible Opt for Better Gratuity Scheme:-

An employee can, no doubt opt for scheme other than the payment of Gratuity Act, if it appears to be better, but on adoption of that, he has to abide by the Scheme in to. The supreme court has held that sub-section (5) of section 4 of the payment of gratuity act does not contemplate that the employee would be at liberty to opt for better terms of the contract, by keeping option open in respect of a part of the statute. While reserving his right to opt for beneficial provisions of the statute, he has to opt for either of them and not the best of the terms of the statute as well as those of the contacts. He cannot have both, such a constructions would defeat the purpose for which sub-section (5) of section 4 has been enacted. Impugned judgement cannot sustain and is set aside.

What is Continuous Service ???

The term 'completer year of service' means continues service for one year.

An employee is said to have rendered continuous service, if:-

- a) He has been in uninterrupted service, including service interrupted by sickness, accident, absents from duty with or without leave, lay-off, strike, or lock-out or cessation of work not due to the employee's fault.
Note:- if an employee having been superannuated is a re-employed by the employer without any break in service, he will be eligible for payment of service.
- b) In case of mine or non seasonal establishment working for less than 6 days in week, he has actually worked for atleast 190 days (in Mine) during the period of 12 months or 95 days, during the preceding 6 months, he shall be deemed to have rendered continuous service for a period of one year or 6 months, respectively.
- c) In case of any other non-seasonal establishment he has actually worked for atleast 240 days during the preceding 12 months or 120 days during the preceding 6 months, he shall be deemed to be have rendered continuous service for a period of 1 year or 6 months, respectively.
- d) In case of seasonal establishment, he has actually worked for at least 75% of the days on which the establishment was is operation.

Notes:- for this purpose an employee shall be deemed to have actually worked on a day on which :-

- a) He has been laid off under an agreement or in accordance with standing orders;
- b) He has been on leave with full wages, earned in the previous year;
- c) He has been absent due to temporary, disablement cause by accident arising out of, and in the course of, his employment, and
- d) In the case of female, she has been on maternity leave not exceeding 12 weeks

Retrenched Employee entitled to get Gratuity: -

Retrenchment means termination of service and termination of service is covered by the definition of retirement under the Act. Retrenchment of an employee falls within the scope of section 4(1) (b) of the act under which gratuity is payable to an employee on his retirement. Therefore the employee is entitled to get gratuity.

Benefits:-

1. Gratuity is payable on the basis of all emoluments earned by the employee, i.e. basic wages plus Dearness Allowances / Special Allowances.
2. The quantum of gratuity is to be computed at the rate of 15days a wages (7days wages in case of seasonal establishments) based on rate of wages last drawn by the employee concerned for every completed year of service or a part thereof exceeding 6 month
3. The total amount of gratuity payable shall not exceed the prescribed limit i.e. Rs. 20,00,000/- w.e.f. 29th March, 2018.
4. In case where higher benefit of gratuity is available under any gratuity scheme of the Co. the employee will entitled to higher benefit.

Calculation of Gratuity:

1. **Gratuity = Monthly Salary / Wages Last Drawn × 15days × no. of yrs. of Service**
26

2. **Piece rated employee -**
Daily wage is average (total wages drawn in last 3 months preceding termination)
No. of Days Worked } **× 15 Days × No. of Years of Service**

3. **Seasonal employee - based on 7days wages for each season.**

4. **Max. Gratuity Payable under the Act is Rs. 20,00,000/- (w.e.f. 29th March 2018)**

Q Since the payment of gratuity is not a regular feature, as such, we face difficulty in calculation of gratuity. Kindly appraise the method of calculation of gratuity?

A Section 4 of the Payment of Gratuity act, 1972 deals with calculation of gratuity, The Explanation to the Act Inserted by Act No. 22 of 1987 (w.e.f. 1-2-1987) provides that the completion of

continuous services of five years shall not be necessary where the termination of the employment of the employee is due to death or disablement.

Example: Mr. Jatin Joined an establishment in January 1985 at Rs. 5,000/- per month. His wages were raised to Rs. 15,000 per month in December, 2005. He retired on 31st December, 2005. The amount of gratuity payable to him shall be calculated as under:

Mr. Jatin retired on: =31-12-2005

= -----X 15 X 20

Joined on : 01-01-1985

Total Service : 20 years

His last drawn monthly salary was Rs. 15,000.

The gratuity for the period of 20 years

= 15 days wages X 20 Monthly wages last drawn comprises of 26 days.

Hence the calculation will result as follows

$$= \frac{15000}{26} \times 15 \text{ (days per completed year of service)} \times 20 \text{ yrs.}$$

=Rs. 173077.00 will be payable toward Gratuity to Mr. Jatin

Forfeiture of Gratuity:-

1. The employee may wholly or partially forfeit the gratuity payable to him if his services are terminated on account:-
 - a) For his riotous or disorderly conduct or any other act of violence on his part or.
 - b) For any act which constitutes an offence involving moral turpitude.

Note:- If a workman who was dismissed for assaulting another workman, in a factory, is not entitled to payment of any amount of gratuity.

2. The employee partly forfeits the gratuity payable to him if his services are terminated for any act, wilful omission or negligence, causing any damage or loss to, or destruction of, property belonging to the employer, to the extent of damage or loss caused.

Recovery of Gratuity:-

1. **On account of his death:** - If the employee has a family, he must nominate one or more members of the family and none other. If the employee has no family, he can nominate any person or persons of his choice. However, if the employee acquires a family after nominating any person or persons of his choice, such nomination becomes invalid and the employee has to make a fresh nomination of one or more members of his family.
2. The employee who is eligible for payment of gratuity and dies than his nominee or legal heir has to send a written application to the employer in Form J (For Nominee) & Form K (For Legal Heir) within 30 days from the date gratuity becomes payable.

3. If the employer does not take any action on the application, the employee has to apply to the Controlling Authority in Form N within 90 days of the occurrence of the cause for the application for issuing necessary direction to the employer for making payment of gratuity.
4. If gratuity is not paid by the employer Controlling Authority issues certificate to collector who recovers the amount as arrears of land revenue together with compound interest.

Deduction of Gratuity - Not Permissible

The Gratuity of an employee can be forfeited or withheld only when he/she is dismissed for the prescribed misconduct like willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of the damage or loss so caused or if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude. In one case, the Calcutta High Court has also held that even if a workman gives an undertaking for making deductions, the gratuity of an employee cannot be withheld.

Time Limit of Payment:-

The Employer should pay the gratuity within 30 days from the date it becomes payable or after such date along with simple interest @10% p.a. (or as notified from Govt from time to time) on the amount of Gratuity, unless the delay is on the part of payee.

Protection:-

Gratuity payable under the Act cannot be attached in execution of any decree or order of any civil, revenue or criminal court.

Note: - If the employee is dead then the gratuity becomes payable to the heirs of the employee and the same becomes attachable in the hands of the employer as the employer is legally bound to pay the said gratuity to the legal heirs of the employee.

Liability for payment of gratuity to contact workers - whether principal employer or the contractor

Q. In addition to regular employees, we are engaging contractors also. My query pertains as to whether the principal employer or the contractor is liable for payment of gratuity to the employees of the contractor?

Ans:- In one case, the Kerala High Court has held that neither the Contract Labour (R&A) Act, 1970 nor the Payment of Gratuity Act, 1972 provided that the principal employer can be held liable to pay the gratuity to the workers engaged through the contract. However, the Madras High Court has held that although liability for payment of gratuity is that of the contractor but by virtue of section 21(4) of the Contract Labour (R&A) Act, the principal employer can be directed to make payment of gratuity to the employees of the contractor and recover the same from the contractor. In another case, the Madras High Court has held that when the contractor, who engaged the workmen, does not pay the amount of gratuity to them , the principal employer is liable to pay all dues including gratuity to such workers as per provision of section 21(4) of Contract Labour (Regulation & Abolition) Act, 1970.

Penal Provision:-

1. If any person, for the purpose of avoiding any payment to be made under the Act, knowingly makes or causes to be made any false statement or false representation he would be punished with imprisonment up to 6 months, or with fine up to Rs. 10000/- or, with both.

2. If any employer contravenes, or makes default in complying with any provisions of the act or any rule or order made there under, he would be punished with imprisonment up to 1 year, or with fine up to Rs. 20000/- or with both.

3.

Handy tips for Employer:-

- 1) It is advisable for the employer to obtain nomination from the employee in **Form 'F'**
- 2) Form G when employee acquired family later
- 3) And any change of nomination to be submitted in form H , in duplicate.
- 4)

As it renders easy for the employer to disburse the gratuity amount. If he neglects to obtain nomination and employee dies without nomination, it is likely that the family members of the deceased employee may approach the employer with conflicting claims to the gratuity compelling the employer to be dilemma and to resort to the legal processes.

Display of Abstract of the Act:-

Every employer must display an abstract of the act and the Rules made there under in English and in the language understood by the majority of the employees at a conspicuous place at or near the main entrance of the establishment.

Obligations of Employer:

- 1) Pay gratuity to the employees as required by the provisions of the Act and the rules framed there under
- 2) Determine the gratuity as soon as it becomes payable, and give notice of the same to the employee concerned and the controlling authority. In case of dispute regarding the amount determined, the admitted amount of gratuity must be deposited with the Controlling Authority. If the latter decides that any more gratuity is due to the employees, the same must be deposited with him.
- 3) Obtain an insurance in the prescribed manner for his liability for payment of gratuity under the Act, or establish an approved gratuity fund in the prescribed manner.

Obligations of Employee:

- 1) An employee eligible for payment of gratuity under the Act, or any person authorised in writing to act on his/her behalf, has to apply to the employer within such time and in such form as may be prescribed under the rules for payment of gratuity as soon as it becomes due.
- 2) Every employee, after completing one year of service, has to nominate members of his / her family who may receive gratuity in case of his / her death.

Summary:-

The Payment of Gratuity Act applies to every factory, mine, oilfield, plantation, port, railway company, and shop or establishment in which ten or more persons are employed. An employee is a person (other than an apprentice) employed for wages in any capacity including administrative

and managerial. There is no wage ceiling for its applicability. Gratuity at the rate of 15 days wages for every completed year of service, is payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years. The act authorises the appropriate government to appoint any officer as a controlling authority for the administration of the Act.

Applicability of Act to Educational Institutions Notification F. No.S-42013/1/95-SS-II
dated 3rd April, 1997

In exercise of the powers conferred by clause (c) of sub-section (3) of section 1 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies the educational institutions in which ten or more persons are employed, or were employed, on any day of the preceding 12 months, as a class of establishments to which the said Act shall apply with effect from the date of publication of this notification:

Provided that nothing contained in this notification shall affect the operation of the Notification of the Ministry of Labour, No.S.O. 239, dated 8th January, 1982.

Applicability of the Act to the Chambers of Commerce and Industry Notification number G.S.R. 3203, New Delhi dated 30th October 1980¹

In exercise of powers conferred by clause (c) of the sub-section (3) of section 1 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies Chambers of Commerce and Industry and Associated/ Federation of Chambers of Commerce and Industry in which ten or more persons are employed, or were employed on any day of the preceding twelve months as a class of establishments to which the said Act shall apply with effect from the date of publication of this notification in the Official Gazette.

ABSTRACT OF THE PAYMENT OF GRATUITY ACT, 1972

FORM 'U'

1. Extent the Act.--The Act extends to the whole of India:

Provided that in so far as it relates to plantations a ports, it shall not extent to the State of Jammu and Kashmir. Section 1(2).

2. To whom the Act Applies.-- The Act applies to (a) every factory, mine, oilfield, plantation, port and railway company; (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or mote persons are employed, or were employed, on any day of the preceding twelve months; and (c) such other establishments a class of establishments, in which, ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf. Section 1(3).

3. Definitions----(a) "Appropriate Government" means (i) in relation to an establishment--
(a) belonging to, or under the control of, the Central Government,
(b) having branches in more than one State,
(c) of a factory belonging to, or under the control of, the Central Government,
(d) of a major port, mine, oilfield or railway company, the Central Government,
(ii) in any other case, the State Government. Section 2(a).
(b) "Completed year of service" means continuos service for one year. Section 2(b).
(c) "Continuos Service" means uninterrupted service and includes service which is interrupted by sickness, accident, leave, lay-off, strike or a lock-out or cessation of work not due to any fault of the employees concerned, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act.

Explanation I.--In the cease of an employee who is not in uninterrupted service for one year, he shall be deemed to be in continuous service if he has been actually employed by an employer during the twelve months immediately preceding the year for not less than--

- (i) 190 days, if employed below the ground in a mine, or
(ii) 240 days, in any other case, except when he is employed in a seasonal establishment.

Explanation II,---- An employee of a establishment shall be deemed to be in continuos service if he has actually worked for not less than seventy-five per cent of the number of days on which the establishment was in operation during the year. Section 2(d) .

(d) "Controlling authority" means an authority appointed by an appropriate Government under Section 3. Section 2(d).

(e) "Family", in relation to an employee, shall be deemed to consist of--

- (i) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the widow and children, of his predeceased son, if any,
(ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any:

Provided that if a female employee, by a notice in writing to the Controlling Authority, expresses to her desire to exclude her husband from her family, the husband and his dependent parents shall no longer be deemed, for the purposes of this Act, to be included in the family of such female employee unless the said notice is subsequently withdrawn by such female employee.

Explanation:-- Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him shall be deemed to be included in his family, and where a child of

an employee has been adopted by another person and such adoption is under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee. Section 2(h).

4. **Nomination.**--(1) Each employee, who has completed one year of service, after the commencement of the Payment of Gratuity (Central) Rules, 1972 shall make within thirty days of completion of one year of service, a nomination. Section 6(1) read with Rule 86(I1)
(2) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family and any nomination made by such employee in favour of a person who is not a member of his family shall be void. Section 6(3).
(3) If at the time of making a nomination, the employee has no family, the nomination can be made in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make within 90 days fresh nomination in favour of one or more members of his family. Section 6(4) read with Rule 6(3).
(4) A nomination or a fresh nomination or a notice of modification of nomination shall be signed by the employee or, if illiterate, shall bear his thumb-impression in the presence of two witnesses, who shall also sign a declaration to that effect in the nomination, fresh nomination or notice of modification of nomination as the case may be. Rule 6(5).
(5) A nomination may, subject to the provisions of sub-sections (3) and (4) of Section 6, be modified by an employee any time after giving to his employer a written notice of his intention to do so. Section 6(5).
(6) A nomination or fresh nomination or notice of modification of nomination shall take effect from the date of receipt of the same by the employer. Rule 6(6).
5. **Application for gratuity.**--(1) An employee who is eligible for payment of gratuity under the Act, or any person authorised, in writing, to act on his behalf, shall apply ordinarily within thirty days from the date gratuity becomes payable:
Provided that where the date of superannuation or retirement of an employee is known, the employee may apply to such employer before thirty days of the date of superannuation or retirement. Rule 7(1).
(2) A nominee of an employee who is eligible for payment of gratuity shall apply, ordinarily within thirty days from the date the gratuity became payable to him, to the employer. Rule 7(2).
(3) A legal heir of an employee who is eligible for payment of gratuity shall apply, ordinarily within one year from the date the gratuity became payable to him, to the employer. Rule 7(3).
(4) An application for payment of gratuity filed after the expiry of the periods specified above shall also be entertained by the employer if the applicant adduces a sufficient cause for the delay. Rule 7(5).
6. **Payment of gratuity.**--(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years--
(a) on his superannuation, or
(b) on his retirement or resignation, or
(c) on his death or disablement due to accident or disease:
Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement.
Disablement means such disablement which incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement. Section 4(1).

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee employed in a seasonal establishment, the employer shall pay the gratuity at the rate of seven days' wages for each season. Section 4(2).

(1) The amount of gratuity payable to an employee shall not exceed twenty months wages. Section 4(3).

7. Forfeiture of gratuity.--(1) The gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.

(2) The gratuity payable to an employee shall wholly be forfeited--

- (a) If the services of such employee have been terminated for his riotous or disorder conduct or of any other act of violence on his part, or
- (b) If the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment. Section 4(6).

8: Notice of opening, change or closure of the establishment.--(1) A notice shall be submitted by the employer to the controlling authority of the area within thirty days of any change in the name, address, employer or nature of business. Rule 3(2).

(2) Where an employer intends to close down the business he shall submit a notice to the controlling authority of the area at least sixty days before the intended closure. Rule 3(3).

9. Application to Controlling Authority for direction: If an employer---

- (i) refuses to accept a nomination or to entertain an application for payment of gratuity, or
- (ii) issues a notice either specifying an amount of gratuity which is considered by the applicant less than what is payable or rejecting eligibility to payment of gratuity, or
- (iii) having received an application for payment of gratuity, fails to issue notice within fifteen days; the claimant employee, nominee, or legal heir, as the case may be, may within ninety days of the occurrence of the cause for the application, apply to the controlling authority for issuing a direction under sub-section (4) of Section 7 with as many extra copies as are the opposite party:

Provided that the controlling authority may accept any application on sufficient cause being shown by the applicant, after the expiry of the period of ninety days. Rule 10.

10. Appeal:- Any person aggrieved by an order of the controlling authority may, within sixty days from the date of the receipt of the order, prefer an appeal to the Regional Labour Commissioner (Central) of the area, who has been appointed as the appellate authority by the Central Government:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days. Section 7 (7).

11 Machinery for enforcement of the Act or Rules in Central sphere:---All Assistant Labour Commissioners (Central) have been appointed as Controlling Authorities and all the Regional Labour Commissioners (Central) as Appellate Authorities.

12. Powers of the Controlling Authority:--- The Controlling Authority for the purpose of conducting an inquiry as to the amount of gratuity payable to an employee or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, shall have the same powers as are vested in a court, under the Code of Civil Procedure, 1908, in respect of the following matters, namely---

- (a) Enforcing the attendance of any person or examining him on oath;
- (b) Requiring the discovery and production of documents;
- (c) Receiving evidence on affidavits; and
- (d) Issuing commissions for the examination of witnesses. Section 7(5).

13. Recovery of gratuity.--If the amount of gratuity payable is not paid by the employer, within the prescribed time to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon at the rate of nine per cent per annum, from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto. Section 8.

14. Protection of gratuity: No gratuity payable under the Payment of Gratuity Act and the rules made thereunder shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court. Section 13.

15. Penalties for offences.-(1) Whoever, for the purpose of avoiding any payment to be made by himself or of enabling any other persons to avoid such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Section 9(1).

(2) An employer who contravenes, or makes default in complying with, any of the provisions of the Act or any rule or order made thereunder shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both:

Provided that if the offence relates to non-payment of any gratuity payable under the Payment of Gratuity Act, the employer shall be punishable with imprisonment for a term which shall not be less than three months unless the court trying the offence for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice. Section 9(2).

16. Display of Notice: The employer shall display conspicuously a notice at or near the main entrance of the establishment in bold letters in English and in the language understood by the majority of the employees specifying the name of the Officer with designation authorised by the employer to receive on his behalf notices under the Payment of Gratuity Act or the rules made thereunder. Rule 4.

17. Display of Abstract of the Act and Rules: The employer shall display an abstract of the Payment of Gratuity Act and the rules made thereunder in English and in the language

understood by the majority of the employees at a conspicuous place at or near the main entrance of the establishment. Rule 20.

Payment of Gratuity (Central) Rules **FORM 'I'**

See sub-rule (1) of Rule 7

Application for Gratuity by an Employee

To,

(Give here name or description of the establishment with full address)

Sir/Gentlemen,

I beg to apply for payment of gratuity to which I am entitled under sub-section (1) of Section 4 of the Payment of Gratuity Act, 1972 on account of my superannuation/retirement/resignation after completion of not less than five years of continuous service/total disablement due to accident/total disablement due to disease with effect from the _____ Necessary particulars relating to my appointment are given in the statement below.

Statement

1. Name in full _____
 2. Address in full _____
 3. Department/Branch/Section where last employed _____
 4. Post held with Ticket No., or Serial No., if any _____
 5. Date of appointment _____
 6. Date and cause of termination of service _____
 7. Total period of service _____
 8. Amount of wages last drawn _____
 9. Amount of gratuity claimed _____
2. I was rendered totally disabled as a result of--
(Here give the details of the nature of disease or accident) _____

The evidences/witnesses in support of my total disablement are as follows:-

(Here give details) _____

3. Payment may please be made in cash/open or crossed bank cheque.
4. As the amount of gratuity payable is less than rupees one thousand, I shall request you to arrange for payment of the sum due to me by Postal Money Order at the address mentioned above after deducting postal money order commission therefrom.

Yours faithfully,
Signature/Thumb-impression of the
applicant employee.

Place: _____

Date: _____

FORM 'A'
[See sub-rule (1) of Rule 3]
Notice of Opening

1. Name and address of the Establishment
2. Name and designation of the Employer
3. Number of Persons employed
4. Maximum number of persons employed on any day during the preceding twelve months with date
5. Number of Employees covered by the Act
6. Nature of Industry
7. Whether Seasonal
8. Date of opening
9. Details of Head office/branches:
 - (a) Name and address of Head office
 - (b) Number of employees
 - (c) Name and address of other branches in India.

- 1.
- 2.
- 3.

I verify that the information furnished above is true to the best of my knowledge and belief.

Place.....

Signature of the Employer
With name and designation.

FORM 'F'

See sub-rule (1) of Rule 6

Nomination

To,

(Give here name or description of the establishment with full address)

I, Shri/Shrimati/Kumari _____

(Name in full here)

whose particulars are given in the statement below, hereby nominate the person(s) mentioned below to receive the gratuity payable after my death as also the gratuity standing to my credit in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount of gratuity shall be paid in proportion indicated against the name(s) of the nominee(s).

2. I hereby certify that the person(s) mentioned is/are a member(s) of my family within the meaning of clause (h) of Section 2 of the Payment of Gratuity Act, 1972.
3. I hereby declare that I have no family within the meaning of clause (h) of Section 2 of the said Act.

- 4 (a) My father/mother/parents is/are not dependent on me.
(b) My husband's father/mother/parents is/are not dependent on my husband.
5. I have excluded my husband from my family by a notice dated the _____ to the controlling authority in terms of the proviso to clause (h) of Section 2 of the said Act.
6. Nomination made herein invalidates my previous nomination.

Nominee(s)

Name in full with full address of nominee(s)		Relationship with the employee	Age of nominee	Proportion by which the gratuity will be shared
(1)		(2)	(3)	(4)
1.				
2.				
3.				
So on.				

Statement

1. Name of employee in full _____
2. Sex _____
3. Religion _____
4. Whether unmarried/married/widow/widower _____
5. Department/Branch/Section where employed _____

Adv. Ramesh L. Soni

M.B.A. (HR), B.Sc. (Hons.), LL.B., D.L.L. & L.W., D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

Management Consultant and Advisor on Labour Laws

Cell No. 9867796988 / 9867797737 Email :- rlsconsulting.in / jigar@rlsconsulting.in

Website: www.rlsconsulting.in

6. Post held with Ticket No. or Serial No., if any _____
7. Date of appointment _____
8. Permanent address:
Village _____ Thana _____ Sub-division _____
Post Office _____ District _____ State _____
-

Place: _____

Signature/Thumb-impression of the

Employee

Date: _____

Declaration by Witnesses

Nomination signed/thumb-impressed before me

Name in full and full address of witnesses.

Signature of Witnesses.

1. _____ 1. _____
2. _____ 2. _____
-

Place: _____

Date: _____

Certificate by the Employer

Certified that the particulars of the above nomination have been verified and recorded in this establishment.

Employer's Reference No., if any _____

Signature of the employer/Officer authorised

Designation

Date: _____

rubber stamp thereof.

Name and address of the establishment or

Acknowledgement by the Employee

Received the duplicate copy of nomination in Form 'F' filed by me and duly certified by the employer.

Date: _____

Signature of the Employee

Note.—Strike out the words/paragraphs not applicable.

Adv. Ramesh L. Soni

M.B.A. (HR) , B.Sc. (Hons.), LL.B., D.L.L. & L.W. , D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

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भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

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थम और दोजगार मंदालय

अधिसूचना

नई दिल्ली, 29 मार्च, 2018

का.आ. 1419 (अ).—केन्द्रीय मरकार, उपदान मंदालय (मंशोधन) अधिनियम, 2018 (2018 का 12) की धारा 1 की उपाधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 29 मार्च, 2018 को वह तारीख नियत करती है, जिसको उक्त अधिनियम प्रवृत्त होगा।

[मं. एस-42012/02/2016-एसएस-II]

मनीष गुप्ता, मंशुक मन्त्रि

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 29th March, 2018

S.O. 1419(E).—In exercise of the powers conferred by sub-section (2) of section 1 of the Payment of Gratuity (Amendment) Act, 2018 (12 of 2018), the Central Government hereby appoints the 29th day of March, 2018 as the date on which the said Act shall come into force.

[No. S-42012/02/2016-SS-II]

MANISH GUPTA, Jt. Secy.

अधिसूचना

नई दिल्ली, 29 मार्च, 2018

का.आ. 1420 (अ).—केन्द्रीय सरकार, उपदान संदाय अधिनियम, 1972 (1972 का 39) की धारा 4 की उपधारा (3) द्वारा प्रदत्त शर्तियों का प्रयोग करते हुए यह विनिर्दिष्ट करती है कि उक्त अधिनियम के अधीन किसी कर्मचारी को देव उपदान की रकम बीस लाख रुपए में अधिक नहीं होगी।

[सं. एम-42012/02/2016-एम.एम.-II]

मनीष गुप्ता, संयुक्त मंचिव

NOTIFICATION

New Delhi, the 29th March, 2018

S.O. 1420 (E).—In exercise of the powers conferred by sub-section (3) of section 4 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies that the amount of gratuity payable to an employee under the said Act shall not exceed twenty lakh rupees.

[No. S-42012/02/2016-SS-II]

MANISH GUPTA, Jt. Secy.

अधिसूचना

नई दिल्ली, 29 मार्च, 2018

का.आ. 1421(अ).—केन्द्रीय सरकार, उपदान संदाय अधिनियम, 1972 (1972 का 39) की धारा 2क की उप-धारा (2) के स्पष्टीकरण के खण्ड (iv) द्वारा प्रदत्त शर्तियों का प्रयोग करते हुए, उक्त खण्ड के प्रयोजनों के लिए यह विनिर्दिष्ट करती है कि महिला कर्मचारी की दशा में प्रमूलि छुट्टी की कुल अवधि छहवीस मासाह में अधिक नहीं होगी।

[सं. एम-42012/02/2016-एम.एम.-II]

मनीष गुप्ता, संयुक्त मंचिव

NOTIFICATION

New Delhi, the 29th March, 2018

S.O. 1421 (E).—In exercise of the powers conferred by clause (iv) of the Explanation to sub-section (2) of section 2A of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies for the purposes of the said clause that the total period of maternity leave in the case of a female employee shall not exceed twenty-six weeks.

[No. S-42012/02/2016-SS-II]

MANISH GUPTA, Jt. Secy.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Hariatma Rajguru Chowk, Mantralaya,
Mumbai-400 032, dated the 16th April 2019

NOTIFICATION

THE PAYMENT OF GRATUITY ACT, 1972

No.CLA-2019/C.R.48/Labour-t.—In exercise of the powers conferred upon it by section 3 of The Payment of Gratuity Act, 1972 (39 of 1972) (hereinafter referred to as "the said Act") in its application to the state of Maharashtra and in supersession of all previous notification, order or instruments, issued in this behalf, and are in force in any part of the state, the Government of Maharashtra, being the appropriate Government, hereby appoints the Officers mentioned in column 2 of the Schedule appended hereto to be the "Controlling Authorities" for the areas respectively specified against each of them in column 3 of that Schedule.

Schedule

Sr. No. (1)	Officers (2)	Area (3)
1	The Assistant Commissioner of Labour, Mumbai	Mumbai District and Mumbai Suburban District.
2	The Assistant Commissioner of Labour, Thane	Thane District
3	The Assistant Commissioner of Labour, Kalyan	Kalyan, Thane District
4	The Assistant Commissioner of Labour, Bhiwandi	Bhiwandi, Thane District
5	The Assistant Commissioner of Labour, Palghar	Palghar District
6	The Assistant Commissioner of Labour, Raigad	Raigad District
7	The Assistant Commissioner of Labour, Ratnagiri	Ratnagiri and Sindhudurg District
8	The Assistant Commissioner of Labour, Pune	Pune District
9	The Assistant Commissioner of Labour, Satara	Satara District
10	The Assistant Commissioner of Labour, Sangli	Sangli District
11	The Assistant Commissioner of Labour, Kolhapur	Kolhapur District
12	The Assistant Commissioner of Labour, Ichalkaranji	Ichalkaranji, Kolhapur District
13	The Assistant Commissioner of Labour, Solapur	Solapur District
14	The Assistant Commissioner of Labour, Nashik	Nashik District
15	The Assistant Commissioner of Labour, Jalgaon	Jalgaon and Dhule District
16	The Assistant Commissioner of Labour, Ahmednagar	Ahmednagar District
17	The Assistant Commissioner of Labour, Aurangabad	Aurangabad and Jaina District
18	The Assistant Commissioner of Labour, Nanded	Nanded and Parbhani District
19	The Assistant Commissioner of Labour, Latur	Latur, Beed and Osmanabad District
20	The Assistant Commissioner of Labour, Akola	Akola, Buldhana and Washim District
21	The Assistant Commissioner of Labour, Amravati	Amravati and Yeotmal District
22	The Assistant Commissioner of Labour, Nagpur	Nagpur and Wardha District
23	The Assistant Commissioner of Labour, Chandrapur	Chandrapur and Gadchiroli District
24	The Assistant Commissioner of Labour, Bhandara	Bhandara District
25	The Assistant Commissioner of Labour, Gondia	Gondia District

Provided that the cases pending before the existing Controlling Authorities shall be heard and disposed of by Controlling Authorities before whom it is pending and in respect of any such case an outgoing officer before whom it is pending shall continue to be the "Controlling Authorities" within the meaning of Section 3 of the said Act, till all such cases are disposed of.

By order and in the name of the Governor of Maharashtra,

Dr. S. L. PULKUNDWAH,
Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 16th April 2019

NOTIFICATION

THE PAYMENT OF GRATUITY ACT, 1972.

No. CLA-2019/C.R.48/Labour-4.—In exercise of the powers conferred upon it by sub section (7) in section 7 of The Payment of Gratuity Act, 1972 (39 of 1972) (hereinafter referred to as "the said Act") in its application to the state of Maharashtra and in supersession of all previous notification, order or instruments, issued in this behalf, and are in force in any part of the state, the Government of Maharashtra, being the appropriate Government, hereby appoints the Officers mentioned in column 2 of the Schedule appended hereto to be the "Appellate Authorities" for the areas respectively specified against each of them in column 3 of that Schedule.

Schedule

Sr. No.	Officers	Area
(1)	(2)	(3).
1	Additional Commissioner of Labour, (Konkan Division), Mumbai	Ratnagiri
2	Deputy Commissioner of Labour, Mumbai City	Mumbai City
3	Deputy Commissioner of Labour, Mumbai Suburban East	Mumbai Suburban East
4	Deputy Commissioner of Labour, Mumbai Suburban West	Mumbai Suburban West
5	Deputy Commissioner of Labour, Thane	Thane, Kalyan, Bhiwandi
6	Deputy Commissioner of Labour, Palghar	Palghar
7	Deputy Commissioner of Labour, Raigad	Raigad
8	Additional Commissioner of Labour, (Pune Division)	Satara, Sangli, Solapur, Kolhapur, Ichalkaranji
9	Deputy Commissioner of Labour, Pune	Pune
10	Additional Commissioner of Labour, (Nagpur Division)	Nagpur and Wardha, Akola, Amravati, Bhandara, Gondia, Chandrapur.
11	Deputy Commissioner of Labour, (Nashik Division)	Nashik, Jalgaon, Ahmednagar.
12	Deputy Commissioner of Labour, (Aurangabad Division)	Aurangabad, Nanded, Latur.

Provided that the cases pending before the existing Appellate Authorities shall be heard and disposed of by Appellate Authorities before whom it is pending and in respect of any such case an outgoing officer before whom it is pending shall continue to be the "Appellate Authorities" within the meaning of sub section (7) section 7 of the said Act, till all such cases are disposed of.

By order and in the name of the Governor of Maharashtra,

Dr. S. L. PULKUNDWAR,
Deputy Secretary to Government.

Bombay High Court – has given stay on the above notification for Controlling Authority and Appellate Authority on 11th Sept., 2019 now Labour Court will be the Controlling Authority and Industrial Court will be the Appellate Authority.

Forms to be submitted under this Act.

Form No	Particulars	Required to be furnished by
Form A	Notice of Opening	Employer- required to be submitted with Controlling Authority within 30 days of the Rule becoming applicable.
Form B	Notice of Change	Employer- required to be submitted with Controlling Authority within 30 days.
Form C	Notice of Closure	Employer- required to be submitted with Controlling Authority at least 60 days before the intended date of closure.
Form D	Notice of excluding Husband from Family	Employee
Form E	Notice of withdrawal of Notice for excluding Husband from Family	Employee
Form F	Nomination Form	Employee
Form G	Fresh Nomination	Employee- who has no family at the time of making nomination shall after acquiring a family submit a fresh nomination under this form.
Form H	Modification of Nominee	Employee
Form I	Application for Gratuity	Employee- who is eligible for payment of gratuity under this Act.
Form J	Application for Gratuity	Nominee- who is eligible for payment of gratuity.
Form K	Application for Gratuity	Legal Heir who is eligible for payment of gratuity.
Form L	Notice for Payment of Gratuity	Employer- After receipt of an application in Form J, Form K or Form L, if the claim is found admissible.
Form M	Notice for rejecting claim for Payment of Gratuity	Employer- After receipt of an application in Form J, Form K or Form L, if the claim is found not admissible.
Form N	Application made to the Labour Office by an Employee	Employee has to apply for Payment of Gratuity in case of dispute to Govt Labour Officer
Form O	Issues by the Authority to appear for case of hearing	Govt Labour Office will issue the same for any dispute between Employee and Employer
Form P	Summon issued by the Authority to be present for hearing	Govt Labour Office will issue the same for any dispute between Employee and Employer to appear before him for hearing case
Form R	Issued by the authority directing to make the payment of Gratuity	Settlement of Gratuity by Govt Labour Office.

TIPS ON

The Payment of Gratuity Act, 1972

An employee expect and deserves, as a matter of right, some reward when he retires After a long meritorious service. The enactment of the payment of Gratuity Act, 1972, has Fulfilled this expectation of an employee.

Under the act an employee becomes entitled to earn gratuity after putting in service of Minimum five years. When an employee dies while in service his nominee or heirs are Entitled to get gratuity even if the employee had put in less than 5 years' service. The Rate of gratuity is 15 days' salary for every year of service but the total amount of gratuity Cannot exceed rupees **twenty lakhs with effect from 29th March, 2018.**

Q. what is the object of the Payment of Gratuity Act, 1972?

A. The payment of Gratuity Act, 1972, has been passed with the object of providing a Uniform scheme for payment of gratuity to industrial workers throughout the country.

Q. Did the Legislature intend standardisation of the gratuity scheme contemplated By the Payment of Gratuity Act?

A. No standardisation of the gratuity scheme contemplated by the Payment of Gratuity Act was intended by the Legislature. An employee could obtain better terms of Gratuity an award, agreement or contract with employer.

NOTE:-Held in Workmen of Metro Theatre Ltd., Bombay v. Metro Theatre., Bombay, 1981 II LLJ 348.

Q. Since what date has the Act come into force?

A. The act has come into force from 16th September, 1972.

Applicability of the Act

Q. to which establishment is the Act applicable?

A. The Act is applicable to:-

Every factory, mine, oilfield, plantation, port and railway Company;

Every shop or establishment in which ten or more persons are employed; and

Such other establishment in which ten or more employees are employed as the may specify in this behalf.

Central Government

S.1 (3)

Q. can a Government servant make an application to the controlling Authority for Payment of gratuity under the Act?

A. A person who holds the civil post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity is excluded from the definition of an "employee" given under Section 2(e) of the Act. The provisions of the Act shall not apply to him. He cannot make an application to the Controlling Authority for payment of gratuity under Act nor can the Controlling Authority entertain such application.

NOTE: See Junagadh District Panchayat v. Surendrasinh Dayabhai Rathod & Ors. 2007 I CLR 71 (Guj.H.C.)

Q. Is the Act applicable to the establishment of the Poona Cantonment Board?

A. The Poona Cantonment Board is a local authority. A local authority is an establishment within the meaning of that word as defined under S. 2(1)(e)(i) of the Contract Labour (Regulation and Abolition) Act, 1970. The said Act is Law in force in the state of Maharashtra in relation to shops and establishments in the state. The payment gratuity Act is therefore applicable to the Poona Cantonment Board by virtue of provision contained in S.1 (3)(b) of the said Act.

NOTE1:- Held in Poona Cantonment Board v. S. K. Das & Ors. 1993 II CLR 731.

Q. Is a shop or establishment covered by the Payment of Gratuity Act even if the relevant Shops Act is not applied specifically to the area in which the shop or establishment is situated?

A. What is material is that any law in relation to Shops and Establishments should be in force in a State in which a shop or establishment is situated. It needful for the purpose of the applicability of the payment of Gratuity Act that the Shops Act must be applied specifically to the area in which shop or establishment is situated.

NOTE:- Held in Rula Krishi Kendra v Controlling Authority under Payment of Gratuity Act, 1990 II CLR 323.

Q. Who is covered under the definition of employee?

A. As per Payment of Gratuity (Amendment) Act.2009 (Act no. 47 of 2009) which shall be deemed to have come into force on 3.4.1997 the definition of employee is as below.
'employee' mean any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not any such person who holds the post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity. S. 2(e), 13-A

Q. Has the Central Government applied the Act to any other establishments?

A. The Act has been made applicable to (1) Motor Transport Undertakings, (2) clubs (3) Inland Water Transport Establishments (4) Local Bodies and (5) Solicitors Offices.

Q. As the Act come into force from 16th September, 1972, is gratuity payable to the employees for services rendered from that date only?

A. Gratuity is payable to the employees for services rendered even prior to 16th September, 1972, although the Act has come into force from the said date.

Eligibility for gratuity

Q. In what contingency the employer has to pay gratuity to his employees?

A. The employer has to pay gratuity to his employees:-

- (a) When the service of the employee is terminated on superannuation; or
- (b) When the employee retires or resigns from service; or
- (c) When the employee dies while in service; or
- (d) When the service of the employee is terminated on his disablement due to accident or disease.

S.4(1)

Q. Is a retrenched employee entitled to gratuity?

A. Retrenchment means termination of service and termination of service is covered by the definition of retirement under the Act. Retrenchment of an employee falls within the scope of section 4 (1) (b) of the Act under which gratuity is payable to an employee on his retirement. Retrenched employee is therefore entitled to gratuity.

Note:-Held *State of Punjab v. Labour Court, Jullunder* 1981 I LLJ 354.

Q. What is the minimum length of service required for earning gratuity?

A. In order to earn gratuity the employees has to render minimum five years' service.

S.4 (1)

Q. Is the condition of five years' minimum service applicable in the case of death or disablement of the employee?

A. In the case of death or disablement of the employee gratuity becomes payable to his nominee or heirs even if he has rendered less than five years' service.

S.4 (1)

Q. Is the provision contained in section 4(1)(b) of the Act, which entitles an employee to gratuity on his retirement or resignation after continuous service of only five years, violative of Article 19(1)(g) of the Constitution of India?

A. The provision for payment of gratuity contained in section 4(1)(b) of the Act is done of the minimal service conditions which must be made available to the employees notwithstanding the financial capacity of the employer to bear its burden. The said provision is a reasonable restriction on the right of the employer to carry on his business within the meaning of Article 19(6) of the Constitution of India. The said provision is both sustainable and valid.

Note:- Held in *Bakshish Singh v. Darshan Engineering Works & Ors.* 1993 II CLR 1088.

Q. Is gratuity payable on the basis of basic wages only?

A. Gratuity is payable on the basis of all emoluments earned by the employee, i.e. basic wages plus dearness allowance.

S.2(s)

Q. Is every employee employed in a factory in a factory, mine, etc., who has rendered minimum 5 years' service eligible for payment of gratuity irrespective of the rate of the wages drawn by him?

A. By Act No. 34 of 1994 the higher amount of wages for definition of "employees" is removed. Now from 24.5.1994 all the employees irrespective of their wages are eligible for Payment of Gratuity.

Q. Is a person employed in a managerial or administrative capacity eligible for payment of gratuity?

A. According to the definition of employee, as it stood before its amendment by Act No.25 of 1984, a person employed in a managerial or administrative capacity was not eligible for payment of gratuity. By the said Amending act No.25 of 1984, which come into effect from 1.7.1984, the definition of employee was modified to include a person employed in a managerial or administrative capacity and therefore he is eligible for payment of gratuity.

Q. What is the rate of gratuity payable to the employee?

A. Gratuity is payable to the employee at the rate of 15 days' wages for every completed year of service or part thereof in excess of six months; based on the rate of his last drawn wages. In the case of monthly rated employee, the rate of one day's wages is to be computed by dividing the monthly wages by 26 working days.

S. 4(2)

Q. What is the maximum amount of gratuity payable to the employee?

A. The maximum amount of gratuity the employee can get is rupees **Twenty Lakhs** from **29th March, 2018**.

Q. Is there any contingency in which the employer has to pay gratuity at higher rate or of higher than the maximum amount?

A. The employer will have to pay gratuity at higher rate or of higher than the maximum amount as compared to that prescribed by the Act, if there is any award, agreement or contract between him and the employee to that effect. In other word, if the terms of the award, agreement or contract are better than the provisions of the Act, the former will prevail over the latter.

S. 4 (5)

Q. What is the mode of payment of gratuity in Maharashtra?

A. As per Government Notification dated 2.7.2011 all the gratuity payable under the Act shall be paid by the Demand Draft or account payee cheque to the gratuity eligible employee, nominee or, legal heir. Providing that, intimation about the details of the payment shall also be given by the employer to the controlling authority of the area.

Forfeiture of gratuity

Q. In what circumstances the employee loses his gratuity?

A. (a) The employee may wholly or partially forfeit the gratuity payable to him if his services are terminated (1) for his riotous or disorderly conduct or any other act of violence on his part or (2) for any act which constitutes an offence involving moral turpitude.

(b) The employee partly forfeits the gratuity payable to him if his services are terminated for any act, wilful omission or negligence, causing any damage or loss to, or destruction of, property belonging to the employer, to the extent of damage or loss caused.

S. 4 (6)

Q. What is the duty of an employer while exercising his right under Section 4(6) to forfeit the gratuity of an employee for the damage or loss caused by him to the property belonging to the employer?

A. The words “to the extent of the damage or loss” used in S. 4(6) are very important. The determination of the amount of damage or loss caused by the employee should be just and proper. It is a well settled principle that one cannot be a Judge of his own cause. The employer should assess the amount of damage or loss with the help of a competent authority and establish the liability of the employee.

Note: See Baroda Traders Co.-op. Bank Ltd. v. Mahendrabhai B. Shah, 2006 I CLR 764 (Guj.H.C.).

Q. What is the meaning of the expression “moral turpitude”?

A. “Moral turpitude” is an expression which is used to describe conduct which is inherently base, vile, depraved or having any connection showing depravity. It means anything done contrary to justice, honesty, modesty or good morals.

Q. If the services of an employee had been terminated for committing theft in the course of his employment, does he forfeit the whole of his gratuity?

A. Theft is an offence involving moral turpitude and consequently if the services of an employee had been terminated for committing theft in the course of his employment, the gratuity payable to him under the provision of the Act stands wholly forfeited in view the provisions of section 4(6)(b)(ii) of the Act.

Note:- Held in Bharath Gold Mills Ltd. v. Regional Labour Commissioner, 1987 I CLR 189.

Q. Whom can the employee nominate for the purpose of receiving the payment of gratuity in the event of his death?

A. If the employee has a family, he must nominate one or more members of the family and none other. If the employee has no family, he can nominate any person or persons of his choice. However, if the employee acquires a family after nominating any person or persons of his choice, such nomination become invalid and the employee has to make a fresh nomination of one or more members of his family.

S. 6 & R. 6

Claim for gratuity

Q. What are the obligations of the employer in respect of the employee’s claim for payment of gratuity?

A. (a) As soon as gratuity becomes payable to the employee, the employer has to determine the amount of gratuity and inform the employee as well as the Controlling Authority about it in writing. He shall pay the amount of gratuity within thirty days.

(b) If the employer receives an application from the employee and accepts his claim, the employer has to inform the employee in Form L about the amount of gratuity and the proposed date of payment thereof, within 15 days of the receipt of the application.

(c) If the employer does not accept the claim of the employee, he has to inform the employee in Form M about the reason why the claim is not accepted by him. Within 15 days of the receipt of the application.

(d) The employer has to pay the amount of gratuity in cash or, if so desired by the employee, by Demand Draft or Bank Cheque. If the employee so desires and the amount is less than Rs. 1,000, payment may be made by postal money order after deducting the postal money order commission therefrom from the amount.

S. 7 and Rr. 7 and 9

Q. Is a person entitled to any interest if the payment of gratuity due to him is delayed?

A. Due to the amendment of the Act in 1987, if the amount of gratuity due to any person is not paid by the employer within thirty days from the date it becomes payable, the employer is required to pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest on the due. The Central Government has fixed the rate of simple interest at ten per cent per annum for the time being.

S. 7 (3-A)

Q. What is the procedure the employee has to follow for claiming gratuity from the employer?

- A.** (a) The employee who is eligible for payment of gratuity has to send a written application to the employer in Form I within 30 days from the date gratuity becomes payable.
(b) If the employer does not take any action on the application, the employee has to apply to the Controlling Authority in Form N within 90 days of the occurrence of the cause for the application for issuing necessary direction to the employer for making payment of gratuity.
(c) If the employee is aggrieved by the order of the Controlling Authority, he can prefer an appeal to the Appellate Authority within 60 days from the date of the receipt of the order.
(d) If the amount of gratuity is not paid by the employer, in spite of the order of the Controlling Authority or the Appellate Authority as the case may be, the employee has to apply to the Controlling Authority in Form T for recovery thereof through the Collector as arrears of land revenue.

Rr. 7 and 10 and Ss. 7 (7) and 8 **Q. Can an employee file a writ petition to claim a higher amount of gratuity than what is fixed by the Controlling Authority?**

A. If an employee is aggrieved by any order passed by the Controlling Authority, he should file an appeal before the Appellate Authority.

Note: Held in Jayantibhai Nathalal Darji v. Panchmahal Dist. Co.-Op. Bank Ltd. & Anr. 2005 III CLR 758 (Guj.H.C.)

Q. Can the Appellate Authority remand a matter to the controlling Authority for a fresh decision?

A. Under section 7(8) of the Act the Appellate Authority has power to confirm, modify or reverse the decision of the Controlling Authority. The said section does not confer any specific power on the Appellate Authority to remand a matter to the Controlling Authority for a fresh decision.

Note: Held in Tiruchangide Agricultural Producers Co.-Op. Marketing Society Ltd. v. Appellate Authority under Payment of Gratuity Act, 2002 I IIJ 1105 (Mad.H.C.)

Q. Can a gratuity claim be denied on the ground that it is not made in the prescribed form?

A. Formats are being prescribed for convenience so that requisite information is furnished. The claimant has the right to prefer the claim on his own application furnishing all the required information.

Note:-Held in General Secretary, Vakkaligara Sangha , Bangalore & Anr. V R. Chandramouli & Ors. 2002 II CLR 1070 (Karn.H.C.)

Q. The Payment of Gratuity Rule No. 7 provides that an employee who is eligible for payment of gratuity under the Act, shall make an application to the employer within thirty days from the date the gratuity become payable. Does it mean that the claim of the employee shall become extinguished in case he fails to make the application within the said period?

A.The Rule is intended only to give to the employee an opportunity to seek expeditious payment of gratuity by the employer, who in any case is bound to pay gratuity to the employee. It is not possible read in the Rule any such limitation that in case no application is made by the employee within thirty days, the claim shall become extinguished.

Note: Held in P. Rama Rao v. Controlling Authority under payment of Gratuity Act, 1996 L.I.C. 2765 (A. P.)

Q. If an employee is prevented from making an application for payment of gratuity to the Controlling Authority within the prescribed period of limitation of ninety days, can the Controlling Authority accept his application after the expiry of the said period?

A. Under the first proviso to Rule 10(1) the Controlling Authority is given power to condone the delay in making the application within the said period if sufficient cause is shown by the applicant for not making the application within the said period.

S. 7, R. 10

Q. Can the appellate authority condone the delay in preferring an appeal?

A. The appellate authority can condone the delay (1) if there was sufficient cause for not preferring the appeal within the prescribed period of limitation of sixty days, and further (2) if the delay was not more than sixty days.

Note: See Special Officer, Salem Co-operative Primary Land Development Bank v. Duputy Commissioner of Labour, 1997 LIC 136 (Mad.H.C.).

Q. If an employer wants to file an appeal against any order of the Controlling Authority directing payment of gratuity, is he required to comply with any condition at the time of filling the appeal?

A. The second proviso to Section 7(7) of the Act provides that no such appeal shall be admitted unless the employer has deposited the gratuity amount either with the Controlling Authority or with the Appellate Authority.

Q. Can the appellate Authority admit an appeal by an employer ignoring the provision of Section 7 of the Act making pre-deposit of the amount determined by the Controlling Authority?

A. It is rather shocking and surprising that an officer acting as the Appellate Authority has chosen to waive the condition of pre-deposit. The approach of the officer is not only perverse, but is, in fact, in clear violation of the provision of the Act. In a way, it reflects the lack of basic understanding of the provision on the part of the Officer. Consistent approach of similar nature is prone to be treated as a glaring act of misconduct.

Note: Held in Prakash Rao & Anr. v. Appellate Authority, Hyderabad Twin Cities & Ors. 2008 II CLR 549 (A. P. H. C.)

Q. Can the Collector direct payment of any interest on the amount of gratuity recovered under S.8 of the Act?

A. When the Collector issues a certificate for recovery of the amount of gratuity as a public demand under section 8 of the Act, he can direct payment of compound interest thereon at the rate of 15 per cent per annum.

S. 8

Note :-See also Charan Singh v. Birla Textiles. & Anr, 1988 II CLR 477.

Q. Can the Government or the Collector stay an order passed in recovery proceedings under Section 8 of the Act or grant instalment facilities to the employer?

A. Once an order is passed under Section 8 of the Act, no authority can touch the order so passed. If the Government interferes with the order, that will be negation of rule of law which we cannot think of in our democratic polity. The Government is expected to aid and help the implementation of such order.

Note :-Held in Muraleedharan v. District Collector, 1996 II CLR 157 (Kerala).

Q. When an employee files an application for recovery of gratuity under Rule 10 (1) more than 90 days after the occurrence of the cause for the application, is it necessary to file a separate application for condonation of delay?

A. The wording of the proviso to Rule 10 (1) goes to show that no such separate application is necessary. The proviso says that the Controlling Authority may accept any application under Rule 10 (1) after the expiry of the specified period if sufficient cause is shown by the employee for not filing the application within the specified period.

Note:-Held in Natrajan Pillai v. Regional Joint Labour Commissioner, 1993 I CLR 927.

Q. Does an application for recovery of dues under the Payment of Gratuity Act lie under section 33-C (2) of the Industrial Disputes Act?

A. The Payment of Gratuity Act constitutes a complete code covering all the essential features of a scheme for payment of gratuity. Parliament intended that proceedings for payment of gratuity due under the Payment of Gratuity Act must be taken under that Act and not under any other Act. Therefore an application for recovery of dues under the

Payment of Gratuity Act does not lie under section 33-C (2) of the Industrial Disputes Act.

Note:-Held in State of Punjab v. Labour Court, 1981 I LLJ 354.

Q. Is a writ petition preferred by an employee for payment of gratuity maintainable inspite of the fact that an alternative remedy is available to him under the Payment of Gratuity Act?

A. In this case the employee was superannuated on 31. 3. 1993 after rendering service of 33 years. No payment of gratuity was made to him although all efforts were made by him. He, therefore, preferred a writ petition in 1994. Notices were issued by the High Court on 18. 4. 1994 but no reply had been filed by the employer. The High Court, therefore, by the judgment dated 23. 10. 2007 directed the employer to make the payment of gratuity to the employee within a period of three months observing that when this petition is pending since 1994, in the interest of justice, it is allowed without relegateing the employee to avail the alternative remedy under the Payment of Gratuity Act.

Note:-See Ram Prakash Agarwal v. Central Co-operative Bank Ltd., 2008 II CLR 727
(Raj. H. C.)

Q. Does an appeal lie against an order of a Controlling Authority condoning the delay in filing an application for payment of gratuity?

A. An order of a Controlling Authority condoning the delay in filing an application for payment of gratuity is not a final order and, therefore, no appeal lies against such order under.

S. 7 (7)

Note:-Held in Malabar Spinning & Weaving Mill v. Narayanan Nair, 1989 I CLR 50.

Q. Can an Industrial Tribunal award gratuity in a reference made in respect of an establishment which employs less than ten persons and therefore is excluded from the applicability of the Payment of Gratuity Act?

A. An Industrial Tribunal has no jurisdiction to entertain a demand for gratuity and award the same in a reference made in respect of an establishment which employs less than ten persons and therefore is excluded from applicability of the Payment of Gratuity Act.

Note:-Held in Rashtriya Hair Cutting saloon v. Maharashtra Kamgar Sabha, 1991 I CLR 408.

Q. Can a Civil Court adjudicate upon any matter covered by the Act?

A. By reason of the provisions of section 14 of the Act, the procedure contained in the Act has an overriding effect and therefore no civil court has justification to adjudicate upon any matter covered by the Act.

Note :-Held in Surendra Vikram Singh v. Kanhaya Lal Agarwalla, 1996 LIC 797 (Calcutta).

Protection of Gratuity

Q. Can gratuity payable under the Act be attached by any Court?

A. Gratuity payable under the Act cannot be attached in execution of any decree or order of any civil, revenue or criminal Court. S. 13

Note:-If the employee is dead then the gratuity becomes payable to the heirs of the employee and the same becomes attachable in the hands of the employer as the employer is legally bound to pay the said gratuity to the legal heirs of the employee. Ramvati v. Krishnagopal & Ors. 1988 I CLR 253 (Del. H. C.)

Q. What is the effect of other schemes of gratuity which are inconsistent with i.e. inferior to the provisions of the Payment of Gratuity Act, 1972?

A. If there is any inferior scheme of gratuity under any other Act, or in any instrument or contract made under any other Act, the same will be superseded by the provisions of the Payment of Gratuity Act, 1972, and will have no effect whatsoever. S. 14

Offences

Q. What are the offences under the Act and what is the punishment for them?

A. (1) If any person, for the purpose of avoiding any payment to be made under the Act, knowingly makes or causes to be made any false statement or false representation he would be punished with imprisonment upto 6 months, or with fine upto Rs. 10, 000 or, with both.

(2) If any employer contravenes, or makes default in com-plying with any provisions of the Act or any rule or order made thereunder, he would be punished with imprisonment upto year, or with fine upto Rs. 20, 000, or with both. S.9

Display of abstract of the Act

Q. Is the employer required to display an abstract of the Act in the establishment?

A. Every employer must display an abstract of the Act and the Rules made thereunder in English and in the language understood by the majority of the employees at a conspicuous place at or near the main entrance of the establishment. Rule 20



CHECKLIST

MATERNITY BENEFIT ACT, 1961



Object of the Act

To protect the dignity of motherhood and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working.

Conditions for eligibility of benefits

Every woman shall be entitled to maternity benefit at the rate of the average daily wage for the period of her actual absence. No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months.

Working from home

Where the nature of work assigned to a woman is of such a nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

Medical Bonus

A medical bonus of Rs.3500 if the employer does not provide free medical care to the woman.

Maternity benefit – quantum of

- Maximum period for which any woman shall be entitled to maternity benefit shall be 26 weeks for which not more than 8 weeks shall precede for date of her expected delivery. However, the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.
- An additional leave with pay upto one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth.



Maternity Benefit on adoption of a child

A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

Non Cash Benefits/Privilege

- Light work for ten weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it.
- Two nursing breaks in the course of her daily work until the child is 15 months old.



Leave for Miscarriage & Tubectomy Operation

- Leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or her medical termination of pregnancy.
- Entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

Secs. 9 & 13

Leave for illness arising out of pregnancy, etc., etc.

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child (miscarriage, medical termination of pregnancy or tubectomy operation) will be entitled, in addition to the period of absence allowed to her, leave with wages at the rate of maternity benefit for a maximum period of one month.

Sec. 10

Sec. 5

Prohibition of dismissal during absence of pregnancy

- Discharge or dismissal of a woman employed during or on account of such absence or to give notice or discharge or dismissal on such a day that the notice will expire during such absence or to vary her to her disadvantage.
- Discharge or dismissal during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.
- At the time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus, etc.
- Not barred in case of dismissal for gross misconduct.

Failure to Display Extract of Act

Imprisonment may extend to one year or fine for the employer.



Forfeiture of maternity benefit and penalties

- If permitted by her employer to absent herself under the provisions of section 6 for any period during such authorized absence, she shall forfeit her claim to the maternity benefit for such period.
- For discharging or dismissing such a woman during or on account of her absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will fined, but not exceeding Rs.5,000.

Sec. 18

Creche Facility

- Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or alongwith common facilities.
- Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her. (Rules have not yet been drafted)

Obligation for Intimation

- Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the ESI Act.

Source : LLR

THE MATERNITY BENEFIT ACT, 1961

Prior to the enactment of the Maternity Benefit Act of 1961 there were in force several central & state Maternity Benefit Acts in the country. But there was no uniformity in their provisions. It was desirable to have uniform maternity benefit provisions for all women workers in the country. It is true that its object was achieved by the enactment of the Employees' State Insurance Act of 1948, which superseded the provisions of several Maternity Benefit Acts. But the Employees' State Insurance Act did not cover all women workers in the country. The Maternity Benefit Act of 1961 was therefore passed to provide uniform maternity benefit for women workers in certain industries not covered by the Employees' State Insurance Act.

Object:-

1. To protect the dignity of motherhood and the dignity of a new persons birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working.
2. To provide for maternity benefit to women workers in certain establishments.
3. To regulate the employment of women workers in such establishment for certain period before and after child birth.

Applicability:-

1. Every establishment being a factory, mine, plantation or circus.
2. Every shop or establishment in which 10 or more persons are employed
3. Any other establishment to which the Act is applied by the State Government under the Provision.
4. There is no wage limit and every female employee irrespective of wage limit is covered.
5. Every women is entitled to maternity benefit whether she is directly employed or through agent.

Note:- The Act Does Not Apply to any Factory or other Establishment to Which the provisions of the ESI Act is apply.

Restriction on Termination:-

When a women absents herself from work in accordance with the provisions of the Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence.

The employer cannot have settlement / agreement with a woman employee for restricting the benefits.

Exemptions:-

An establishment can seek exemption from the Act on the ground that the benefits granted by it are no less favorable than those under the Act and the appropriate government can issue a notification granting such exemption.

Eligibility for benefits:-

Woman indulging temporary or unmarried is eligible for maternity benefit, when she is expecting a child and has worked for her employer for atleast 80 days in the 12 months immediately preceding the date of her expected delivery.

Nursing breaks till child is 15months old

Insertion of new Sec 11A (1) : Women employee should be permitted to visit the crèche 4 times during the day, which includes the regular rest interval until the child attains the age of fifteen months.

Leave for Miscarriage or medical termination of pregnancy

A woman shall, on production of such proof as be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage.

Medical Bonus:-

A woman to maternity benefit under the Act shall also be entitled to receive from her employer a **medical bonus of Rs. 3500/- w.e.f. 01/03/2012**, if no pre-natal confinement and postnatal care is provided for by the employer free of charge. The medical bonus shall be paid along with the second installment of the maternity benefit

The Employees State Insurance Act covers only employees whose wage limit does not exceed Rs. 21,000/- p.m. and this does not insure an employee including a female employee whose wage exceeds Rs. 21,000/- p.m. while Maternity Benefit Act has not prescribed any wage limit and thus covers every female employee irrespective of wage limit working in an establishment to which the Maternity Benefit Act applies.

A women becomes eligible to Maternity benefit only when she has actually worked for 80 days in the preceding 12 months before the date of her expected delivery.

Female workers engaged on casual basis or on muster roll on daily wages are also entitled to benefit under the act. Since there is nothing in the act which confers the benefit only on regular woman employees

She has to give a notice in writing in Form 1 to the employer for payment of maternity benefit or any other amount which shall not be earlier than six weeks from the date of expected delivery. She has to nominate a person in Form 1 who can be paid the maternity benefit or such amount on her behalf.

Period of Maternity Benefit:-

It Shall be 26 weeks of which not more than 8 weeks shall precede the date of her expected delivery.

Clarification about Maternity Benefit Act, 1961

Q. Our Establishment is employing more than 10 workers, and as such, it is covered by the Maternity Benefit Act, I seek the following clarifications:-

- a) Is there any restriction for number of maternity leave to be taken by a woman employee?
- b) Can a woman employee ask for maternity leave for adoption of a child?
- c) Is any medical bonus available under the Maternity Benefit Act?

Ans:-

- a) There is no restriction with regard to number of times for availing maternity leave under the Maternity Benefit Act/
- b) There is no such provision for allowing of a child by a woman.
- c) Under section 8 of the Maternity Benefit Act, every woman will be entitled to receive from her employer a medical bonus of Rs.3500/- if no pre-natal confinement and post - natal care is provided by the employer free of charge.

Obligations for the employer :-

- a. To exhibit the abstract of the provisions of the act and the rules made there under in a conspicuous place in every part of the establishment in which women are employed.
- b. To maintain a muster roll in the prescribed form;
- c. To submit annual returns in the four prescribed forms.
- d. The Employer cannot dismiss or discharge a woman employee during her absence/ leave due to her pregnancy / delivery, miscarriage or illness or for Tubectomy operations.

Computation of average daily wage:-

The average daily wage is computed by arriving at an average of the wages paid to a female employee for the days on which she has worked during the period of three calendar months immediately prior to the date on which she absents herself from duty on account of maternity or the minimum rate of wages or Rupees Ten whichever is highest.

In calculating 80 days in the twelve months immediately preceding the date of expected delivery.

The following days are to be included:-

1. The days on which a woman has actually worked.
2. The days of lay-off.
3. And holidays with wages to be counted.

It Includes:- A) All remuneration in cash paid or payable on fulfilling the terms of employment.
B) Dearness Allowance C) House Rent Allowance or any such cash allowance D) Incentive Bonus
E) Money value of concessional supply of food grains other articles.

It Excludes:- a) Any Bonus other than incentive bonus, b) Overtime wage, c) Amounts recovered as fines, d) Employer's contribution to provident fund and pension fund, e) Gratuity on termination of service.

Requirements in Brief:-

- 1) She should take the payment for the First Six weeks before she goes on leave
- 2) She will get the payment for the six weeks after child birth within 48 hours of giving proof that she has delivered a child
- 3) She will be entitled to two nursing breaks of fifteen minutes each in the course of her daily work, till her child is fifteen months old.
- 4) Her employer cannot discharge her or change her conditions of service while she is on maternity leave.
- 5) On receipt of notice in writing of intimating in Form I Cum Nomination for maternity benefit, the employer shall permit the woman to absent herself.
- 6) The Production of certificate in Form 2 from a Registered Medical Practitioner certifying the Proof of Pregnancy, delivery, miscarriage or illness arising out of pregnancy, delivery, premature birth of child or miscarriage of a woman shall, for the purpose of the act and these rules be proof of such pregnancy, delivery, miscarriage or as the case may be, illness.
- 7) Additional leave with pay upto one month if the woman shows the proof of illness due to the pregnancy, delivery, miscarriage or premature birth.
- 8) A certificate from Registered Midwife in Form 3 in evidence of the confinement or miscarriage of a woman.
- 9) Light work for 10 weeks (Six weeks plus One Month) before the date of her expected delivery, if she ask for it.
- 10) No discharge or dismissal while she is on maternity leave.
- 11) Pregnant woman discharged or dismissed may still claim maternity benefit from the employer. Exception: women dismissed for gross misconduct lose their right under the act for Maternity Benefit.

Maternity Benefit in case of Death of Women:-

1. The maternity benefit is payable only up to and including the date of death, if the woman dies during the benefit period.
2. If she dies during delivery or immediately after delivery, leaving the child behind, the maternity benefit is payable for the entire period of 26 weeks.
3. If the child also dies, the maternity benefit is payable up to and including the date of death of the child.
4. A certificate in Form 4 as proof of death of woman employee or the child as the case may be is to be produced.
5. The employer has to pay it to the persons, nominated in the notice of claim in Form 1 to be issued by her.

Forfeiture of Maternity Benefit / Medical Bonus:-

1. If she works in any other establishment during the period of the maternity benefit during which her absence is permitted by the employer.

2. If the woman is guilty of gross misconduct and dismissed for the same, the employer can by an order communicated to her in writing deprive her of maternity benefit or medical bonus or both.

Tips for Employer:-

- 1) Abstract of the Maternity Benefit to be exhibited u/s. 19, shall be in Form
- 2) Maternity Benefit Register in Form 10 has to be maintained
- 3) Supply of Maternity Benefits Form to the Women Employees other than Form 9, 10 & 11
- 4) Every Employer shall furnish to the Competent Authority by the 15th Day of January each year in Form no 11

Penal Provision:-

Imprisonment up to 1 year & Fine up to Rs. 5000/-

Summary:-

The Maternity Benefit Act applies in the first instance to mines, factories, plantations, the circus industry, and to shops and establishments employing 10 or more persons. There is no wage limit for coverage under the Act. The Act provides for maternity and other benefits before and after childbirth. A female employee, however, he can be deprived of maternity benefit under certain conditions. The central government has power to exempt an establishment from the operations of all or any of the provisions of the Act if it is satisfied that the benefits granted by the establishment are not less favorable than those provided in the act. The central government is responsible for administration of the act in mines and in the circus industry, while the state governments are responsible for factories, plantations, and other establishments.

DT:

To,

Assistant Commissioner of Labour,
1st Floor, E Block, Kamgar Bhavan,
Behind RBI Building,
Nr.City Park, Bandra-Kurla Complex,
Mumbai-400 051

Sub: Annual Return under The Maternity Benefit Act, 1961 for the year

Dear Sir,

Please find enclose here with the Annual Return under The Maternity Benefit Act, 1961 for the year _____ duly filled and signed by us.

We request you to kindly acknowledge the receipt of the same.

Regards,

FOR

AUTHORISED SIGNATORY

ENCL: AS ABOVE.

FORM XI

[See rule 15]

Return to be submitted to the Competent Authority on or before the 15th January each year

1. Name of the Factory
2. Name of Occupier
3. Name of the Manager
4. Year ending
5. Average number of women employed daily
6. Number of women who claimed Maternity Benefit under section 6 of the Maternity Benefit Act, 1961
7. Number of women who were paid maternity Benefit for actual birth.
8. Number of other persons who were paid maternity Benefit under section 7 of the Maternity Benefit Act, 1961
9. Total amount of maternity benefit paid.
10. Amount of medical bonus paid.

Signature of employer.

✓ Bonus on maternity leave - whether payable

Q Our establishment is covered under the Payment of Bonus Act and I understand that the payment of bonus is to be made only when an employee is on duty since the terminology is used on 'working days'. My specific query pertains as to whether a female employee, who is on maternity leave, will be entitled to the bonus under the Payment of Bonus Act?

A Yes. Sub-clause (d) of section 14 of the Payment of Bonus Act provides that for the purpose of section 13 pertaining to proportionate reduction in bonus in certain cases, the employee who has been on maternity leave with salary, will be treated as if she is in the employment hence bonus will be payable.



Casual female employees - whether entitled to maternity benefit

- Q** In addition to regular employees, we engage some female employees on casual basis to meet certain contingencies. We are not clear as to whether they will be entitled to maternity benefits?
- A** Be it clarified that under the Maternity Benefit Act, an establishment employing 10 or more employees is required to extend maternity benefits to a female worker provided she has completed 80 days' service. Be it clarified that Gujarat High Court has held that in the facts of the said case, it was held by the Apex Court that the provisions of the Maternity Benefit Act, 1961 apply even to casual female workers and they are entitled to maternity benefits. Considering these facts of the present case, according to my opinion, decision of the Apex Court would squarely apply to the facts of the present case and would cover the matter at issue. I am, therefore, of the opinion that the petitioner is entitled for the maternity leave for the period from 7th September, 1999 to 28th October, 1999 and 24th November, 1999 to 24th December, 1999, in all, for 83 days with wages for the said period.

Bhartiben Babulal Joshi vs. Administrative Officer, 2004 (100) FLR 1100 : 2004 LLR 233 (Guj. HC).

TIPS ON

The Maternity Benefit Act, 1961

Prior to the enactment of the Maternity Benefit Act of 1961 there were in force several central and State Maternity Benefit Acts in the country. But there was no uniformity in their provisions. It was desirable to have uniform maternity benefit provisions for all women workers in the country. It is true that its object was achieved by the enactment of the Employees' State Insurance Act of 1948, which superseded the provisions of several Maternity Benefit Acts. But the Employees' State Insurance Act did not cover all women workers in the country. The Maternity Benefit Act of 1961 was therefore passed to provide uniform maternity benefit for women workers in certain industries not covered by the Employees' State Insurance Act.

Q. What is the object of the Maternity Benefit Act, 1961?

A. The object of the Act is:

- (1) to provide for maternity benefit to women workers in certain establishments;
- (2) to regulate the employment of women workers in such establishments for certain period before and after child birth.(Preamble)

Applicability of the Act

Q. Which establishments are covered by the Act?

A. The Act applies to:

- (1) every establishment being a factory, mine, plantation or circus;
- (2) every shop in which 10 or more persons are employed;
- (3) any other establishment to which the Act is applied by the State Government under the proviso to S.2(1).

Note:- The Act applies to a factory, mine or plantation belonging to Government.

Note:- The Act does not apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act apply. (S.2)

Q. Is there any justification for denying the benefits of the Maternity Benefit Act to women workers on the ground that they are not regular employees but they are on the muster roll?

A. The Supreme Court, in *Municipal Corporation of Delhi v. Female Workers (Muster Roll) & Anr.* (2000 I C.L.R. 879) has said; "We have scanned the different provisions of the Act, but we do not find anything contained in the Act which entitles only regular women employees to the benefit of maternity leave and not those who are engaged on casual basis or on muster roll on daily wage basis."

Q. Can an Assistant Teacher, who is granted maternity leave, be denied the benefit of leave pay on the ground that at the relevant time she was working on probation?

A. Applying the ratio of the decision of the Supreme Court in the case of *Municipal Corporation of Delhi* (2000 I CLR 879) to the facts of this case, the Assistant Teacher is entitled to the benefit of maternity leave with pay.

Note: Held in *Bhartiben Babulal Joshi v. Administrative Officer* 2004 I CLR 408 (Guj.H.C.)

Restrictions on employment of women

- Q. What are the restrictions placed by the Act on the employment of women?**
- A.** The restrictions placed by the Act on the employment of women are as follows:
- (1) The employer is prohibited from knowingly employing a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage;
 - (2) A woman also, on her part, is required to abstain from working in any establishment during the said period;
 - (3) A pregnant woman can also request her employer not to give her any work which is of an arduous nature or which involves long hours of standing, etc. during the period of one month immediately preceding the period of six weeks, before the date of her expected delivery or any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence, under the Act. On such a request being made by her, the employer shall not give her such work during such period.

S.4

- Q. To whom maternity benefit is payable in case of death of a woman?**

- A.** If a woman entitled to maternity benefit dies before receiving such benefit, the employer shall pay such benefit to the person nominated by the woman and in case there is no such nominee, to her legal representative.

S.7

- Q. What is the restriction placed by the Act on the termination of employment of a woman?**

- A.** When a woman absents herself from work in accordance with the provisions of the Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence.

S.12

Time for payment of benefit

Q. What is the time for payment of maternity benefit?

A. The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance to the woman on production of proof that the woman is pregnant and the amount due for the subsequent period shall be paid to the woman within 48 hours of production of proof that the woman has been delivered of a child. S.6

Q. What is the period for which a woman is entitled to maternity benefit and what is the rate of the benefit?

A. (1) the maximum period for which any woman shall be entitled to maternity benefit shall be 26 weeks of which not more than 8 weeks shall precede the date of her expected delivery. If a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death. If a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for the entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

But no woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than 80 days in the 12 months immediately preceding the date of her expected delivery.

For the purpose of calculating the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law to be holidays with wages during the period of 12 months immediately preceding the date of her expected delivery shall be taken into account.

(2) A woman shall be entitled to the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately

preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. For the purpose of this provision, 'the average daily wage' means the average of the woman's wages payable to her for the days on which she has worked during the period of 3 calendar months immediately preceding the date from which she absents herself on account of maternity, or the minimum rate of wage fixed or revised or under the Minimum Wages Act, 1948 or 10 rupees, whichever is the highest. S.5

Q. Is a woman entitled to maternity benefit, also entitled to any medical bonus?

A. A woman entitled to maternity benefit under the Act shall also be entitled to receive from her employer a medical bonus of **Rs.2,500 to 3500/-** on and from **19.12.2011**, if no pre-natal confinement and postnatal care is provided for by the employer free of charge. The medical bonus shall be paid along with the second instalment of the maternity benefit.

S.8 & R.5

Q. Can a woman claim the maternity benefit from her employer if she works elsewhere during the period for which she has been permitted to absent herself under the provisions of the Act?

A. If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of the Act for any period during such authorised absence, she shall forfeit her claim to the maternity benefit for such period. S.18

Exemption

Q. Is it permissible under the Act to exempt any establishment from the provisions of the Act?

A. The appropriate Government can exempt any establishment from the operation of all or any of the provisions of the Act or of any rule made under the Act if the benefits provided by the establishment are not less favourable than those provided in the Act. S.26

Q. Is a woman entitled to any leave with wages for illness in addition to the period of absence allowed to her under the provisions of the Act?

- A. A woman suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall be entitled, in addition to the period of absence allowed to her under the provisions of the Act, to leave with wages at the rate of maternity benefit for a maximum period of one month.

S.10

- Q. Is a woman entitled to any leave with wages for miscarriage?**

- A. In case of miscarriage, a woman shall be entitled to leave with wages at the rate of maternity benefit, for a period of 6 weeks immediately following the day of her miscarriage. S.9

- Q. Is it necessary for a woman claiming leave with wages for miscarriage to satisfy the condition that she had worked for a period of not less than 80 days in the 12 months immediately preceding the date of miscarriage?**

- A. Such condition has to be satisfied for claiming Maternity Benefit under Section 5 of the Act. There is no condition of any sort to be satisfied for claiming leave wages for miscarriage under Section 9 of the Act.

- Q. Is a woman entitled to any benefits in case of medical termination of pregnancy or tubectomy operation also?**

- A. By amendment of Sections 4, 9 and 10 and by insertion of new Section 9-A vide Act No. 29 of 1995, certain benefits are conferred on women in case of medical termination of pregnancy and tubectomy operation. S.9-A

- Q. What are the other obligations of the employer under the Act?**

- A. Under the Act the employer is required:

- (a) to exhibit the abstract of the provisions of the Act and the rules made thereunder in a conspicuous place in every part of the establishment in which women are employed; S.19 and R.5

- (b) to maintain a muster roll in the prescribed form; (R.3)

- (c) to submit annual returns in the four prescribed forms

(R.16)

Q. What is the punishment for the contravention of the provision of the Act?

- A.** (1) If any employer fails to pay any amount of maternity benefit to a woman entitled under the Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of the Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees. The Court may, however, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.
- (2) If any employer contravenes the provisions of the Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under the Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both. Where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the Court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.

S.21

FREQUENTLY ASKED QUESTIONS ON MATERNITY BENEFIT ACT

Q. (i) What is the qualifying period for claiming maternity benefit by a woman employee?

(ii) When she is covered by ESI Act?

A. (i) Such an employee must have worked for a minimum period of 80 days.

(ii) A woman employee, covered under ESI Act, shall be qualified to claim maternity benefit for a confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable for not less than seventy days in the immediately preceding two consecutive contribution periods.

Q. Are daily wagers or casual women employees also entitled to maternity benefit?

A. Yes. Provided they have worked at least for 80 days or under ESI provided contributions for two consecutive periods have been deposited as held by madras high court in management, glen brook estate vs. Plantation officer, 2012 LLR 420 (Mad. HC)

Q. Is there any cap on number of deliveries for claiming maternity benefit either from the employer or the employees' State insurance corporation?

A. No. there is no such limit.

Q. Is maternity benefit available to an employee on adopting a baby by a woman employee?

A. No.

Q. What about women domestic employees?

A. They are not covered by this Act.

Q. Are women employees, engaged on contract basis, entitled be maternity benefit?

A. Yes. The Punjab & Haryana High court has endorsed this in Mrs. Anima Goel vs. Haryana State Agricultural Marketing Board, 2007 LLR 479.

Q. Is any medical bonus also available to a woman employee?

A. Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of Rs.3500, if no prenatal confinement and post-natal care is provided for by the employee free of charge.

Q. What is the quantum of leave other than child birth?

A. In case of miscarriage, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage.

In case of miscarriage or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.

In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

Q. Whether a woman employee, covered under ESI Act, will get reimbursement if she does not go to ESI Hospital?

A. No. In case one does not want that delivery should take place at ESI hospital where the facilities exist and she wants to go to a private nursing home, she cannot claim reimbursement of expenses from ESIC, incurred for delivery.

Q. What is the difference for entitlement of an insured woman employee under the ESI Act and wife of an insured person?

A. The wife of an insured person will be entitled to all the medical facilities which include delivery of the child also. But she will not be entitled to cash benefits which are available to insured women only. Cash benefits are given to compensate the loss of salary which the employee is unable to earn due to sickness including maternity.

Q. What are the non-cash benefits or privileges?

A. A women worker is also entitled to the following privileges:

1. Light work ten weeks (Six weeks plus one month) before the date of her expected delivery, if she asks for it.

2. Two nursing breaks in the course of her daily work until the child is 15 months old.

3. No discharge or dismissal while she is on maternity leave.

4. No change to her disadvantage in any or the conditions of her employment while on maternity leave.

5. Pregnant women discharged or dismissed may still claim maternity benefit from the employer.

Exception: Women dismissed for gross misconduct lose their right under the Act for maternity benefit.

Q. What is meant by 'light work'?

A. 'Light work' means work which neither required hard physical effort nor involves long hours of standing and which does not adversely affect her health or, in any way, interferes with her pregnancy.

Q. Whether leave for illness arising out of pregnancy, delivery, premature birth of child or mis-carriage is available?

A. Yes. A woman suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall, on production of such proof as may be prescribed, be entitled, in addition to the period of absence allowed to her under section 6 of the Act, or as the case may be, under section 9 of the Act i.e. leave for miscarriage to leave with wages at the rate of maternity benefit for a maximum period of one month.

Q. Is a woman employee under obligation to give notice to the employer for claiming for claiming benefit?

A. Although giving of notice is prescribed and it is also provided that in the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery. However, any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

Q. Is there any penalty for violating the provisions of the Act?

A. If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

FAQ on Maternity Benefit Act, 1961

Eligibility for Maternity Benefit: For a woman to be eligible to claim Maternity Benefit does the date of delivery have to be minimum 12 months after the date of joining? i.e. Is she required to have a minimum of 80 working days in 12 months of service. Or is she required to have minimum 80days of service?

Answer : Minimum 80 days she has to work during preceding 12 months for claiming the benefits.

Miscarriage: On submission of proof of a natural miscarriage, is the staff member entitled to 42 days of paid Maternity Leave?

Answer : We are required to refer the provision of Section 6, 9 & 10 of the Act- As per section 6 women are entitled for benefits of 26 weeks of which not more than 8 weeks shall precedes the date of her expected delivery.

Section 9 : in case of miscarriage on production of such proof, be entitled to leave with wages for a period of 6 weeks immediately following the day of her miscarriage.

Section 10: Women will be entitled to the benefits in addition to the period of absence allowed U/s. 6 or as the case may be U/s. 9, to leave with wages at the rate of maternity benefit for a maximum period of one month.

Proof to be Submitted: Is a dr.'s certificate confirming the pregnancy and expected date of delivery sufficient? Is there any other form to be submitted?

Answer : Sir we are required to refer the Rule 5 where Form No. 2, 3, and 4 are required forms and proof required for the same.

Payment of Maternity Benefit: Are we supposed to pay Maternity Benefit like monthly salary or only after submission of the certificate confirming the date of delivery?

Answer : Sir about payment we are required to refer the Section 6(5). The amount of benefits for the period preceding the date of her expected delivery shall be paid in advance and for the subsequent period shall be paid within 48 hours of production of such proof as may be prescribed.

Work From Home: Will it be made applicable only from July 1, 2017?

Answer : Effective from the date of notification.

Crèche Facility: Will be made applicable only from July 1, 2017? Does the crèche facility apply to the 50 employees **in each branch or company as a whole?**

Answer : Company as a whole not a branch.- Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities

Resignation after claiming Maternity Benefit: What are the rights of the employer in the event that a staff member does not resume work after the completion of 26 weeks of Maternity Leave and the option to work from home is not applicable?

Answer : There is no restriction about resignation immediately after enjoying the benefits.

Resignation after realizing that she is not eligible to claim Maternity Benefit: Will the employer be held responsible for the independent decision of a woman to resign if she is pregnant but not eligible to claim maternity benefit?

Answer : In case of resignation employer is not responsible

Guidelines For Setting Up Of Crèche Facilities

Vide its office memorandum dated November 2, 2018, the Ministry of Women and Child Development, Government of India issued National Minimum Guidelines⁴ for setting up and running Crèches under Maternity Benefit Act, 2017 (Crèche Guidelines). Some of the key highlights of the Crèche Guidelines are as under:

- I. There should be one crèche for every 30 (thirty) children which should be extended to children of age group of 6 (six) months to 6 (six) years of all employees including temporary, daily wage, consultant and contractual workers;
- II. The location of the crèche facility should be at the workplace or within 500 (five hundred) meters from the premises of the establishment;
- III. Appointment of one crèche personnel along with one helper for every 10 (ten) children in the age group of below 3 (three) years and for every 20 (twenty) children in the age group of 3 (three) to 6 (six) years. It also provides for appointment of a crèche-in charge if the number of children in crèche is more than 5 (five).
 - (i). Streamlining of the crèche timings, keeping in view the parents' working hours/ timings/ shifts in an establishment (assuming an 8 (eight) hours shift);
 - (ii). Every establishment must adopt a child protection policy. The Crèche Guidelines provide for a model child protection policy that can be adopted by establishments. The objective of this policy is to prevent child abuse in any form at establishment's workplace and within its operating hours. Such policy must provide for a complaints committee constituted by the establishment to receive complaints, conduct formal enquiries and recommend appropriate action for redressal and punishment;
 - (iii). Norms and Standards for a crèche have been provided which comprise the regulations for crèche environment, crèche equipment/ material, safety/ protection at the crèche, health practices, nutrition practices, hygiene and sanitation practices etc.
- a) Crèche equipment/materialthe materials to be procured by crèche for its operations which includes certain nonrecurring expenses such as furniture, appliances, etc. and certain recurring expenses such as eatables, stationary, etc. The complete descriptive list of materials under recurring and non-recurring expenses are mentioned in annexure to the Crèche Guidelines,
- b) Nutrition and health practices - sample immunization schedule, calorie requirement chart for different age group of children and the WHO standard growth-monitoring chart to monitor the growth of the children in the crèche. The sample meal charts for various age groups are also mentioned in annexure to the Crèche Guidelines which could be adopted by the establishments setting up crèche,
- c) Crèche transactions- the activities to be organized for holistic development of children and provides for a curriculum depending on the age group of children in crèche. The Crèche Guidelines also outline activities to monitor the development of children in the crèche depending on the age of children;
- (iv). The preferred age of crèche staff shall be between 20 to 40 years. Further, the workers are also required to undergo training and their appointments would be made on assessment of their skills, knowledge and attitude. Such training may be provided by different organizations who specialize in providing training of childcare workers. There is no specification on who can impart such training to the establishments;
- (v). In order to monitor and supervise the functioning of crèche, a crèche monitoring committee is required to be set up by the establishments. The crèche monitoring committee would constitute 3 to 4 parents, crèche worker, crèche supervisor and human resource/ administrative officer.

It is seen that the Crèche Guidelines are likely to serve as a prototypical recommendations for all the States to appropriately incorporate these in their State specific maternity benefit rules.

1. Kerala Shops And Establishment Ordinance, 2018 The Government of Kerala vide notification dated October 4, 2018, promulgated an ordinance - Kerala Shops and Establishments (Amendment) Ordinance⁵ (hereinafter referred to as the "Ordinance") with a view to further modify the prevalent Kerala Shops and Establishments Act, 1960 (hereinafter referred to as the "Act"). The Act provides for registration of establishments, duties of employer, payment of wages, hours of work, leaves, holidays, overtime, intervals for rest, prohibited employment as in case of children, cleanliness, ventilation and lighting and penal consequences in the event of failure of compliance.

Below are some of the many amendments to stated sections of the Act, as introduced by the Ordinance:

(i). Section 2(6) - "Employee" means a person wholly or principally employed in, and in connection with, any establishment and includes apprentices or class of persons as may be declared by the Government.

(ii). Section 11 - Substitution of the said provision allows for grant of weekly holidays^{a)}

a) Every person employed in a shop or a commercial establishment shall be allowed in each week a holiday of one whole day provided that nothing in this sub-section shall apply to any person whose total period of employment in the week including any days spent on authorized leave, is less than six days.

b) No deduction shall be made from the wages of any employee in an establishment on account of any day on which a holiday has been allowed in accordance with this section and if such person is employed on the basis that he would not ordinarily receive wages for such day, he shall nonetheless be paid for such day the wages he would have drawn had the holiday not been allowed on that day.

(iii). Section 20 - No woman or any person who has not attained the age of seventeen shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 A. M. or after 9 P. M. However, an employer may employ women employees between 9 P.M. and 6 A.M., after obtaining the consent of such women employees ensuring that no female employee is employed between those hours other than in groups consisting of at least five employees having a minimum of two female employees and adequate protection of their dignity, honor and safety, protection from sexual harassment and facility for transportation from the shop or establishment to the doorstep of their residence;

(iv). Section 21B - Newly introduced provision for seating facilities states that in every shop and establishment, suitable arrangements for sitting shall be provided for all workers so as to avoid 'on the toes' situation throughout the duty time, so that they take advantage of any opportunity to sit which may occur in the course of their work;

(v). Section 29 - Modifications have been made to the penal provisions increasing the amount of the prescribed penalties;

(vi). Section 30 - The registers, records and display of notices shall be maintained in electronic as well as physical form.

The Ordinance accords equality of working opportunities to the women in State of Kerala while ensuring their safety and protection. In order to ensure compliance to the provisions of the Act, stricter penalties have been imposed.

Above is only in the form of guidelines and for implementation purpose expert advise can be sought. However , Govt of Maharashtra is in the processing of framing Rules for Creche facilities to be provided by the Agencies and Employers at Workplace.

FORM L

[See rule 16]

ANNUAL RETURN FOR THE YEAR ENDING ON THE 31ST DECEMBER, 20.....

1. Name of

2. Situation of

Mauza

District

State

Nearest Railway Station

3. Date of opening of

4. Date of closing, if closed.

5. Postal address of

6. Name of employer.

Postal address of managing agent

7. Name of managing agent, if any.

Postal address of managing agent.

8. Name of Agent or representative of employer.

Postal address of representative of employer.

9. Name of Manager

Postal address of manager

10.

(a) Name of medical officer, attached to

(b) Qualification of medical officer attached to

(c) Is he resident at ?

(d) If a part-time employee, how often does he pay visits to

11.

(a) Is there any hospital at ?

(b) If so, how many beds are provided for women employees?

(c) Is there a lady doctor?

(d) If so, what are her qualifications?

(e) Is there a qualified midwife?

(f) Has any crèche been provided?

(a) Signature of employer

Date.....

FORM M

[See rule 16]

**EMPLOYMENT, DISMISSAL, PAYMENT OF BONUS, ETC., OF WOMEN FOR THE
YEAR ENDING ON 31ST DECEMBER, 20...**

1. ¹[Mine or circus].
 2. Aggregate number of women permanently or temporarily employed during the year.
 3. Number of women who worked for a period of not less than ³[eighty days] in the twelve months immediately preceding the date of delivery.
 4. Number of women who gave notice under section 6.
 5. Number of women who were granted permission to remain absent on receipt of notice of confinement.
 6. Number of claims for maternity benefit paid. i
 7. Number of claims for maternity benefit rejected.
 8. Number of cases where pre-natal, confinement and post-natal care was provided by the management free of charge (section 8).
 9. Number of claims for medical bonus paid (section 8).
 10. Number of claims for medical bonus rejected.
 11. Number of cases in which leave for miscarriage/ ²[MTP] was granted.
 12. Number of cases in which leave for miscarriage/ ²[MTP] was applied for but was rejected.
- ²[12aNumber of cases in which leave for tubectomy operation under section 9A was granted.
- 12b. Number of cases in which leave for tubectomy operation was applied for but was rejected.]
 13. Number of cases in which additional leave for illness under section 10 was granted.
 14. Number of cases in which additional leave for illness under section 10 was applied for but was rejected.
 15. Number of women who died
 - (a) before delivery.
 - (b) after delivery.
 16. Number of cases in which payment was made to persons other than the woman concerned.
 17. Number of women discharged or dismissed while working.
 18. Number of women deprived of maternity benefit and/or medical bonus under proviso to sub-section (2) of section 12.
 19. Number of cases in which payment was made on the order of the Competent Authority or Inspector.
 20. Remarks.

N.B.-Full particulars of each case and reasons for the action taken under serials 7,10,12,14,17 and 18 should be given in Appendix below:-

Signature of employer.

Date.....

FORM N
[See rule 16]

DETAILS OF PAYMENT MADE DURING THE YEAR ENDING 31ST DECEMBER,
20.....

Name of person to whom paid Amount paid

1. Date of payment.
2. Woman employee.
3. Nominee of the woman.
4. Legal representative of the woman.
5. Amount for the period preceding date of expected delivery.
6. Amount for the subsequent period.
7. Under section 8 of the Act.
8. Under section 9 of the Act.
¹[8a.Under section 9A of the Act.]
9. Under section 10 of the Act.
10. Number of women workers who absconded after receiving the first instalment of maternity benefit.
11. Cases where claims were contested in a court of law.
12. Results of such cases.
13. Remarks.

Signature of employer

Date.....

FORM-O
[See rule 16]
PROSECUTION DURING THE YEAR ENDING 31ST DECEMBER, 20....

Place of employment of the women employee	Number of cases instituted	Number of cases which resulted in conviction	Remarks

(For mines)

N.B.-Reasons for prosecution should be given in full in the Appendix below:

Signature of employer.

Date.....



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

पांग II — छन्द 1

PART II — Section 1

प्राप्तिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 6]

वर्ष दिल्ली, मंगलवार, मार्च 28, 2017/चैत्र 7, 1939 (साक)

No. 6]

NEW DELHI, TUESDAY, MARCH 28, 2017/CHAITRA 7, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th March, 2017/Chaitra 7, 1939 (Saka)

The following Act of Parliament received the assent of the President on the 27th March, 2017, and is hereby published for general information:—

THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017

No. 6 of 2017

[27th March, 2017.]

An Act further to amend the Maternity Benefit Act, 1961.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2017.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

53 of 1961.

2. In the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in section 3, after clause (b), the following clause shall be inserted, namely:—

Amendment of section 3.

'(ba) "commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;'.
Amendment of section 3.

3. In the principal Act, in section 5,—

Amendment of section 5.

(A) in sub-section (3)—

(i) 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 sub-section (3) and before the first proviso, the following proviso shall be inserted, namely:—

"Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;";

(iii) in the first proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(iv) in the second proviso, for the words "Provided further that", the words "Provided also that" shall be substituted;

(B) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.".

4. In the principal Act, after section 11, the following section shall be inserted, namely:—

Insertion of
new section
11A.

Crèche
facility.

"11A. (1) Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities :

Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her.

(2) Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.".

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

UPLOADED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI-110002
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भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

मं. 914]

नई दिल्ली, शुक्रवार, मार्च 31, 2017/चैत्र 10, 1939

No. 914]

NEW DELHI, FRIDAY, MARCH 31, 2017/CHAITRA 10, 1939

धर्म और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 31 मार्च, 2017

का.आ. 1026(अ).—केन्द्रीय सरकार, प्रमुखि प्रमुखिया (गंभीर्यन) अधिनियम, 2017 (2017 का 6) की धारा 1 की उप-धारा (2) द्वारा प्रदत्त अक्तियों का प्रयोग करते हुए, एतद्वारा—

(i) 1 अप्रैल, 2017 तिथे उक्त अधिनियम के प्रावधान, मिवाय धारा 3 की उप-धारा (5); तथा

(ii) 1 जुलाई, 2017 तिथे उक्त अधिनियम की धारा 3 की उप-धारा (5),

प्रवृत्त होने, ऐसी सारी नियत करती है।

[फा. सं. ग्र-36012/03/2015-वा.सु.-I]

मनीष कुमार गुप्ता, संयुक्त मन्त्रिय

MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 31st March, 2017

S.O. 1026(E).—In exercise of the powers conferred by sub-section (2) of section 1 of the Maternity Benefit (Amendment) Act, 2017 (6 of 2017), the Central Government hereby appoints—

- (i) the 1st day of April, 2017 as the date on which the provisions of the said Act, except sub-section (5) of section 3; and
- (ii) the 1st day of July, 2017, as the date on which sub-section (5) of section 3 of the said Act, shall come into force.

[F.No.S-36012/03/2015-SS-I]

MANISH KUMAR GUPTA, Lt. Secy.

1833 GP/2017

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SPEED POST
(744)

No.RTI/01/2017-SS-I(Vol.II)

Government of India

Ministry of Labour & Employment

Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated 12-10-2017

To

Sh. Ramneek,
 H.N.2439 (First Floor), Sector -23,
 Gurgaon-125055,
 Haryana.

Subject: Information sought under the RTI Act, 2005 by
 Sh. Ramneek regarding maternity benefit under the
 Maternity Benefit Act, 1961.

Sir,

This is with reference to your RTI application Registration No.MLABE/R/2017/51261 dated 27.09.2017 on the subject mentioned above.

2. As per Section 11A recently added in the Maternity Benefit Act, 1961 it has been made mandatory for the employers employing 50 or more employees to provide creche facility, either separately or through common facility. Therefore, cost/expenditure on this account is to be borne by the employer.

3. The Appellate Authority for RTI matters in this Ministry is Shri H.L. Meena, Director, Ministry of Labour and Employment, Shram Shakti Bhawan, New Delhi-110001.

Yours' faithfully,

(Ajay Malik)

Under Secretary to the Govt. of India & CPIO

Jagneet
12/10/17

Central guidelines for crèches at workplaces

The Hindu dt 2 12.18

Norms apply to institutions with 50 or more staff

SPECIAL CORRESPONDENT
NEW DELHI

The Centre has prepared guidelines for setting up of crèches at workplaces, which prescribe trained personnel to man the facility as well as infrastructure requirements and safety norms.

In March this year, Parliament passed the Maternity Benefit Amendment Act, 2017, enhancing paid maternity leave from a period of 12 weeks to 26 weeks. The law is applicable to all institutions with 10 or more employees. It also makes it mandatory for every organisation with 50 or more employees to have a crèche.

The guidelines made public last month recommend that a crèche be either at the workplace or within 500 metres of it. Alternatively, it could also be in the beneficiaries' neighbourhood.

The facility should be open for eight to 10 hours and if the employees have a shift system, then the crèche should also be run accordingly. A crèche must have a minimum space of 10 to 12

Room for babies

The Centre has released guidelines which say that a crèche be either at the workplace or within 500 m of it

Timings: Open for 8 to 10 hours; should be adjusted according to the shift system at the workplace

Safety first

- A crèche must have a minimum space of 10 to 12 square feet per child
- There should be no unsafe places such as open drains, deep and large pits, garbage bins near the centre
- It should have at least one guard, who should have undergone police verification
- At least one supervisor per crèche
- A trained worker for every 10 children under 3 years or for every 20 children above 3, along with a helper
- The crèche staff should be paid at least minimum wages



square feet per child to ensure that she or he can play, rest and learn. There should be no unsafe places such as open drains, pits, garbage bins near the centre.

The crèches should have at least one guard, who should have undergone police verification. There should also be at least one supervisor per crèche and a trained worker for every 10 children under three years of age or for every 20 children above the age of three, along with a helper.

The government has also

recommended that no outsiders such as plumbers, drivers, electricians be allowed inside the crèche when children are present.

A crèche monitoring committee with representations from among crèche workers, parents and administration should be formed. There should also be a grievance redressal committee for inquiring into instances of sexual abuse. The guidelines are not mandatory but are a yardstick for NGOs and organisations for setting up of creches.

EMPLOYEES' COMPENSATION ACT, 1923

CHECKLIST

Applicability

All over India
Sec.1

Coverage of Employees

All employees in any capacity irrespective of their status or salaries either directly or through contractor or a person recruited to work abroad. **Sec.2**

Employer's liability to pay compensation to a employee

On death or personal injury resulting into total or partial disablement or occupational disease caused to a employee arising out of and during the course of employment.

Sec.3

Amount of compensation

- Where death of a workman results from the injury
 - An amount equal to fifty per cent of the monthly wages of the deceased workman multiplied by the relevant factor on an amount of eighty thousand rupees, whichever is more.
- Where permanent total disablement results from the injury.
 - An amount equal to sixty per cent of the monthly wages of the injured workman multiplied by the relevant factor or an amount of ninety thousand rupees, whichever is more

Procedure for calculation

Higher the age – Lower the compensation

- Relevant factor specified in second column of Schedule IV giving slabs depending upon the age of the concerned employee.
- Effective from **03/01/2020**, the wages of every employee getting More than **Rs. 15,000/-** per month, will be taken as **Rs. 15,000/- P.M.** for calculation of compensation. If it is less than, lesser amount to be taken.

Sec. 4

When an employee is not liable for compensation

- In respect of any injury which does result in the total or partial disablement of the employee for a period exceeding three days.
- In respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to-
- The employee having been at the time thereof under the influence of drink or drugs, or
- Willful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employee, or
- Willful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workman.

Sec.3 (a) & (b)

Notice Accident

As soon as Practicable

Sec. 10

Report of accident

Rule 11 Form EE

Report of fatal Accident and Serious Injury within 7 days to the Commissioner (not application when ESI Act applies).

Sec.10B

Bar upon contracting out

Any employee relinquishing his right for personal injury not permissible.

Sec.14

PENALTY

- In case of default by employer
 - 50% of the compensation amount + interest to be paid to the workman or his dependents as the case may be.
- Deposit of Compensation
 - Within one month with the Compensation Commissioner. **Sec.4A**

Source: LLR

THE EMPLOYEES' COMPENSATION ACT, 1923

(Old Name The Workmen's Compensation Act, 1923)

The Employees' Compensation Act, 1923 is an old but an important enactment, as it introduced a kind of social security scheme for the employees of this country. It enables an employee, and in case of death of an employee, his dependents, to get, at the cost of his employer compensation for employment injury.

Much later, in 1948, the Employees' State Insurance Act, introduced a social insurance scheme for the employees of his country. Unlike the earlier scheme this scheme rests on joint contribution by Government, employers and employees. The two enactments together constituted what may be called a Code of social security benefits for the workers of this country.

Objectives:-

The Object of the Act is to provide for the payment of compensation by certain employers to their employees for injury caused to them by accident while in employment. If an employee contracts an occupational disease while in employment, it is also treated under the Act as injury caused by accident.

Applicability:-

In case of Maharashtra, The Employees' Compensation Act is applicable to all shops & Establishments by virtue of Sec. 38 – A of The Bombay Shops & Establishments.

Sec. 16 of the Apprentices Act extends the application of the Employees' Compensation Act to the Apprentices appointed under Apprentices Act, 1961 rendering the employers liable to pay compensation for any personal injury or accident arising out of and in the course of employment caused to the apprentices.

Every Employer:-

1. Employing persons listed in Schedule II to the Act;
2. Carrying on an occupation listed in Schedule III to the Act
Is liable to pay compensation under the Act.

Eligibility:-

The following persons are liable to receive compensation under the Act:-

1. Certain Railway Servants;
2. Persons listed in schedule II to the Act,
3. Persons employed in occupations listed in Schedule III to the act.

Injuries Compensated under the Act:-

Under the Act injuries are broadly classified into four groups as those resulting in:-

- i) Death,
- ii) Permanent Total Disablement,
- iii) Permanent partial disablement &
- iv) Temporary disablement whether total or partial
- v) Contracted an occupational diseases.

The Act provides for different scales of compensation for different kinds of injuries.

Conditions for Receiving Compensation:-

An employee to whom personal injury is caused by accident is entitled to receive compensation under the Act if the accident arose out of and in the course of his employment. That means the accident must occur while the employee is in employment and it must also be connected with his employment.

Circumstances in which the employer is not liable to pay compensation for injury to a workman:-

The employer is not liable to pay compensation for injury to an employee on following circumstances:-

1. If the injury does not result in total or partial disablement of the employee for a period exceeding three days;
2. If the injury does not result in death of the employee and is caused by an accident which is directly attributable to:-
 - i) If an employee have been at the time thereof under the influence of drink or drugs
 - ii) The disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workman, or
 - iii) The willful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

Amount of Compensation:-

When the injury to an employee results in his death, the amount of compensation payable to his dependents is an amount equal to 50% of the monthly wages of the deceased employee multiplied by a figure ranging from 228.54 to 99.37 (depending upon the age of the deceased employee) or an amount of Rs. 1,20,000, whichever is more. However, if the monthly wages of the deceased employee exceed Rs. 15,000/-, his monthly wages for the purpose of calculating the compensation shall be deemed to be Rs. 15,000/- only (w.e.f. 03/01/2020)

Amount of Compensation Received in case of permanent total disablement:-

When the injury of an employee results in his permanent total disablement, the amount of compensation he is entitled to receive is an amount equal to 60% of the monthly wages of the injured employee multiplied by a figure ranging from 228.54 to 99.37 (depending upon the age of the injured person) or an amount of Rs. 1,40,000/- whichever is more. However, if the monthly wages of the injured employee exceed Rs. 15,000/-, his monthly wages for the purpose of calculating the compensation shall be deemed to be Rs. 15,000/- only.

When the injury of an employee results in his permanent partial disablement, the amount of compensation he is entitled to receive is a percentage of the compensation payable in the case of permanent total disablement. The percentage is determined with reference to the extent of loss of earning capacity caused by the injury and is a lumpsum payment.

In case of temporary Disablement:-

When the injury of an employee results in his temporary total disablement or temporary partial disablement he is entitled to receive compensation in the form of a half - monthly payment. The amount of a half - monthly payment is determined with reference to the monthly wages the

employee was drawing at the time of the injury and is equal to 25% of the monthly wages of the employee. The maximum period during which the employee can receive compensation for temporary total disablement or temporary partial disablement is five years.

In case of Fatal Accidents:-

Payment of compensation in respect of employee whose injury has resulted in death is not to be made directly to the dependents of the employee. In such case the employers is required to deposit the amount of compensation with the Commissioner for Employee's Compensation. The Commissioner will then apportion the amount among the dependents of the employee.

Note:- It is held that the payment of compensation directly to a dependent is not legal even if he is the only One dependent of the deceased employee claiming compensation.

Protection of Compensation :-

Compensation payable under the Act, whether in the Form of a Lumpsum or in the form of a half - monthly payment, cannot be assigned, charged, attached or set - off against any claim

Special Powers of the Commissioner in respect of Lumpsum Payment:-

Where any lumpsum compensation is payable to an employee or a person under a legal disability, the employer must deposit it with the Commissioner for Employee's Compensation. It is open to the Commissioner to invest such sum for the benefit of the woman or of such person during his disability.

Special Powers of the Commissioner in respect of Half - Monthly Payment:-

Where any half - monthly compensation is payable to a person under a legal disability, it is open to the commissioner for Employee's Compensation to order that such payment be made during the disability of the person to any dependent of the Employee or to any other person best fitted to provide for the welfare of the Employee.

Report of Fatal Accidents:-

If any accident occurs on the premises of any employer which results in death of an employee or serious bodily injury to an employee, the employer must, within 7 days of the death or serious bodily injury, send in the prescribed form a report to the Commissioner for Employee Compensation giving the circumstances attending the death or serious bodily injury.

When an Employee is injured while employed by a contractor, the principal employer is liable to pay compensation to him, but he is entitled to be identified by the contractor. The Employee is, however, free to recover compensation either from the principal employer or from the contractor.

Contracting Out:-

An employee is prohibited from contracting out of the benefits of the Act, i.e. from giving up his right to receive compensation from his employer under the Act. Any contract or agreement made by him relinquishing such right is null and void insofar as it removes or reduces the liability of any person to pay compensation under the Act.



भारत का राजपत्र

The Gazette of India

सौ.जी.-डी.एल.-आ.-04012020-215147

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मसाधारण

EXTRAORDINARY

भाग II—खण्ड 3 उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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नई दिल्ली, शुक्रवार, जनवरी 3, 2020/पौष 13, 1941
NEW DELHI, FRIDAY, JANUARY 3, 2020/PAUSH 13, 1941

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 3rd January, 2020

S.O. 71(E).—In exercise of the powers conferred by sub-section (1B) of section 4 of the Employee's Compensation Act, 1923 (8 of 1923) and in supersession of the notification of the Ministry of Labour and Employment issued vide number S.O. 1258(E), dated 31st May, 2010; published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 31st May, 2010, the Central Government hereby specifies, for the purposes of sub-section (1) of the said section, the following amount as monthly wages, with effect from the date of publication of this notification in the Official Gazette, namely:-

"Fifteen thousand rupees"

[F. No. S-37025/03/2016-SS-II]

VIBHA BHALLA, Jt. Secy.

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CONSEQUENCES OF RECENT AMENDMENT

(GAZETTE NOTIFICATION DT.03.01.2020)

TO THE EMPLOYEES' COMPENSATION ACT:

For death and permanent total disablement due to employment injury from 03.01.2020, employees will get higher compensation under Employees' Compensation Act, 1923.

For Death Cases:

Minimum: Rs. 7,45,275/-, Maximum: Rs. 17,14,050/-.

For Permanent Total Disablement Cases:

Minimum: Rs. 8,94,330/-, Maximum: Rs. 20,56,860/-.

The above amount of compensation is calculated based on revised wages of Rs. 15,000/- p.m. w.e.f 03rd January, 2020 (Before this amendment, this amount was Rs. 8,000/-).

However, if the wages is less than Rs. 15,000/-, the compensation will be proportionately less, subject to a minimum of Rs. 1,20,000/- & Rs. 1,40,000/- for death and permanent disablement benefit respectively.

Thumb Rule:

> Higher the age, lower the compensation.

> Relevant factors specified in Schedule-IV give slabs depending upon the age of the concerned employee.

If any of the above details are wrong or in case of variation, please do correct me and update us in this Group/Forum.

The Procedure to be followed for computing compensation for death or disablement:-

The Compensation is computable on the basis of monthly wages and the relevant factor, specified in the second column of sch. IV:-

Calculation of monthly wages:-

Sr. No	Graded Tenure of Service	Computation of Monthly Wages
A	Monthly wages in case of an employee in continuous service for not less than twelve months immediately preceding the accident	$\frac{1}{2}$ of the total wages due for payment in the twelve months preceding the accident (Sec. 5(a)) Ex. An employee's total wages in the preceding 12 months is Rs. 1,44,000/- His monthly wages in this case will be:- $Rs. 1,44,000 / 12 = Rs. 12,000/-$.
B	Monthly wages in case of an employee whose whole of the continuous period immediately preceding the accident is less than a month	The average monthly amount earned by any other an employee doing the same work during the twelve months immediately preceding the accident. Or in his absence, by a an employee employed in similar work in the same locality.
	Ex.: A an employee doing the same work earns a total of Rs. 1,68,000/- as wages during the preceding 12 months. Average monthly amount = $Rs. 1,68,000 / 12 = Rs. 14,000/-$.	
C	Monthly wages in any other case where it is not possible to calculate it for want of information	The total wages earned in respect of the last continuous period immediately preceding the accident multiplied by thirty times & divided by No. of days of such continuous period.
	Ex. An employee drawing in to wages of Rs. 13,000/- is in continuous period for 60 days immediately preceding the accident. The monthly wages can be arrived at : $13,000 \times 30 / 60 = Rs. 6,500/-$.	
	After having determined the monthly wages, the Compensation will be computed as under:	
D	Compensation in case of death	50% (fifty percent) of monthly wages of the deceased employee (if the monthly wages exceed Rs. 15,000/- the monthly wages are to be taken Rs. 15,000/- only) \times the relevant factor specified in the second column of sch. IV Or An amount of Rs. 1,20,000/- whichever is more Sec. 4 (a)
	Ex. An employee draws monthly wages of Rs. 19,000/- (worked out as above) dies while working at a furnace and his age is 42 years. In terms of Sec. 4(a) his maximum monthly wages is to be taken as Rs. 15,000/- only and 50% of it is Rs. 7,500/- Thus compensation Payable = $7,500 / - \times 178.49 = Rs. 13,38,675 / -$.	
E	Compensation in the case of permanent total disablement	60% of monthly wages of the deceased employee (if the monthly wages exceed Rs. 15,000/- the monthly wages are to be taken Rs. 15,000/- only) multiplied by the relevant factor specified in the second column of Sch. IV.

		Or Rs. 1,40,000/- whichever is more Sec. 4 (b)
	Ex. In the above example, if the injury results in permanent total disablement, the compensation payable will be as under Rs. 9,000/- (60% of Rs. 15,000/-) x 178.49 = Rs. 16,06,410/-.	
F	In case of permanent partial disablement resulting from injury specified in part II of the Sch. I	Compensation will be calculated as in the case of permanent total disablement on the basis of the percentage loss of earning capacity, specified against each injury in part II of Sch. I
	Ex. An employee's monthly wages is Rs. 15,000/- and he suffered an injury of loss of three fingers of left hand. The percentage loss of earning capacity specified in Part II of Sch. I against the said injury is 30%. The employee's age is 45 years. The compensation is worked out as under:- Compensation that would have been payable in total permanent disablement Rs. 9,000/- (60% of Rs. 15,000) x 169.44 = Rs. 15,24,960/-. Compensation payable for loss of three fingers Rs. 15,24,960 x 30% = Rs. 4,57,488/-	
G	In case of injury not specified in Sch. I	Compensation will be equal to such percentage of compensation payable for permanent total disablement as proportionate to the loss of earning capacity as assessed by the qualified medical practitioner, permanently caused by the injury.
H	In case of more injuries than one are caused by the same accident resulting in permanent partial disablement	The amount of compensation payable for all injuries shall be aggregated but it shall not exceed the amount payable, in the case of permanent total disablement 4 (C) (Explanation I)
	Ex. An employee lost his right hand as well as four fingers of left hand by an accident. His monthly wages are Rs. 15,000/- his age is 45 yrs. The compensation is worked out as under:- Compensation for permanent total disablement in his case will be = Rs. 15,24,960/- a) Compensation in case of loss of hand:- $15,24,960 \times 60\% = \text{Rs. } 9,14,976/-$ b) Compensation in case of loss of four fingers of left hand:- $15,24,960 \times 50\% = \text{Rs. } 7,62,480/-$ Aggregate of a + b = $\text{Rs. } 9,14,976 + \text{Rs. } 7,62,480 = \text{Rs. } 16,77,456/-$. The compensation payable is restricted to Rs. 15,24,960/- (Maximum Compensation Payable under this case)	
I	In case of temporary disablement whether total or partial disablement	A half monthly payment of the sum equivalent to 25% of the monthly wages for the period of disablement or 5 yrs. Whichever is lesser.
	Ex. An employee is temporarily disabled and his monthly wages is Rs. 15,000/- Compensation in this case will be :- $15,000 \times 25 / 100 = \text{Rs. } 3,750/-$ This amount is to be paid on half monthly basis as specified in sub-sec. (2) of Sec. 4(c)	

In the absence of any evidence as to the wages drawn by an employee, the minimum wages applicable to him at the relevant time shall be taken as the basis for determining the amount of compensation.

Claims for Compensation:-

The procedure for claiming compensation payable under the act may be summarized as follows:-

1. An application for claiming compensation payable under the act has to be made to the Commissioner for Employee's Compensation in the prescribed form.
2. Before filing the application the Employee has to give notice of the accident to the employer containing the details of the accident.
3. Before filing the application the Employee has also to submit himself for medical examination if he is required to do so by the employer
4. The application has to be made within 2 years of the occurrence of the accident or within 2 years from the date of death.
5. If any applicant is poor, the Commissioner may exempt him from paying the application fees.
6. The Commissioner can take the assistance of any person possessing special knowledge of any matter relating to the case for deciding the application.
7. The commissioner can recover the amount payable by any person under the Act as an arrear of land revenue.

Orders of the Commissioner for Employee's Compensation Appealable:-

The provisions regarding appeals against the orders of the Commissioner for Employee's Compensation may be summarized as follows: -

1. If any party is aggrieved by an order of the commissioner it can prefer an appeal against the order to the High Court provided that (i) a substantial question of law is involved in the appeal & (ii) the amount in dispute in the appeal is Rs. 300/- or more.
2. Such appeal must be filed within 60 days.
3. If the party preferring such appeal happens to be an employer, he must first deposit with the commissioner the amount payable under the order appealed against.

List of Injuries Deemed to Result in Permanent Total Disablement

Sr. No	Description of Injury	Percentage of Loss of earning Capacity
1	Loss of both hands or amputation at higher sites	100
2	Loss of hand and a foot	100
3	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential	100
5	Very severe facial disfigurement	100
6	Absolute deafness	100

List of Injuries Deemed to Result in Permanent Partial Disablement

Sr. No	Description of Injury	Percentage of Loss of earning Capacity
1	Amputation through shoulder joint	90
2	Amputation below shoulder with stump less than ³ [20.32] cm from tip of acromion	80
3	Amputation from ³ [20.32] cms from tip of acromion to less than ³ [11.43]cms below tip of olecranon	70
4	Loss of a hand or of the thumb and four fingers of one hand or amputation from ³ [11.43]cms below tip of olecranon	60
5	Loss of thumb	30
6	Loss of thumb and its metacarpal bone	40
7	Loss of four fingers of one hand	50
8	Loss of three fingers of one hand	30
9	Loss of two fingers of one hand	20
10	Loss of terminal phalanx of thumb	20
*10-A	Guillotine amputation of tip of thumb loss of bone	10

Amputation Cases - Lower Limbs

11	Amputation of both feet resulting in end bearing stumps	90
12	Amputation through both feet proximal to the metatarso phalangeal joint	80
13	Loss of all toes of both feet through the metatarso phalangeal joint	40
14	Loss of all toes of both feet distal to the proximal interphalangeal joint	30
15	Loss of all toes of both feet distal to the proximal interphalangeal joint	20
16	Amputation at hip	90
17	Amputation below hip with stump not exceeding ³ 12.70 cms in length measured from tip of great trechanter	80
18	Amputation below hip with stump not exceeding ³ 12.70 cms in length measured from tip of great trechanter but not beyond middle thigh	70
19	Amputation below middle thigh to ¹ 8.89cms below knee	60
20	Amputation below knee with stump exceeding ¹ 8.89cms but not exceeding ¹ 2.70cms	60
21	Amputation below knee with stump exceeding ¹ 2.70cms	² [50]
22	Amputation of one foot resulting in end bearing stump	² [50]
23	Amputation through one foot proximal to the metacarpophalangeal joint	² [50]
24	Loss of all toes of one foot through the metacarpophalangeal joint	20

Other Injuries

25	Loss of one eye, without complication, the other being normal	40
26	Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal	30

226A	Loss of partial vision of one eye	10
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LOSS OF

Finger of right or left hand Index Finger

27	Whole	14
28	Two phalanges	9
29	One phalanx	9
30	Guillotine amputation of tip without loss of bone	5

Middle Finger

31	Whole	12
32	Two phalanges	9
33	One phalanx	7
34	Guillotine amputation of tip without loss of bone	4

Right or Little Finger

35	Whole	7
36	Two phalanges	6
37	One phalanx	5
38	Guillotine amputation of tip without loss of bone	2

Toes of right or left foot

Great Toe

39	Through metatarso-phalngeal joint	14
40	Part, with some loss of bone	3

Any Other Toe

41	Through metatarso-phalngeal joint	3
42	Part, with some loss of bone	1

Two Toes of One Foot, Excluding Great Toe

43	Through metatarso-phalngeal joint	5
44	Part, with some loss of bone	2

Three Toes of One Foot, Excluding Great Toe

45	Through metatarso-phalngeal joint	6
46	Part, with some loss of bone	3

Four Toes of One Foot, Excluding Great Toe

47	Through metatarso-phalngeal joint	9
48	Part, with some loss of bone	3

SCHEDULE IV

Factors for working out Lump-sum Equivalent of Compensation Amount in case of permanent disablement and death

Completed years of age on last birthday of the workman immediately preceding the date on which the compensation fell due	Factors	Completed years of age on last birthday of the workman immediately preceding the date on which the compensation fell due	Factors
Not more than 16	228.54	41	181.37
17	227.49	42	178.49
18	226.38	43	175.54
19	225.22	44	172.52
20	224.00	45	169.44
21	222.71	46	166.29
22	221.37	47	163.07
23	219.95	48	159.80
24	218.47	49	156.47
25	216.91	50	153.09
26	215.28	51	149.67
27	213.57	52	146.20
28	211.79	53	142.68
29	209.92	54	139.13
30	207.98	55	135.56
31	205.95	56	131.95
32	203.85	57	128.33
33	201.66	58	124.70
34	199.40	59	121.05
35	197.06	60	117.41
36	194.64	61	113.77
37	192.14	62	110.14
38	189.56	63	106.52
39	186.90	64	102.93
40	184.17	65 or more	99.37]

Bar upon Contracting out:- Any workman relinquishing his right for personal injury not permissible.

Penalties:-

Non - Compliance with sections 10(3), 10(1A), 10B or 16	Fine which may extend to Rs. 50000/-
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Recent Court Judgment:-

- 1) In order to cast liability for compensation on the employer it must be shown that the accident arose within and in the course of employment.

The deceased was in the employment of the owner of an auto rickshaw. On 23-09-2005 while proceeding by the road in the rickshaw, another rickshaw came from the opposite side and dashed against the rickshaw of the deceased. The deceased then questioned that driver of the opposite rickshaw as to why he was driving the vehicle so rashly and negligently. Then there was a quarrel between the two and in that quarrel the deceased fell down on the road and sustained head injury. He was removed to the hospital where he succumbed to the injuries. The respondents who are the legal heirs of the deceased filed a claim petition for compensation and the commissioner of Workmen's Compensation allowed that petition against which order the insurance company preferred an appeal in the High Court. The High Court referred to the decision in Rashida Haroon's case 2010 (1) TN MAC 131 (SC) wherein it was held that the accident must arise within and in the course of employment. The claimant should prove the nexus between the death and the accident. The High Court held that in the instant case the deceased sustained his injuries not due to the accident but on account of the assault made by the driver of the opposite auto rickshaw following a quarrel. Thus there was no nexus between the accident and the death of the deceased. Consequently the insurance company cannot be fastened with any liability to pay compensation. Hence the appeal was allowed.

-H.C. LL> (4) 2011 P. 106, New India Assurance Co. Ltd. V. Noorjahan Begum & 8 ors.

- 2) Insurer will not be liable if the act of workman was in breach of condition of the policy

The appellant is Insurance Company and the third respondent is the owner of the rice mill. The deceased workman was in the employment of the 3rd respondent as a driver and he died in an accident which took place upon the premises of the rice mill. There was an electricity transformer within the compound of the rice mill. There was failure of electricity supply of rice mill due to burning of one fuse in the transformer. The deceased workman attempted to put fuse wire during that attempt he suffered an electric shock, due to which he fell down and died on the spot. Respondent no.1 and 2 are his legal heirs and they filed a claim petition before the commissioner for workmen's compensation contending that respondent 3 who is the owner of the rice mill has instructed the deceased to install the fuse wire to the transformer located within the rice mill premises. The commissioner for workman's compensation allowed the claim petition and granted total compensation of Rs. 4,17,586/- to be paid to the respondent nos.1, and 2. Feeling aggrieved thereby the Insurance company filed an appeal in the High court contending that replacing fuse wire in the transformer is outside the duty of driver of rice mill and that is not authorized by law and therefore it cannot be said that the accident in question occurred during the course of employment of the deceased workman.

The high court observed that if the accident has occurred on account of a risk which is an incident of the employment, the claim for compensation must succeed, unless of course the workman has exposed himself to an added peril by his own imprudent act. The high court referred to the provisions of Indian electricity rules 195 and pointed out that on a combined reading of the relevant rules, it emerges that the consumer can either undertake himself or permit to undertake repairs or adjustments or additions to installations which are anterior to the electricity meter and such repairs are not permissible in respect of installations which are posterior to the electricity meter. It was held that the deceased tried to do repaid work by way of applying electricity fuse to the transformer which was impermissible under the rules. Therefore there was violation of

condition no.3, of the insurance policy with the result that the insurance company cannot be saddled with the compensation. Hence the appeal was allowed.

- H.C.A.P. LLJ III P. 835, United India Insurance Co. Ltd., Hyderabad v. Elkachenu Kistamma & Ors.

- 3) Employees Compensation Act, 1923 – Section 3 (Claim for compensation is not sustainable if the death of workman is not shown to be due to injury in accident arising in the course of employment)

Deceased Bholakal was working as Asstt. – Cum – Cleaner of a truck employed by respondent no.1, on 10.03.2000 the said vehicle, carrying loads was on its way to Agartala. On the way the vehicle was parked near Dharamnagar Police station and the driver of the vehicle went to sleep in a nearby hotel. Deceased Bholakal however remained in the vehicle and was supposed to sleep in the cabin of the vehicle. On the next morning the driver found Bholakal lying dead inside the vehicle. He therefore informed the incident to Dharamnagar police station which registered a case under sec.174 of Cr. P. Code. In the petition filed by his legal heirs for compensation, it was contended that the deceased performed strenuous job of cleaning and loading the vehicle in full day and due to heavy exertion he died because of heart failure. Respondent no.1, the owner of the vehicle filed his written statement that the deceased died due to drinking excessive quantity of alcohol and there was no accident at all in the course of employment and therefore the claim of compensation was not maintainable. Respondent no.2, the insurance company also took the same stand. The tribunal after considering the evidence on record including the post mortem reports held that the deceased died due to consumption of excessive quantity of ethyl alcohol and his death was not incidental to the nature of his work. Feeling aggrieved thereby the appellant filed the present appeal.

The High Court analyzed the provisions of Section 3 of the Employees' Compensation Act and observed that there is practically no iota of evidence that the deceased suffered any injury because of any accident arising out of or in the course of his employment and therefore no liability could be fixed on the employer for the death of the deceased. Consequently the appeal was dismissed.

-H.C. Gau. CLR II 2012 P. 613, Sankar Kal, Tripura v. Sunil Kumar Saha & Anr.

Summary:-

The Employees' Compensation Act applies to railways (other than those) employed in administrative work and persons employed in factories, mines, plantations, mechanically propelled vehicles, construction work, and certain other hazardous occupations. There is no wage limit for coverage under the Act. The Act, however, is not applicable to the persons who are covered under the Employees' State Insurance Act, 1948. The Act provides for payment of compensation to workmen or their dependants, as the case may be, for industrial accidents (including prescribed occupational diseases) arising out of and in the course of employment and resulting in disablement or death. It is administered by the respective state governments / union territory administrations. The state governments are required to appoint Commissioners for Employees' Compensation for (a) settlement of disputed claims; (b) disposal of cases of injuries involving death; and (c) revision of periodical payments. The Compensation payable to the workman or to his dependants cannot be assigned, attached or charged.



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 11]

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th April, 2017/Chaitra 22, 1939 (Saka)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE EMPLOYEE'S COMPENSATION (AMENDMENT) ACT, 2017

No. 11 of 2017

[12th April, 2017.]

An Act further to amend the Employee's Compensation Act, 1923.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Employee's Compensation (Amendment) Act, 2017.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Employee's Compensation Act, 1923 (hereinafter referred to as the principal Act), after section 17, the following section shall be inserted, namely:—

Insertion of new section 17A.

"17A. Every employer shall immediately at the time of employment of an employee, inform the employee of his rights to compensation under this Act, in writing as well as through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee.".

Duty of employer to inform employee of his rights.

3. In the principal Act, in section 18A, in sub-section (1),—

Amendment of section 18A.

(i) in clause (d), for the word and figures "section 16," the words and figures "section 16, or" shall be substituted;

(ii) after clause (d), the following clause shall be inserted, namely:—

"(e) fails to inform the employee of his rights to compensation as required under section 17A,";

(iii) in the long line, for the words "which may extend to five thousand rupees", the words "which shall not be less than fifty thousand rupees but which may extend to one lakh rupees" shall be substituted.

Amendment of
section 30.

4. In the principal Act, in section 30, in sub-section (1), in the first proviso, for the words "three hundred rupees", the words "ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify" shall be substituted.

Omission of
section 30A.

5. Section 30A of the principal Act shall be omitted.

DR. G NARAYANARAJU,
Secretary to the Govt. of India.

CORRIGENDUM

The Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016 (No. 44 of 2016), as Published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 51, dated the 16th August, 2016, at page NO. 2, in line 13, for " "securitisation or" " read " "securitisation company or" ".

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Tips on

The Employees' Compensation Act, 1923

The Employees' compensation Act, 1923, earlier known as "Workmen's Compensation Act" is an old but an important enactment, as it introduced a kind of social security scheme for the workers of this country. It enables an employee, and in case of death of an employee, his dependents, to get at the cost of his employer compensation for employment injury.

Much later, in 1948, the Employees' State Insurance Act introduced a social insurance scheme for the workers of this country. Unlike the earlier scheme this country. Unlike the earlier scheme this scheme rests on joint contribution by Government, employers and workers. The two enactments together constituted what may be called a code of social security benefits for the workers of this country.

Q. What is the object of the Employees' Compensation Act, 1923?

A. The object of the Act is to provide for the payment of compensation by certain employers to their workmen for injury caused to them by accident while in employment. If an employee contracts an occupational disease while in employment. It is also treated under the Act as injury caused by accident.

Preamble and S.3

APPLICABILITY OF THE ACT

Q. Who is liable to pay compensation under the Act?

A. Every employer-

- (i) Employing persons listed in Schedule II to the Act; or
- (ii) Carrying on an occupation listed in Schedule III to the Act;

Is liable to pay compensation under the Act.

Ss.2(1)(n) & 3

Q. Who is entitled to receive compensation under the Act?

A. As per the Workmen's Compensation (Amendment) Act, 2009 (Act No. 45 of 2009) which has come into force from 18.01.2010 the following persons are liable to receive compensation under the Act:-

- (i) A railway servant not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II; or
- (ii) (a) a master, seaman or other members of the crew of a ship,
 - (b) a captain or other member of the crew of an aircraft.

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company,

And who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or

(iii) Employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them];

Ss.2(1)(dd)

Q. What kinds of injuries are compensated for under the Act?

A. Under the Act injuries are broadly classified into four groups as those resulting in (i) death, (ii) permanent total disablement, (iii) permanent partial disablement, and (iv) temporary disablement whether total or partial. The Act provides for different scales of compensation for different kinds of injuries.

S.4

Q. what are the conditions for receiving compensation for personal injury caused by accident?

A. An employee to whom personal injury is caused by accident is entitled to receive compensation under the Act if the accident arose out of and in the course of his employment. That means the accident must occur while the employee is in employment and it must also be connected with his employment.

Q. Is a Government servant, who is employed as a mahout', a workman under the Act?

A. A Government servant, who is employed as a mahout' in the Forest Department, is a "workman" under the Act even if he is covered by family pension, general provident fund and family benefit schemes of the government.

Note: Held in State of Kerala v. Khadeeja Beevi, 1988 II CLR 333.

Q. Is a person engaged for one day to drive a vehicle of the owner, a workman under the Act?

A. He was a workman under the Act. The owner had a definite control over the person. The person was driving the vehicle on the direction of the owner of the vehicle. His engagement for one day only will not throw him out of the definition of workman under section 2(n) of the Act.

Note: Held in New India Assurance Co. Ltd.v. Mohan Kumar Sahoo, 2004 II CLR 118 (Ori.H.C.)

Q. Is a person employed in a place which is not a "factory" but wherein a "manufacturing Process" is being carried on a workman under the Act?

A. For the Workmen's Compensation Act to apply it is not necessary that a person should be working in a "factory". In terms of Schedule II, Item (ii) a person employed in a premises wherein a "manufacturing process" is being carried on is a workman under the Act.

Note: Held in Sunil Industries v. Ram Chander Pradhan & Anr. 2001 I CLR 180 (S.C.)

Q. Is a driver in Government employment a workman under the Act?

A. Schedule II to the Act gives a list of persons who are included in the definition of workman. A person employed as a driver finds place in the schedule. A person employed as a driver comes under the category of workman irrespective of the position whether he is in non-Government employment or Government employment.

Note: Held in Radhamony v. Secretary, Department of Home Affairs, 1995 I C.L.R. 339.

Q. Can a person be excluded from the definition of the term workman on the ground that he is a civil servant?

A. There is nothing in the Act to show that a person holding a post in civil services of a State would be excluded from the definition of the term workman.

Note: Held in State of Gujarat v. R.K. Deshdia, 1991 I C.L.R. 582.

Q. Whether adopted son of the deceased can claim the compensation?

A. Appellant is the dependent adopted son of the deceased and the award of compensation by the Employees' Compensation Commissioner in favour of appellant was perfectly justified.

Note: Held in Param Pal Singh (Mst.) Through Father v. National Insurance Company & Anr. 2013 I CLR 1 (S.C.)

Q. Is an apprentice entitled to claim compensation under the Workmen's Compensation Act if personal injury is caused to him by accident arising out of and in the course of his training as an apprentice?

A. Section 16 of the Apprentices Act, 1961 entitles an apprentice to claim compensation under the Workmen Compensation Act for such injury.

Note: Held in Divisional Controller, G.S.R.T.C. v. Ashok Kumar Keshavlal Parekh, 1999 I CLR 586 (Guj. H.C.)

Q. If a workman was injured while he had gone to fetch water for drinking for himself and others, did the injury arise out of and in the course of employment?

A. If the workman was engaged to do miscellaneous work and had gone to fetch water under the instruction of the employer, the injury was the result of an accident which arose out of and in the course of employment.

Note: Held in N.A. chauhan v. N. K. Shah, 1991 (1) C.L.R. 361.

Q. If a workman was injured while he had gone to fetch water or drinking for himself and others, did the injury arise out of and in the course of employment?

A. If a workman died as a result of drinking contaminated water, which was provided by the employer for the workmen to drink, the death was the result of an accident which arose out of and in the course of employment.

Note: Held in Div. Personnel Officer, Southern Rly. V. Karthiayani, 1987 I CLR 244.

Q. If a truck driver was way- laid and killed by miscreants to loot the consignment, did the death arise out of and in the course of his employment?

A. If the truck driver became a victim of the offence at a time he was engaged in discharging the duties assigned to him, the death was the result of an accident which arose out of and in the course of his employment.

Note: Held in National Insurance Co. Ltd. Nalini Dehuri & Ors., 2000 II CLR 744.

Q. If there was a private quarrel between two drivers of the same employer when they were on duty and as a result of the quarrel one driver died, did the death arise out of and in the course of employment?

A. The incident or the resultant death must have some nexus with the duty which the drivers were expected to discharge and if there was absolutely no nexus at all, it cannot be said that the ingredient "arising out of employment" is satisfied.

Note: Held in zubeda Bano v. M.S.R.T.C., 1990 I CLR 465.

Q. A workman, while proceeding to his work spot, jumped from a running train and sustained injury. Is it a case of an injury caused by an accident within the meaning of Section 3(1) of the Act?

A. Accident means some unforeseen event. When a person jumps from a running train. The injury sustained is not an unforeseen result and is not an injury caused by an accident.

Note: Held in The Director, Combat Vehicles and Research Establishment, Avadi v. The Deputy Commissioner of Labour II, Madras & Anr. 1995 I M.L.J. 182.

Q. If a person, a contractor, who had undertaken the work of painting a house, fell down and died while he was doing this work, are his legal representatives entitled to compensation?

A. Engaging a person in this manner does not make him an employee or a workman. The case did not fall within the four corners of the Act.

Note: Held in Lakshminarayana Shetty v. Shantha & Anr., 2002 III CLR 240 (S.C.)

Q. What is the doctrine of notional extension of employment?

A. According to the doctrine of national extension of employment an employer is liable to pay compensation for personal injury caused to a wrkman by accident occurring beyond his working hours and beond his work place if there is nexus between the time and place of the accident and the employment of the workman.

Note: For case law on the point see Chairman, Cochin Dock Labour board v. P.J George 1976 II LLJ 65.

Q. If a workman died of heart attack while he was on his way home after completing nigh duty, did the death arise out of and during the course of employment?

A. It is to be seen that once the theory of national extension of employment is properly applied to the factual situation pertaining to the case on hand, it has got to be held that the accident has occurred within the area falling within the notional extension theory. The deceased was on his way home after completion of his duty.

Note: Held in United India Insurance Company Ltd., Bangalore v. Susheela (Smt.) & Ors. 2004 I CLR 1025 (Karn. H.C.)

Q. Is the death of a workman due to heart attack at the work spot, by itself, enough to make an award of compensation?

A. It cannot be said that whenever a person dies at the work spot, he died due to the stress and strain of the working condition. If the workman did not die on account of any injury sustained by him "in any accident arising out of and in the course of his employment", no award of compensation can be made. It has to be established that there was some casual connection between the death of the workman and his employment. If the employment is a contributory cause or has accelerated the death, then only the employer would be liable to pay compensation.

Note: Held in Jyothi Ademma v. Plant Engineer, Nellore & Anr. 2006 III CLR 438 (S.C.)

Q. If a cleaner of a parked lorry, while proceeding to a nearby hotel to bring tiffin to the driver of the lorry, was dashed by another lorry and died due to the grievous injuries sustained by him, did the accident occur out of and in the course of his employment?

A. The job which the cleaner had undertaken is nothing but notional extension of his duty. It was ancillary and incidental to his employment. Only on account of his employment as a cleaner on the lorry, he had to be in that particular spot at that particular moment. Otherwise he could not have been there at all. The accident has to be construed as arising out of and in the course of employment'.

Note: Held in New India Assurance Company Ltd. V. P. Padmavathi (Smt) & Ors. 2005 II CLR 1048 (A.P.H.C.)

Q. An employer came to the house of his servant on his scooter, took the servant on his scooter, and proceeded to a place for immediate completion of his work. While so proceeding for the said purpose, the scooter met with an accident and the servant died on the next day due to serious head injuries. The question is whether the deceased servant died in an accident while on duty?

A. The duty of the deceased servant started as soon as his master came to take him on scooter for completion of the work. The nature of the employment of the deceased servant made it necessary for him to be there on the scooter for immediate completion of the work. The claim for compensation was rightly allowed by the commissioner.

Note: Held in Branch Manager, New India Assurance Co. Ltd. V. Jivram Jetha, (Deceased by LRs.) & Ors. 2006 I CLR 265 (Guj.H.C.)

Q. What are the circumstances in which the employer is not liable to pay compensation for injury to an employee?

A. The employer is not liable to pay compensation for injury to an employee in the following circumstances:

- 1) If the injury does not result in total or partial disablement of the employees in the period exceeding three days;
- 2) If the injury does not result in death of the employee and is caused by an accident which is directly attributable to:-
 - i) The employee having been at the time thereof under the influence of drink or durgs, or
 - ii) The disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safely of employee, or
 - iii) The wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

S. 3(1)

Q. To whom is the compensation payable when injury caused by accident to an employee results in his death?

A. Where injury is caused by accident to an employee results in his death, compensation is payable to the dependents of the employee. Dependents means those relatives of the deceased employee who are specified in section 2(1)(d) of the Act. S.8

AMOUNT OF COMPENSATION

Q. What is the amount of compensation payable in respect of an employee whose injury has resulted in his death?

A. When the injury to an employee results in his death, the amount of compensation payable to his dependents is an amount equal to 50% of the monthly wages of the deceased employee multiplied by a figure ranging from 228.54 to 99.37 (depending upon the age of the deceased employee) or an amount of Rs. 1,20,000, whichever is more.

S.4(1)(a)

Note : By amendment act of 2009 the minimum amount of compensation is enhanced from Rs.80,000/- to Rs. 1,20,000 amendment in force from 18-01-2010. (In case of death).

Note : The Central Government has declared Rs.15,000/- as monthly wages for calculation of compensation w.e.f. 03/01/2020.

Q. Can the employer deduct from the compensation payable in case of death of a workman, any amount paid to the deceased workman as ex-gratia payment?

A. There is a total bar against any deduction to be made by the employer for any payment made by the employer out of court so as to reduce the corpus of the compensation payable in case of death of a workman.

Note: Held in Divl. Engineer, M.P. Electricity Board v. Mantobai Wd/o. Lalkisan, 1989 I CLR 486.

Q. What is the amount of compensation an employee is entitled to receive when his injury results in his permanent total disablement?

A. When the injury of an employee results in his permanent total disablement, the amount of compensation he is entitled to receive is an amount equal to 60% of the monthly wages of the injured employee multiplied by a figure ranging from 228.54 to 99.36 (depending upon the age of the injured person) or an amount of Rs. 1,40,000 whichever is more.

S.4(1)(b)

Note: By Amendment Act of 2009 which is in force from 18.1.2010, the minimum amount of compensation for permanent total disablement is enhanced from Rs.90,000/- to Rs.1,40,000.

Q. What is the amount of compensation an employee entitled to receive if his injury results in his permanent partial disablement?

A. When the injury of an employee results in his permanent partial disablement, the amount of compensation he is entitled to receive is a percentage of the compensation payable in the case of permanent total disablement (see earlier question and answer). The percentage is determined with reference to the extent of loss of earning capacity caused by the injury and is a lumpsum payment. S.4(1)(c)

Q. Where the injury sustained is one of the injuries specified in Schedule I, can the Commissioner make his own assessment of loss of earning capacity and award The provisions of the Schedule?

A. Injuries specified in Schedule I are called Scheduled Injuries. Injuries specified in Part-I of the Schedule are deemed to result in permanent total disablement. They are supposed to cause one hundred per cent loss of earning capacity. Injuries specified in Part-II are deemed to result in permanent partial disablement. They are supposed to cause such percentage of loss of earning power as is specified against them. These provisions are called as statutory mandate.

The Commissioner has to follow the mandate and award compensation in conformity with the provisions of the Schedule read with Section 4 and definitions of total disablement and partial disablement.

Q. Where the injury sustained is a non-scheduled injury, can the Commissioner make his own assessment of loss of earning capacity despite the medical evidence concerning the loss of physical disability?

A. For the purpose of assessment of compensation for non-scheduled injuries, it all depends on loss of earning capacity. Loss of earning capacity is not a matter for medical opinion. Percentage of physical disability and resultant loss of earning capacity need not be the same at all times. For the purpose of assessment of loss of earning capacity what is required to be seen is the diminution of physical power caused by the injury on the earning capacity. It is always open to the Commissioner to make his own assessment of loss of earning capacity of course having due regard to the medical evidence. Note: See National Insurance Company Ltd. v. M. Shyam Prasad 2005 III CLR 970 (A.P.H.C.)

Q. What is the amount of compensation an employee is entitled to receive if his injury results in his temporary disablement, either total or partial?

A. When the injury of an employee results in his temporary total disablement or temporary partial disablement he is entitled to receive compensation in the form of a half-monthly payment. The amount of a half-monthly payment is determined with reference to the monthly wages the employee was drawing at the time of the injury and is equal to 25% of the monthly wages of the employee. The maximum period during which the employee can receive compensation for temporary total disablement or temporary partial disablement is five years. S.4(1)(d)

TIME FOR PAYMENT OF COMPENSATION

Q. What is the time limit for payment of compensation and what is the consequence of default in payment thereof?

A. The employer must pay compensation as soon as it falls due, i.e. as soon as the injury is caused to an employee. He cannot contend that it falls due when it is settled by the Commissioner. If he delays the payment of compensation beyond one month from the date it fell due, he may be saddled with simple interest at the rate of 12% per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank on the amount of compensation plus penalty upto 50 per cent of the amount of compensation. S.4-A Note:- For case law on the point see Pratap Narain Singh Q Deo v. Sriniwas Sabata, 1976 I LLJ 235.

Q. Can a workman who is awarded penalty under Section 4-A(3)(b) claim grant of interest on the amount of the penalty?

A. Section 4-A contemplates the compensation as "arrears" and empowers the Commissioner to direct payment of interest thereon when any employer is in default in paying the compensation within one month from the date it fell due. The amount of penalty contemplated by Section 4-A(3)(b) is a distinct head and hence the law does not contemplate grant of interest on penalty. The demand for grant of interest on the amount of penalty is not supported by any provision of Section 4-A. Note: Held in Nanda (Smt.) w/o. Pandhari Gatade and Ors. v. Bhikaji w/o. Ghanshyam Shingane, 2009 I CLR 376 (Bom.H.C.)

Q. Is it permissible to get half-monthly payments commuted into a payment of a lumpsum?

A. It is open to the employer and the employee to agree or to either of them to apply to the Commissioner for Employees' Compensation and get half-monthly payments (in the case of temporary disablement) converted into a payment of a lumpsum. S.7

Q. What is the method of payment of compensation in the case of fatal accidents?

A. Payment of compensation in respect of employee whose injury has resulted in death is not to be made directly to the dependents of the employee. In such case the employer is required to deposit the amount of compensation with the Commissioner for Employees' Compensation. The Commissioner will then apportion the amount among the dependents of the employee. Note:- It is held that the payment of compensation directly to a dependent is not legal even if he is the only one dependent of the deceased workman claiming compensation. Sona Shah v. The Commissioner for Workmen's Compensation & Anr. Respondent, 1978 LIC 576.

PROTECTION OF COMPENSATION

Q. Can compensation payable under the Act be assigned, charged, attached or set-off?

A. Compensation payable under the Act, whether in the form of a lumpsum or in the form of a half-monthly payment, cannot be assigned, charged, attached or set-off against any claim.

Q. Can death caused by disease be treated as injury by accident?

A. If death is caused by disease as well as employment, it would be a case of injury by accident. For example, where an employee is suffering from a disease and his employment causes acceleration of the disease by strain extra work or fatigue incidental to the employment resulting in his death, it would be a case of injury by accident and his employer would be liable to pay compensation to his dependents.

Note:- Held in Mackinon Mackenzie & Co. (Pvt.) Ltd. v. Smt. Rita Fernandes, 1970 I SCWR 83 and Amubibi v. Nagri Mills. Co. Ltd. 1977 II LLJ 510.

Q. What are the special powers of the Commissioner for Employees' Compensation in respect of payment of lumpsum compensation to a woman or a person under a legal disability?

A. Where any lumpsum compensation is payable to a woman or a person under a legal disability, the employer must deposit it with the Commissioner for Employees' Compensation. It is open to the Commissioner to invest such sum for the benefit of the woman or of such person during his disability. S.8(7)

Q. What are the special powers of the Commissioner for Employees' Compensation in respect of payment of half-monthly compensation to a person under a legal disability?

A. Where any half-monthly compensation is payable to a person under a legal disability, it is open to the Commissioner for Employees' Compensation to order that such payment be made during the disability of the person to any dependent of the workman or to any other person best fitted to provide for the welfare of the workman. S.8(7)

REPORT OF FATAL ACCIDENTS

Q. What is the immediate duty of the employer on whose premises an accident has occurred which has resulted in death or serious bodily injury?

A. If any accident occurs on the premises of any employer which results in death of an employee or serious bodily injury to an employee, the employer must, within 7 days of the death or serious bodily injury, send in the prescribed form a report to the Commissioner for Employees' Compensation giving the circumstances attending the death or serious bodily injury. S.10-B

Q. If an employee is injured while employed by a contractor, who is liable to pay compensation to him, the contractor or the principal employer?

A. When an employee is injured while employed by a contractor, the principal employer is liable to pay compensation to him, but he is entitled to be identified by the contractor. The employee is, however, free to recover compensation either from the principal employer or from the contractor. S.12

CONTRACTING OUT

Q. Can an employee relinquish his right to receive compensation under the Act?

A. An employee is prohibited from contracting out of the benefits of the Act, i.e. from giving up his right to receive compensation from his employer under the Act. Any contract or agreement made by him relinquishing such right is null and void insofar as it removes or reduces the liability of any person to pay compensation under the Act. S.17

Q. Is an employer duty bound to inform employees about their rights?

A. In view of Section 17-A the employer is duty bound to inform his employers about their rights to compensation under the Act and the language understood by employee immediately at the time of employment of an employee. S.17-A

Q. Is it the duty of the employer to inform the employee about his rights at the time of employment?

A. Yes. It is the duty of the employer to inform his employee about his rights in the language known to him at the time of employment. S.17(A)

Q. Can the employer deny compensation to an injured workman on the ground that employment was provided to the son of the injured workman?

A. In view of Section 17 of the Act, in no case there is an escape for the employer from paying compensation under the Act, which prohibits contracting out. Note: Held in *Anu Mary v. Commissioner of Workman's Compensation*, 2003 (2) L.L.N. 202 (Bom.H.C.)

Q. Is a workman injured in an accident arising out of and in the course of his employment resulting in permanent partial disablement entitled to both (i) the benefit of compensation under the Employees' Compensation Act of 1923 and (ii) the benefit of alternative employment under the Disabilities Act of 1995?

A. Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 contains a clear directive that the employer shall not dispense with, or reduce in rank, an employee who acquires a disability during his service. It contains a further directive that if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay and service benefits. Language of Section 47 is plain and certain casting statutory obligation on the employer to protect an employee acquiring disability during service. Furthermore, Section 72 of the said Act specifically provides that the provisions of this Act shall be in addition to, and not in derogation of any other law for the time being in force. In the instant case, the workman, a conductor in Tamil Nadu State Transport Corporation, fought for and got both the benefits. He filed a Claim Petition under the Workmen's Compensation Act and got an award granting compensation of Rs.2,30,568 to him. He also raised an industrial dispute under the Industrial Disputes Act for alternative employment and got an award declaring that he is entitled to the relief under Section 47 of the Disabilities Act and directing the T.N.S.T. Corporation to reinstate him with full back wages. The contention of the corporation that it was not open for the workman to pursue both the remedies was not accepted by the Division Bench of the High Court. Note: See A. *Subramani v. Management of Tamil Nadu State Transport Corporation*, 2008 I CLR 296 (Mad.H.C.)

OFFENCES

Q. What are the offences under the Act and the punishment thereof?

A. If any person-

- (a) fails to maintain a notice-book under section 10(3), or
- (b) fails to send a statement under section 10A(1), or
- (c) fails to send report under section 10B, or
- (d) fails to send return under section 16, or
- (e) fails to inform the employee of his rights to compensation as required under Section 17-A;

he would be punished with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees. S.18-A

CLAIMS FOR COMPENSATION

Q. What is the procedure for claiming compensation payable under the Act?

A. The procedure for claiming compensation payable under the Act may be summarized as follows:

- (1) An application for claiming compensation payable under the Act has to be made to the Commissioner for Employees' Compensation in the prescribed form.
- (2) Before filing the application the employee has to give notice of the accident to the employer containing the details of the accident.
- (3) Before filing the application the employee has also to submit himself for medical examination if he is required to do so by the employer.
- (4) The application has to be made within 2 years of the occurrence of the accident or within 2 years from the date of death.
- (5) If any applicant is poor, the Commissioner may exempt him from paying the application fees.
- (6) The Commissioner can take the assistance of any person possessing special knowledge of any matter relating to the case for deciding the application.
- (7) The Commissioner can recover the amount payable by any person under the Act as an arrear of land revenue.
Ss.8,10,11,19

Q. What is the starting time for payment of interest under Section 4-A(3), the date of accident or the date of adjudication?

A. The Supreme Court has clarified the point in question as follows: Section 4-A(1) says that compensation under Section 4 shall be paid as soon as it falls due. Section 4-A(3) says that employer shall pay interest on the amount of compensation if he is in default in paying the same within one month from the date it fell due. The crucial expression is "falls due". Obviously compensation cannot fall due on the date of accident. Compensation becomes due on the basis of adjudication of the claim made. Unless there is an adjudication, the question of an amount falling due does not arise. Significantly legislature has not said that interest shall be paid from the date of accident. Therefore, interest will be payable if there is default in paying the compensation within one month from the date of adjudication of the claim made.

Note: See National Insurance Co. Ltd. v. Mubasir Ahmed & Anr. 2007 I CLR 683 (S.C.).

Note: There is a conflict of views on the question as to what is the starting time for payment of interest under Section 4-A(3), the date of accident or the date of adjudication. In the above mentioned case, the judgment is rendered by two Judges and the view taken is that unless there is an adjudication, the question of an amount "falling due" does not arise. In Ptatap Narain Singh Deo v. Shrinivas Sabata, 1976 1 SCC 289, which is a judgment rendered by four Judges, the view taken is that compensation becomes payable as soon as the personal injury is caused to the employee. It is submitted that when there is a conflict between the views expressed by larger and smaller benches, the proper course is to follow the opinion expressed by larger Benches in preference to those expressed by smaller Benches.

Q. Once a judgment is signed and dated and the decision is pronounced by the Commissioner, is it open to him to revise or to review the judgment in order to correct the quantum of compensation which was calculated wrongly in terms of the amended provisions of the Act and not calculated rightly in terms of the unamended provisions of the Act as required by the facts of the case?

A. The Commissioner committed an apparent error of law in invoking jurisdiction which was not vested in him. Rule 32 of The Workmen's Compensation Rules, 1924 clearly lays down that once the judgment is signed and dated and the decision is pronounced by the Commissioner, no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission. Note: Held in Goljan Nesa v. Gammon India Ltd. 2006 I CLR 323 (Gau.H.C.)

Q. Can a workman, who is residing at Cuttack in the State of Orissa, file a claim petition under the Act for the accident that took place in the State of West Bengal, before the Commissioner for Workmen's Compensation, Cuttack?

A. Section 21 of the Act, as amended by Act 30 of 1995, enables the workman to file the claim petition either before the Commissioner for the area in which the accident took place or before the Commissioner for the area in which the workman ordinarily resides. Note:- Held in Saukata Ali alias S.K. Sekha v. Commissioner for Workmen's Compensation-cum-Dy. Labour Commissioner, Cuttack & Ors., 1999 I CLR 615.

Q. What is the procedure for recovering the dues payable under the Act?

A. By Section 31 of the Act the Commissioner himself is empowered to recover any amount payable by person under the Act as an arrear of land revenue.

Q. If a workman claiming compensation is physically unable to attend the Court of the Commissioner due to injuries caused to him, would the Commissioner be justified to reject the claim of the workman on that ground?

A. Adjudicating upon the claim of the workman is the primary function under the Act and it cannot be said that the Commissioner is helpless only because the workman, due to physical disability, cannot physically remain present before him. The Commissioner can appoint an officer as envisaged under Rule 23 or even appoint a commission for examination of the workman.

Note:- Held in Jeevanbhai R. Tandel v. Deckendale Shipping & Ors. 1996 II CLR 639 (Bombay).

Q. Is the Commissioner for Workmen's Compensation bound to follow the strict rules of the Civil Procedure Code or the Evidence Act?

A. The Commissioner for Workmen's Compensation is not a Civil Court and is not bound by the provisions of the Civil Procedure Code or that of the Evidence Act. He is not bound to follow the procedure prescribed for trial of cases in

civil courts nor is he bound by the strict rules of evidence. Note:- Held in Chiman Surakhia Vasava v. Ahhied Musa Ustad, 19871 CLR 311.

Q. Is the Commissioner for Workmen's Compensation competent to award compensation which is higher than that claimed by an applicant?

A. A workman cannot be caged, confined and cribbed because he had claimed a lesser amount of compensation. That may be due, to an error in calculation or like reasons. Be that as it may, the language of the Statute is clear, and the message cannot be missed. The workman is entitled to get what the Statute entitles him to get.

Note:- Held in Mohammed Koya v. Balan, 1987 I CLR 96.

Q. Is the Commissioner for Workmen's Compensation competent to award compensation for temporary disablement where the claimant had claimed compensation for permanent disablement?

A. If the Commissioner finds on the basis of the evidence on record that the claimant has not suffered any permanent disablement but in fact has suffered temporary disablement for a period, he can always award compensation for such temporary disablement. Note:- Held in National Insurance Co. Ltd. v. Bijay Kumar Sahu & Anr. 2002 II CLR 728 (Ori.H.C.)

Q. Is it permissible for a Commissioner for Workmen's Compensation to correct any mistake appearing in a judgment passed by him?

A. Under Rule 32(2) of the Workmen's Compensation Rules, 1924 a Commissioner can correct any clerical or arithmetical mistake arising from any accidental slip or omission.

Q. Are the orders of the Commissioner for Employees' Compensation appealable?

A. The provisions regarding appeals against the orders of the Commissioner for Employees' Compensation may be summarised as follows:

(1) If any party is aggrieved by an order of the Commissioner it can prefer an appeal against the order to the High Court, provided that (i) a substantial question of law is involved in the appeal and (ii) the amount in dispute in the appeal is Rs.10,000/- or more.

(2) Such appeal must be filed within 60 days.

(3) If the party preferring such appeal happens to be an employer, he must first deposit with the Commissioner the amount payable under the order appealed against. S.30

Q. What kinds of conclusion "involve" questions of law?

A. Courts have held that conclusions (i) based on no evidence; (ii) based on perverse appreciation of evidence totally opposed to accepted principles; (iii) which are not only not correct but are so unreasonable that no reasonable authority could ever have come to them; etc. are conclusions giving rise to questions of law.

Q. Is a Writ Petition filed against an order of a Commissioner for Workmen's Compensation awarding compensation maintainable?

A. As a right of appeal is provided under Section 30 of the Workmen's Compensation Act, a Writ Petition under Article 226 or Article 227 of the Constitution of India is not maintainable against such order.

Note:- Held in K.S. Rama Rao v. Commissioner for Workmen's compensation & Dy. Commissioner of Labour, Hyderabad & Ors., 1999 II CLR 488.

Q. Does a Letters Patent Appeal lie against a decision of a High Court under section 30 of the Employees' Compensation Act?

A. The Employees' Compensation Act is a substantive law and has constituted a complete and exhaustive code. It creates a bar by necessary and definite implication against any proceedings beyond the stage of section 30 of the Act. No Letters Patent Appeal lies against a decision of a High Court under section 30 of the Act.

Note:- Held in Dhondubai v. Proprietor, J.K.S. Sugar Factory, 1990 II CLR 798.

Q. Is it permissible for an employee to recover compensation payable under the Act by filing a civil suit?

A. The Act permits an employee to recover compensation payable under the Act either by filing in a Civil Court a suit for damages or by filing a claim before the Commissioner for Employees' Compensation. S.3(5)

Q. What are the circumstances in which the Commissioner for Employees' Compensation can refuse to register an agreement settling the amount of compensation payable under the Act?

A. The Commissioner for Employees' Compensation can refuse to register such agreement-(i) if the amount of compensation is inadequate, or (ii) if the agreement has been obtained by fraud or undue influence or other improper means. S.28

Q. What is the doctrine of added peril?

A. According to the doctrine of added peril if a workman while performing his duty does something which he is not required to do and which involves extra danger, the employer would not be liable to pay compensation if any injury is caused to him. For example, where a fitter, to take out some scrap, unnecessarily went under a machine which when started caused a permanent injury to his hand, it was held that the injury arose out of an added peril and the employer was not liable to pay compensation to the fitter. Note:- Held in Devidayal Ralyaram v. Secretary of State AIR 1937 Sind 288.

Q. Does negligence disentitle an employee to receive compensation?

A. Mere negligence does not disentitle an employee to receive compensation. It is the willful disobedience of an order or the wilful disregard of a safety guard that disentitles an employee to receive compensation.

Q. Can an Insurance Company file an appeal under section .30 of the Act without depositing the amount of compensation determined by the Commissioner for Workmen's Compensation?

A. As the Insurance Company is stepping into the shoes of the employer, the appeal filed by it under section 30 of the Act without depositing the amount payable under the order appealed against, is not maintainable. Note:- Held in New India Assurance Co. Ltd. v. M. Jayaram & Anr. 1984 I LLJ 171.

Q. In case where the Commissioner imposes on the insured employer interest under the circumstances contemplated by Section 4-A(3)(a) of the Act, is the insurer liable to reimburse the interest amount?

A. Interest is almost automatic once default on the part of the employer in paying the compensation due takes place beyond the permissible limit of one month. The Insurance Company is, therefore, liable to reimburse the interest amount.

Q. Can there be an exception to the rule that Insurance Company is liable to reimburse the interest amount?

A. The Supreme Court and some High Courts have held that there can be an exception to the said rule. Since the Act does not provide for a compulsory insurance, the parties are free to choose their own terms of contract. The statute

does not fix any liability on the Insurance Company. Contracting out, so far as reimbursement of amount of interest, is not prohibited by a statute. It is open to the parties to provide by contract that they will not take on liability of interest. If it is clear from the terms of contract that the insurer has specifically excluded the liability for interest under the Employees' Compensation Act and confined its liability to indemnify the employer only against the amount of compensation, the Insurance Company is not liable to pay interest.

Note: See Manager, Chulika Estate v. Kunju mohammed, 2008 II CLR 38 and New India Assurance Co. Ltd. v. Pababhai Mayabhai Harijan, 2008 II CLR 161 (Ker.& Guj.H.C.)

Q. In case where the Commissioner imposes on the insured employer penalty under the contingencies contemplated by Section 4-A(3)(b) of the Act, is the insurer liable to reimburse the penalty amount?

A. Penalty is imposed on the employer because of his unjustified delay and due to his own personal fault. The Insurance Company is, therefore, not liable to reimburse the penalty amount. Note: Held in Ved Prakash Garg v. Premi Devi & Ors. 1997 II CLR 938 (S.C.).

Source – Labour Law Agency

EMPLOYEES' PROVIDENT FUNDS & MISC. PROVISIONS ACT, 1952 & THE SCHEMES

CHECKLIST

Eligibility

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment.

Payment of Contribution

- The employer shall pay the contribution payable to the EPF, EDLI and Employees' Pension Fund in respect of the member of the Employees' Pension Fund employed by him directly by or through a contractor.
- It shall be the responsibility of the principal employer to pay the contributions payable to the EPF, EDLI and Employees' Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

Clarification about Contribution

After revision in wage ceiling from Rs.6500 to **Rs.15000** w.e.f. 1.9.2014 per month, the government will continue to contribute **1.16%** upto the actual wage of maximum Rs.15000 per month towards Employees' Pension Scheme. The employer's share in the Pension Scheme will be Rs.1250 w.e.f. 1.9.2014.

Under Employees' Deposit-Linked Insurance Scheme the contribution @ **0.50%** is required to be paid upto a maximum limit of Rs.15000.

Notes:

The above clarification is given by taking wages upto a maximum of Rs.15000 towards wage (basic+DA).

Applicability

- Every establishment which is factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed.
- Any other establishment employing 20 or more persons which Central Government may, by notification, specify in this behalf.
- Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

Benefits

Employees covered enjoy a benefit of Social Security in the form of an unattachable and unwithdrawable (except in severely restricted circumstances like buying house, marriage/education, etc.) financial nest egg to which employees and employers contribute equally throughout the covered persons' employment.

This sum is payable normally on retirement or death. Other Benefits include Employees' Pension Scheme and Employees' Deposit Linked Insurance Scheme.

Rates of Contribution

SCHEME	EMPLOYEE'S	EMPLOYER'S	CENTRAL GOVT'S
Provident Fund Scheme	12%	Amount > 8.33% (in case where contribution is 12% of 10%) 10% (in case of certain Establishments as per details given earlier)	NIL
Insurance Scheme	NIL	0.50%	NIL
Pension Scheme	NIL	8.33% (Diverted out of Provident Fund)	0.50%

Damages

- Less than 2 months@ 5% per annum
- Two months and above but less than four months@10% per annum
- Four months and above but less than six months@ 15% per annum
- Six months and above@ 25% per annum

Penal Provision

Liable to be arrested without warrants being a cognizable offence.

Defaults by employer in paying contributions or inspection/administrative

charges attract imprisonment upto 3 years and fines upto Rs.10, 000 (S.14).

For any retrospective application, all dues have to be paid by employer with damages upto 100% of arrears.

Source: LLR

THE EMPLOYEES PROVIDENT FUNDS & MISCELLANEOUS PROVISION ACT, 1952

As Per the Employees' Provident Funds (Amendment) Scheme, 2014 enforced w.e.f.

1st September, 2014. Wherever Word Rupees Six Thousand Five Hundred (Rs.6,500/-) occurs, the word Rupees Fifteen Thousand (Rs.15,000/-)is to be substituted.

The Employees Provident Funds and Miscellaneous provisions Act, 1952 is enacted to provide a kind of social security to the industrial workers. The security, however, differs from the security provided to them under the Workmen's Compensation Act or the Employees' State Insurance Act. The Employees' Provident Funds and Miscellaneous Provisions act mainly provides retirement or old age benefits, such as :-

- 1) Provident Fund,
- 2) Superannuation Pension, Individual Pension, Family pension and
- 3) Deposit linked insurance.

Provision for Terminal benefit of restricted nature was made in the Industrial Disputes Act, 1947, in the form of payment of retrenchment compensation. But this benefit is not available to a worker on retirement, on reaching the age of superannuation or voluntary retirement.

The Employees' Provident Funds and Miscellaneous Provision Act, 1952 is intended to provide wider terminal benefits to the industrial workers. For example, the act provides for payment of terminal benefits in various contingencies such as retrenchment, closure, and retirement on reaching the age of superannuation, voluntary retirement, resignation and retirement due to incapacity of work.

Provident Fund:-

- 1) Provident Fund is a social Security Benefit to employees.
- 2) It is a compulsory saving by an employee during his employment.
- 3) It is meant for old age
- 4) This is required to be availed on retirement from service.
- 5) An employee who contributes to provident fund is also eligible to receive a matching contribution from his employer.
- 6) Your provident fund is named as "Employees Provident Fund"

Employees Provident Fund Act / Scheme:-

- 1) Employees' Provident Fund is set up under the Central Act viz. Employees' Provident Fund and Miscellaneous Provisions Act, 1952, in the year 1952
- 2) It is applicable throughout the country
- 3) It is applicable to almost all establishments falling under the industries / class of establishments, wherein 20 persons are employed
- 4) In the case of cinema theatres workers it is applicable to such establishments wherein 5 persons are employed.
- 5) Benefits to an employee are provided through the schemes framed under the Act.
- 6) Provident Fund benefits are provided under the Employees' Provident funds Scheme, 1952

- 7) Pensions benefits are provided under the Employees' Pension funds scheme, 1952
- 8) Insurance benefits are provided under the Employees' Deposit Linked Insurance Scheme, 1976
- 9) A member of Employees' Provident fund is automatically eligible for pension and Insurance benefits without paying any additional amount of contribution.

Special Features of the Act / Scheme:-

- 1) The provident fund, pension and insurance benefits are protected against attachment. It cannot be assigned or charged and shall not be liable to attachment under any decree or order of any court.
- 2) Employees' Provident fund as also Provident Fund of exempted establishments is a recognised provident fund under the Indian income tax act, 1961
- 3) An employee is eligible to avail the rebate on income tax on his provident fund contributions subject to ceiling prescribed under the Income tax act.
- 4) Non payment of employees provident fund dues by an employer may lead to recovery action by regional provident fund commissioner such as prosecution, attachment of Bank account / property, arrest and detention.
- 5) Non payment of employees contributions recovered from the wages of the employees would constitute 'criminal breach of trust' punishable under section 406/409 IPC
- 6) Employees' Provident fund dues paid after the due date (20th of the following month) will result in payment of interest and penalty by the employer.
- 7) Employees provident fund account of an employee can be transferred to any place in the country.
- 8) Employees provident fund may be withdrawn partially for certain specified purposes such as housing, marriage, illness etc.
- 9) All provident fund claims of the member are disposed by EPF office within 30 days.
- 10) Members are given the benefit of filling nomination of provident fund / pension and employees deposit linked insurance.
- 11) The annual employees provident fund balance is informed to every employee by the Employees' Provident Fund before 30th September of each year
- 12) The employees provident fund organisation has completed its Golden Jubilee in the year 2002
- 13) The Employees' Provident fund organisation is marching ahead to achieve its goal for total computerization and inter connection of all its officers in the country so as to ensure service delivery within 2-3 days and anywhere, at any time service and issue of social security no. to all its members.

Applicability:-

- i) Every establishment which is a factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed and
- ii) Any other establishment employing 20 or more persons which Central Government may by notification, specify in this behalf (Infancy period of 3 yrs has been withdrawn by ordinance, w.e.f. 22-09-1997)
- iii) Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.
- iv) Any establishment registered under Co-operative Societies Act, 1912, or any State Act of Co-operative Societies, Employing **50 or more employees'** and working without the aid of power.

- v) The Employees' Provident Fund act is applicable to the cinema theatre employing 5 or more workers.
- A. If an establishment consists of different departments / branches, whether located in the same place or in different places, all such departments or branches are treated as part of the same establishment.
- B. The Act continues to apply even if the number of employees falls below 20 employees

Non Applicability:-

Any establishment registered under Co-operative Societies Act, 1912, or any State Act of Co-operative Societies, Employing **less than fifty employees** and working without the aid of power.

1. To any establishment under the control of Central / State Government, having their own scheme / rules for Contributory Provident Fund or Pension for its employees.
2. To any establishment set up under central, Provincial or State Act having its own scheme / rules for P. F. and Pension for its own employees.
3. To any establishment, which is exempted by the Central or State Government by notification because of its financial position.
4. To apprentices appointed under Apprentices Act 1961 or under Standing Orders of the establishment.
5. To employees whose pay **exceeds Rs. 15000/-** (w.e.f. 1st Sept., 2014) at the time of joining service.

In case of Disputes regarding Applicability of the act to an establishment or as to the quantum of the money due from any employer

If any disputes arises regarding the applicability of the Act to an establishment or as to the amount of moneys due from any employer under the Act or any scheme, the Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may decide the same by holding an enquiry.

Eligibility:-

1. Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment where salary is less than Rs. 15000/- p.m. and optionally covered where salary exceeds Rs. 15000/- p.m. (w.e.f. 1st Sept., 2014)
2. Any person who is classified as disabled employee under new para 82 of the Employees Provident fund Scheme, 1952 and working in the private sector, with monthly wages upto Rs. 25000/- p.m. provided they are appointed on or after 01.04.2008
3. Any person who is classified as International Worker under new para 83 of the Employees Provident Fund Scheme, 1952.

Coverage:-

Following Documents are required for deciding Final Date of Coverage under EPF & MP Act:

Manufacturing Unit:-

1. PAN Card of Company.
2. Professional Tax Certificate / GST Certificate.
3. Books of accounts (Ledger, cash books etc.) since beginning.
4. Balance sheet/P& L account (in case of Limited company Annual Report since beginning)
5. Shops & Establishment Registration Certificate/ Factory Licence.
6. Partnership deed (in case of Partnership firm) & Memorandum of Association & Articles (in case of Limited Co.)
7. Salary / Wage register & Attendance Register since beginning.
8. Month wise strength of number of employees since beginning.
9. List of Directors/partners/owners along with their residential addresses.
10. Name of the Bankers, Address of the Bank and Name of the Person responsible for financial affairs.
11. Digital Signature of Employer.
12. Specimen Signature in Specific Format.

Restaurant / Residential Hotel

1. Above all documents except Date of 1st Trial Production.
1. Invitation card or paper- cutting of the advertisement Regarding The Inauguration of the Restaurant/Hotel
2. Eating House Licence from the Public Health Department (BMC)
3. Licence for public entertainment in the premises issued by the police department.
4. 1 Sale bill (either restaurant or room sale bill whichever is earlier)
5. Room sale register.
6. Exercise Certificate.
7. Bar permit Licence (if any)

Following Points Jointly Are Taken into Consideration While Clubbing The Units:-

1. Unit of Ownership (i.e. Management & Control)
2. Unit of Labour (i.e. transferability of employees)
3. Geographical Proximity (i.e. vicinity, bonafides in keeping the unit a part)
4. Source of Finance (i.e. whether source of finance is same)
5. Supervision & Control (i.e. whether managed by same person)
6. Service Conditions of Workmen (i.e. rules applicable, employment contract, if any)
7. Functional Integrality (i.e. integrated whole- part & parcel of main unit, primary & dominant activity, subsidiary, minor, incidental)
8. Unit of Purpose (i.e. production & business, interrelated business)
9. General (i.e. books of accounts / similarity of nomenclature)

Voluntary Coverage:-

If the employer and the majority of employees agree by a settlement to be bound by the provisions of the act and make application to the effect to the Central Provident Fund Commissioner u/s. 1(4)

Clubbing of Two Establishment:-

In such cases the tests are: - 1) Unity of ownership, 2) Unity of Management, 3) Unity of Control, 4) Unity of Finance, 5) Unity of Labour, 6) Unity of employment, 7) Functional integrality, 8) Continuity of process, 9) Inter-transferability of employees.

In the associated Cement Company's case of a company owned a cement factory and also a lime stone quarry which supplied lime stone exclusively to the factory. The quarry was situated near the factory and it was a feeder to the factory. Without lime stone from the quarry the factory could not work. There was a manager of the quarry but he was under the manager of the factory. It was accordingly held that since there was unity of ownership, unity of management, supervision and control, unity of finance and employment, the two must be regarded as not being separate establishments and must be deemed as one establishment within the meaning of clause (iii) of Sec. 25.

A contribution of P.F is to be deducted on (as per the Supreme Court Judgment

Dated : 28th Feb., 2019):-

1. On Basic Wages.
2. Dearness Allowances. (Special Allowance in Maharashtra) & all allowance which are commonly paid to all employees.

Except following:

Principles laid down for allowances to be excluded for PF Deduction of contribution:

- Allowances which are variable in nature;
- Allowances which are linked to any incentive for production resulting in greater output by an employee; or
- Allowances which are not paid across the board to all employees in a particular category; or
- Allowance which are paid especially to those who avail the opportunity.
- House Rent Allowance
- Overtime Allowance
- Statutory Bonus
- Leave Encashment
- Production or Incentive Bonus
- Service charges collected from customers and paid to employees
- Notice pay in lieu of termination
- One month wage u/s 33(2)(b) of Industrial Disputes Act

To Compute 20 or more Employees Following Employees are Counted:-

The permanent, temporary, full time, part time, casual, time - rated, piece - rated employees, contract employees, persons employed in various departments, head office, branches, sales offices, godowns or any other different places etc. and sales representatives are counted for computing the employment strength. Apprentices engaged under the Apprentices Act. 1961 are not counted for the purpose of applicability.

Excluded Employee:-

- 1) An employee who, having been a member of the Fund, has withdrawn the full amount of his contribution in the Fund (a) on retirement from service after attaining the age of 55 years or (b) migration from India for permanent settlement abroad; or for taking employment abroad;
- 2) An employee whose pay at the time he is otherwise entitled to become a member of the fund, exceeds Rs. 15000/- per month (w.e.f. 1st Sept., 2014)
- 3) A person who, according to the Certified Standing Orders, is an apprentice, or who is declared to be an apprentice by the authority specified in this behalf by the appropriate Government.

Contribution rates w.e.f 1st April 2017:-

Employee's Contribution 12% and

Employers Contribution 12% plus 1.00% = 13.00%

Contribution on 10% for Beedi Industry :

The Contribution payable by the employer is 10 percent of the wages of an employee. The Central Government may increase it to 12 percent in respect of any establishment or class of establishment. However in the case of :-

establishment in which less than 20 persons are employed;

sick industrial company

establishment which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth;

establishment in the -

- (A) Jute Industry
- (B) Beedi Industry
- (C) Brick Industry
- (D) Coir Industry other than the spinning sector
- (E) Gaur Gum Factories.

the contribution payable by the employer is 10 percent of the wages of an employee. The Contribution payable by the employee is equal to the contribution payable by the employer in respect of such employee.

From employers contribution out of 12% contribution 8.33% is deposited in the Employees' Pension Fund subject to a ceiling that the contribution payable by the employer be limited the amount payable on his pay of Rs. 15000/-pm hence maximum contribution under Employees' Pension Fund will be Rs. 1250/-. And balance 1.00% includes administrative charges and EDLI Contribution.

Provident Fund Challans Consist following Accountants and Rate of Contribution w.e.f 1st June 2018:-

A/c. No.	Employers Contribution	Employee Contribution	Total
I	3.67%	12%	15.67%
II***	0.50%***	----	0.50%***
X	8.33%	----	8.33%
XXI	0.50%	----	0.50%

Adv. Ramesh L. Soni

M.B.A. (HR) , B.Sc. (Hons.), LL.B., D.L.L. & L.W. , D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

Management Consultant and Advisor on Labour Laws

Cell No. 9867796988 / 9867797737 Email :- rlsconsulting.in / jigar@rlsconsulting.in

Website: www.rlsconsulting.in

Total Contribution

13.00%

12%

25.00%

*****Explanation on the PF Notification No : 742 Dated: 15.03.2017 for Reduction in Rate of Administrative Charges from 0.85% to 0.65% of the pay:-**

w.e.f. 01/04/2017 Minimum Administrative Charges under A/c II for non-functioning Establishments/Factories shall be Rs. 75/- pm and for operational Establishments/Factories Minimum Administrative Charges shall be Rs. 500/- pm

From June 2018 Salary Admin Charges under A/c II has further reduced from 0.65% to 0.50%.

Ready Chart for Administrative Charges under A/c. II and XXII

Period	Admin Charges for A/c. II for Functioning Company (percentage)	Minimum Admin Charges for A/c. II for Non Functioning Company (No Employees)	Minimum Admin Charges for A/c. XXII for Non Functioning Company (No Employees)	Minimum Admin Charges for A/c. II for Functioning Company (Employees Salary Rs. 15000/- & above - Non Covered Employees)	Minimum Admin Charges for A/c.XXII for Functioning Company (Employees Salary Rs. 15000/- & above - Non Covered Employees)
Upto	31/12/2014	1.10%	Rs. 5/-	Rs. 2/-	Rs. 5/-
01/01/2015	31/03/2017	0.85%	Rs.75/-	Rs. 25/-	Rs. 500/-
01/04/2017	31/05/2018	0.65%	Rs.75/-	Rs. 25/-	Rs. 500/-
01/06/2018	To Till Date	0.50%	Rs.75/-	NIL	Rs. 500/-

Is it permissible for any member to contribute at a rate higher than the rate of 12%?

A Member, if he so desires, may contribute an amount exceeding 12% as the case may be but the employer shall not be under an obligation to pay contribution over and above his contribution payable under the Act.

Contractors Obligations:-

A contractor has to recover contribution of the employees, employed by him and pay it to the principle employer together with employer's contributions in equal amount as well as administrative charges.

The wages of any employee should not be reduced by the employer to meet any liability by the employer to pay contribution of P. F. or pension or any charges under the Act or the total of benefits like gratuity, old age pension etc.

Nomination by a Member:-

Each member has to make a nomination to receive amount standing to his credit in the Fund in the event of his death. If he has a family, he has to nominate one or more persons belonging to his

family and none other. If he has no family he can nominate any person or persons of his choice but if he subsequently acquires a family, such nomination becomes invalid and he will have to make a fresh nomination of one or more persons belonging to his family. A nomination can be modified by the member at any time.

Returns; Forms; Records and Submissions:-

Every employer has to submit the following returns to the Commissioner:-

Sr. No	Return	Form	Time Schedule
1	Application for Exemption	Form 1	-----
2	Consolidated return of employees entitled to become members of the fund with details of basic wages + D. A. + cash value of food concession (PF Challan)	As prescribed by the commissioner	Within 15 days of the commencement of the Scheme 1952
3	Return of the employees qualifying to become member for the first time	Form 5	Within 15 days of close of each month
4	Nomination Form and declaration form to be submitted for new entrants	Form 2	Within 15 days of close of each month
5	Return of employees leaving service (Nil return if no employee left)	Form 10	Within 15 days of close of each month
6	Return of ownership	Form 5A	Immediate an application of the scheme.
7	Monthly Statement of contributions	ECR	Within 15 days of the closure of the month.
8	To be submitted by each employee at the time of joining the company	Composite Declaration Form 11	At the time of Joining
9	To be submitted when any employee who died during the service period.	Form 20 & 10 D (Composite Calim Form)	Within 05 days of close of each month
10	Retire / Termination / Retrenchment / Resignation	Form 19 & Form 10C (Composite Calim Form)	After 60 days.
11	From 1 st January 2019 PF Withdrawl and PF Advance	Only Online Claim	After 60 days for PF withdrawal.
12	After 30 days of unemployemt or employment with PF uncovered company.	then 75% of withdrawl after 30 days balance 25% after completion of 60 days	

- 11) Every employer has to maintain inspection notebook in the Form, prescribed by the commissioner to record observation of the Inspector's visit.

- 12) Every employer is required to maintain accounts in respect of the contributions and to make payments out of the fund when sanctioned by the Central Board.
- 13) Persons authorised to sign documents, returns, forms, etc. under PF, FPF. and IF. should send their specimen signatures in duplicate to the Commissioner.
- 14) Digital Signature of Authorised Person has to be uploaded on PF Portal.

Benefits:-

Employees covered enjoy a benefit of Social Security in the Form of an unattachable, unwithdrawable (except in severely restricted circumstances like buying house, marriage/education etc.) Financial nest egg to which employees and employers contribute equally throughout the covered person's employment. This sum is payable normally on retirement or death. Other Benefits include Employees' Pension Scheme and Employees' Deposit Linked Insurance Fund.

Penal Provision:-

Liable to be arrested without warrant being a cognizable offence

Defaults by employer in paying contributions or inspection/ administration charges attract imprisonment up to 3 years and fines up to Rs. 10000/- (S.14)

For any retrospective application, all dues have to be paid by employer with damages up to 100% of arrears. Contribution payment liability upon the employer for both the shares payable, but for restrictive provisions contained in para.32 of the EPF scheme 1952, the employer is RESTRAINED from recovering "EMPLOYEE SHARE" of contribution for the past period.

EMPLOYEES' PROVIDENT FUND ORGANISATION

(राज संचालन, भारत सरकार) / (Ministry of Labour & Employment, Govt. of India)

क्षेत्रीय कार्यालय / REGIONAL OFFICE: TAMBARAM, 3, राजाशी सालै, चेन्नई- 600045 / 3, Rajaji Salai, CHENNAI-600045

PHONE: 2226 1925 / 2297 / 4397/4398 / 4376. e-mail: ro.tambaram@epfindia.gov.in

How to file e-Nomination through Online

On becoming a member of EPF/EPS, it is mandatory for the members to nominate their nominees conferring the right to receive the PF amount that stands to their credit and the Pension benefits in the event of death. In order to facilitate the filing of nomination instead of submission of Form 2 (physical) the members can file their nomination through online for which EPFO has launched one more e-initiative i.e., Aadhaar based e-nomination.

The steps to be followed by the EPF/EPS members to furnish their nominees details through online:

Kindly use Desktop version of Mozilla Firefox 58.0+ browser for using this facility.

1. Member's mobile number should be linked with his Aadhaar.
2. Log on to EPFO's website, <https://unifiedportal-mem.epfindia.gov.in/memberinterface/> and enter your UAN (Universal Account Number) and password to login.
3. Click on "View" tab and then click on "Profile" option to upload your profile photo (less than 100 kb) in jpg/jpeg format and update the required details including permanent/current address.
4. Then go to click on "Manage" tab and then click on "E-nomination" option.
5. Details like UAN, Name, Date of birth, Gender, Father's/Husband's Name, Marital Status, Permanent/ Current Address, Date of Joining in EPF and Date of Joining in EPS appear on the screen. On verification of the said details, click "Proceed" option.
6. Now, click on "yes" to update family declaration. Members can nominate more than one nominee and also distribute the amount in (%) percentage that may stand to his credit in the Fund amongst his/ her nominees at his/her own discretion.
7. Go to "add family details" and add the details of people you want to nominate. You need to enter the Aadhaar Number, Name & date of birth as per Aadhaar, Relationship, Address of the nominee, Bank account details and upload the photo (less than 100 kb) of the nominee, then click "Save family details." If the nominee is a minor, please furnish the details of the Guardian i.e., name of the guardian, relationship and address. You can also add more than one nominee by clicking on "Add Row".
8. Go to "nomination details" and declare the total amount of share in percentage (%) among your nominees. In case, you would like to nominate only one person as your nominee then you can declare 100% as share.
9. Click on "save EPF nomination" box.
10. Now, click on e-sign button and enter your Virtual id number (VID) of Aadhaar to generate OTP, which will be sent to the registered mobile number, which is linked to your Aadhaar card.
11. The Aadhaar e-sign facility helps in approving the e-nomination form. Enter the OTP (one-time password).
12. After this the e-nomination gets registered with the EPFO. A readily available nomination in the system enables to easily file the Pension Claim and in the event of the demise to the member his/her nominee will be able to file online claim based on the OTP on his/her Aadhaar Linked Mobile. One doesn't need to apply any physical document to the employer or ex-employer after the online nomination is done.

Please remember that the following banks are designated for disbursing EPS pension in Tamilnadu:

State Bank of India, Indian Overseas Bank, Indian Bank, HDFC Bank, ICICI Bank & Axis Bank.

Contd--2

Eligible Nominees in EPF/EDLI & EPS

Nominees are very important in all Savings & Insurance Schemes. In EPFO also, nominees are very important to get their share of PF accumulations/EDLI and the Pension benefits in case of any calamity i.e., after the death of Member.

There are two types of Nominees for EPF/EDLI and Pension Schemes based on member's marital status.

If the member is a Bachelor or Spinster "having Family":

GENDER	EPF / EDLI SCHEME	EPS SCHEME
MALE or FEMALE	Dependent Parents (or) Any one of the family members (Nomination can be made for one or more persons belonging to his family duly mentioning the Percentage of Share)	Dependent Parents (or) Any one of the family members

If the member is a Bachelor or Spinster and "no Family":

GENDER	EPF / EDLI SCHEME	EPS SCHEME
MALE or FEMALE	Any person or persons (Nomination can be made for one or more persons duly mentioning the Percentage of Share)	Any person

If the member is a Married Person:

GENDER	EPF / EDLI SCHEME	EPS SCHEME
MALE	-his Wife -his Children (whether married or unmarried) -his dependent parents -his deceased son's widow and children	His Wife, sons and daughters (including legally adopted children)
FEMALE	-her Husband -her children (whether married or unmarried) -her dependent parents -her deceased son's widow and children	Her Husband, sons and daughters (including legally adopted children)
	(Nomination can be made for one or more persons belonging to his family duly mentioning the Percentage of Share)	

- If a member has a family at the time of making a Nomination, the nomination shall be in favour of one or more persons belonging to his family for EPF/EDLI Schemes and any nomination made by such member in favour of a person not belonging to his family shall be **invalid**.
- A fresh nomination shall be made by the member on his marriage and any nomination made before such marriage shall be deemed to be **invalid**.
- At the time of making a nomination, if the member has no family, the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be **INVALID** and the member shall make a fresh nomination.

"Members may nominate their nominees any number of times through e-Nomination in member portal and the latest nomination only will be valid"

For latest initiatives & updates connect with us on our social media platforms:

 <https://www.facebook.com/EPFOTambaram> &  <https://twitter.com/epfotambaram>

Rules & Regulations for Loan, Advance & Withdrawal from EPF

Minimum Service Limit for EPF Loan

Did you find yourself eligible for partial withdrawal of EPF? Do you have one of the above reasons? Yes? Still, you may not get the PF money. There is minimum service condition for each cause.

No Minimum Service Limit

- Medical Treatment
- Calamity
- Pre Retirement

Minimum 5 Years of Service

- Home or Plot Purchase
- Construction of House
- Alteration or Addition in Home

Minimum 7 Years of Service

- Marriage
- Education

Minimum 10 Years of Service

- Home Loan Repayment
- Home Repair

Rules of PF withdrawal before Leaving the Job

You can take the non refundable Loan from the EPF account. But it does not mean that you should prefer this option. Never try to touch the retirement fund.

You can **withdraw the PF money** if you leave the job and remain unemployed for 2 months. Even in some circumstances **you can get PF money just after leaving the job**. But to withdraw amount from EPF during the job, you have to fulfill many conditions.

1. You have to fulfill the minimum service need. The best part is the duration of the service is total. Duration of each job is added to this calculation, given you have **transferred your PF accounts** to the new job. Now you can **transfer the PF amount easily with the introduction of UAN**.
2. There is a limit on the amount you can withdraw. It can be up to 36 times of your wages (basic+DA). The maximum amount for withdrawal depends upon the reason of PF withdrawal.
3. You need to give proof of the reason you have mentioned.

Let us see the conditions of partial PF withdrawal for each purpose.

PF Withdrawal for Marriage

- You can withdraw from the EPF account on the occasion of marriage. The marriage can be of yourself, sister, brother, son or daughter.
- The minimum service period for this advance is 7 years.
- You can withdraw up to 50% of the total employee contribution. You can use this reason 3 times in your life.
- Marriage invitation card along with the application should be submitted through the employer.

PF Withdrawal for Education

- You can withdraw fund for the education of self and children.
- You should have completed a total service of 7 years.
- You can get up to 50% of the employee contribution.
- This option can be used 3 times in a lifetime.
- You should attach bonafide certificate duly indicating the fees payable from the educational institution.

PF Advance for Medical Treatment

- You can take an advance from PF account for the treatment of self, spouse, children and parents.
- There should be hospitalization for more than a month. If the claimant is an employee, he should have taken leave from the organization.
- You can avail advance in case of TB, leprosy, paralysis, cancer, mental derangement or heart ailment without the hospitalization.
- You have to give the certificate from the doctor stating the hospitalization need. In case of above mentioned disease you need to give the certificate from specialist doctor.
- You can take 6 times of wages (basic+DA) or total employee share, whichever is less.
- There is no limit on the frequency.

Purchase Home or Construction Using PF Money

- Buying home or plot is one of the most important decisions of life. We invest most of our savings on this. But do you want to compromise with your retirement years. Think about this before applying for PF withdrawal.
- You can withdraw from PF for the purchase of a home or construction of the house only once.
- You must have completed 5 years in service.
- Property should be registered in the name of self or jointly with spouse
- There should not be any joint owner of property other than the spouse.
- You can get 36 times of wage (basic+DA) for this purpose.
- You need to give a filled declaration form with the application.

EPF Loan for Buying a Plot

- PF money can be also used for buying a plot.
- You can avail the withdrawal facility for purchase of plot only once.
- You must have completed 5 years in service.
- There should not be any co-owner of the property other than the spouse.
- You can get 24 times of wages (Basic +DA).
- You need to give a copy of the purchase agreement.
- You should give a declaration with the application.

Alteration or Addition in the House

- You must have completed 5 years in service.
- At least 5 years after the construction of house.
- You can get 12 times of wages.
- Property should be owned by you or jointly with the spouse. Only once in service.
- Alteration proof is required.
- Repair of House
- All the condition is similar to the alteration of house except you have to wait at least 10 years after the construction of house.

Lockout of the Company

- If you are not getting wage for last two months and your company is locked out or closed for at least 15 days, you can take a loan from EPF.
- You can get the amount equal to your unpaid wages.
- There must have balance in employee contribution.
- You can check your PF balance through various methods.
- If closure has been for more than 6 months, you can also use the employer's contribution. (Do you wait for such a long time)

Withdrawal Prior To Retirement

- You must have completed 57 years of age
- Retirement should be after one year.
- You can get up to 90% of the total provident fund balance.
- You need to give a certificate from the employer stating the date of retirement.

In Case of Calamity

- There is no condition of minimum service.
- You have to give certificates of damage from competent authority. You can get up to 50% of the employee share.
- No other condition.

The Form and Process of Applying for PF Advance

To get the partial amount of EPF you have two ways to apply. The first way is the preferred one. In both the method you need to attach a declaration form with the application if you are taking advance for the following purposes.

- Flat or plot purchase
- House construction
- Alteration or addition
- Repair of the house

Option 1

Now, you have very easy way to partially withdraw the EPF amount. The EPFO has come with a simple new EPF withdrawal form 31 (new). This form requires very few information

The best thing about this form is that it does not require the approval from the employer. Yes! You can directly submit this form to the regional PF office. But to use this easy facility, you need UAN activated and KYC done.

Option 2

If you can't get advance through the first method, you can apply through the employer.

You should use form 31 for the advance through the employer. You can download this form from the EPFO website.

Time to Get the PF Advance

The application submitted through the first method would take less time. You can expect money within a week. But the second method can take up to one month. It depends upon your employer's promptness. Some regional PF offices take more time.

BRIEF NOTE ON REDUCTION IN BASIC SALARY

BACKGROUND

Under what circumstances, the salary can be reduced?

- 1) Business downturn or recession
- 2) Wrong hire or not fitting into the desired role
- 3) Employee request for role change since not able to perform in current role

4) Employee request for transfer to other location (Metro to Non Metro)

5) Other reasons

CAN THE BASIC SALARY OR CTC BE REDUCED

Yes the basic salary of an employee can be reduced, whose basic salary is more than Rs.15000 per month.

It is without notice or even consent of an employee in view of the judgement of Supreme Court in Marathwada Gramin Bank vs Marathwada Gramin Bank Employees Union (case 2011 LLR Page 1130).

We can not reduce the basic salary of an employee whose basic salary is less than Rs.15000 per month in view of the prohibition of the Section 13 of EPF & MP Act.

PRECAUTIONS TO BE TAKEN

- 1) Take a request letter from concerned employee
- 2) Issue revised salary letter and obtain acknowledgement

APPROACH OF PF DEPARTMENT

Considering the above Supreme Court Order, the PF Deptt has decided not file to file review petition. They have issued a circular dated 27-5-2014 to all Regional PF Commissioners directed them not to force employers to contribute over and above the statutory wage ceiling in respect of their employees.

However, option is available for the employees to contribute beyond the statutory wage ceiling if they so desire subject to the conditions enumerated under para 26(6) of the Employees' Provident Funds Scheme, 1952.

ARTICLE ON :

LATEST SUPREME COURT JUDGMENT ON PROVIDENT FUND

BY : R. L. SONI

Simplified Analysis of the Supreme Court ruling on Basic Wages for Provident Fund Computation.

The Honorable Supreme Court of India have passed a Judgment on 28th February, 2019 in case of **Regional Provident Fund Commissioner (II), West Bengal vs. Vivekananda Vidyamandir & Others. [Civil Appeal No 6221 of 2011]**. A bench of Justice Shri Arun Mishra and Justice Shri Naveen Sinha ruled that employers cannot segregate 'special allowance' from basic wages for purpose of PF deductions.

It's a judgment on the definition of 'basic wages' for the purposes of calculating Provident Fund contributions. This is a very important judgment as it impacts on cost to companies (Employers) and take home salary of employees.

1. PF contribution is payable on all amounts paid to employees, except on certain amounts. PF is payable on Dearness Allowance.
2. PF is not payable on House Rent Allowance (HRA).
3. PF is not payable on any allowance which is variable and not universal in nature like Overtime, Statutory Bonus, Commission, Incentive, Leave Encashment, etc.

To Conclude, PF is payable on Gross Salary, reduced by HRA and any variable allowance.

Certain other points to be considered:

- There is no effective date specified by the PF Department for application of rulings in the Judgment.
- This Ruling has not touched upon the impact of those contributing PF on amounts exceeding Rs.15,000/- per month which is the statutory wage limit.
- This Ruling impacts companies employing foreign nationals qualifying to be International Workers (i.e. other than Indian passport holders) where the statutory wage ceiling of Rs 15,000/- per month does not apply.
- Currently, there is no clarity on whether this will have any retrospective effect on companies contributing PF on amounts lesser than Rs 15,000/- per month.

Some Examples for the Calculation of Salary after the SC Judgment:

Case	Calculation	PF Computation										
Example No.:1 In case when Gross Salary is less than Rs. 15,000/- Per Month.	<table border="1"> <tr> <td>Basic + DA</td> <td>12000</td> </tr> <tr> <td>Special Allowance other than DA</td> <td>1500</td> </tr> <tr> <td>HRA</td> <td>600</td> </tr> <tr> <td>Overtime</td> <td>400</td> </tr> <tr> <td>Gross</td> <td>14500</td> </tr> </table>	Basic + DA	12000	Special Allowance other than DA	1500	HRA	600	Overtime	400	Gross	14500	<p>PF is now payable on Gross Salary minus OT, HRA, Statutory Bonus and other variable allowances.</p> <p>Old PF Contribution – $12,000 \times 12\% = 1440/-$</p> <p>New PF Contribution – $12000+1500=13500$, $13500 \times 12\% =1620/-$</p>
Basic + DA	12000											
Special Allowance other than DA	1500											
HRA	600											
Overtime	400											
Gross	14500											

Example No.:2 In case when Gross Salary is more than Rs. 15,000/- Per Month, but Basic is less than Rs. 15,000 per month (Example 1).	<table border="1"> <tr> <td>Basic + DA</td><td>13000</td></tr> <tr> <td>Special Allowance other than DA</td><td>1800</td></tr> <tr> <td>HRA</td><td>4000</td></tr> <tr> <td>Overtime</td><td>400</td></tr> <tr> <td>Gross</td><td>19200</td></tr> </table>	Basic + DA	13000	Special Allowance other than DA	1800	HRA	4000	Overtime	400	Gross	19200	<p>PF is now payable on Gross Salary minus OT, HRA, Statutory Bonus and other variable allowances.</p> <p>Old PF Contribution – $13,000 \times 12\% = 1560/-$</p> <p>New PF Contribution – $13000+1800=14800$, $14800 \times 12\% =1776/-$</p>
Basic + DA	13000											
Special Allowance other than DA	1800											
HRA	4000											
Overtime	400											
Gross	19200											

Example No.:3

In case when Gross Salary is more than Rs. 15,000/- Per Month, but Basic is less than Rs. 15,000 per month (Example 2, Where Statutory Wage limit becomes applicable).

Basic + DA	14000
Special Allowance other than DA	1900
HRA	5000
Overtime	800
Gross	21700

PF is now payable on Gross Salary minus OT, HRA, Statutory Bonus and other variable allowances.

Old PF Contribution –
14,000 X 12% = 1680/-

New PF Contribution –
 $14000+1900=15900$, $15900 \times 12\% = 1908/-$ (PF Ceiling Cap can be kept upto 15000 $\times 12\% = 1800/-$)

Example No.:4

In case when Gross Salary is more than Rs. 15,000/- Per Month, and Basic is also more than Rs. 15,000 per month, and Management Currently Contributes PF on restricted / Statutory wages Ceiling.

Basic + DA	20000
Special Allowance other than DA	3000
HRA	6000
Overtime	1200
Gross	30200

Old PF Contribution –
15,000 X 12% = 1800/-

New PF Contribution –
15,000 X 12% = 1800/-

(NO CHANGE)

(PF Ceiling Cap 15000 X 12% = 1800/-)

Example No.:5

In case when Gross Salary is more than Rs. 15,000/- Per Month, and Basic is also more than Rs. 15,000 per month, and Management contributes PF on actual Basic.

Basic + DA	25000
Special Allowance other than DA	5000
HRA	10000
Overtime	4000
Gross	44000

Old PF Contribution –
25,000 X 12% = 3000/-

New PF Contribution –
25,000 X 12% = 3000/-

(NO CHANGE)

Since SC Judgment

has not touched upon the impact of those contributing PF on amounts exceeding Rs.15,000 per month which is the statutory wage limit.

- Article by: Ramesh. L. Soni

EPFO directs officers not to send notices to employers to check wage structure

Move aimed at reducing harassment after apex court ruling that expanded scope of basic wages for PF calculation

SURABHI

Mumbai, September 5.

The Employees' Provident Fund Organisation has directed its officers not to send notices to employers and establishment owners for checking their wage structure for the last three to five years.

The move, which is aimed at cutting down on undue harassment of employers, comes in the wake of a Supreme Court ruling in February that has expanded the scope of basic wages for calculating provident fund.

"There is no reason or justification to initiate roving inquiries into the wage structure of complying establishments on the surmise that certain allowances in the nature of basic wages might not have been treated as part of pay for EPF contributions," the EPFO has said in a recent circular, adding that in

cases where notices have been sent without an evidence of arbitrary bifurcation of wages with the intention to avoid PF payment, the notices should not be pursued further.

"Such action amounts to roving inquiries/investigations which is impermissible in law," the EPFO has said.

It has also said that field offices must take permission from the EPFO's Central Intelligence Analysis Unit (CAIU) before carrying out inspections and should also not take any coercive measures until the pending review petitions filed in the Supreme Court on the issue have been heard.

Supreme Court ruling

In its ruling on February 28 this year, the Supreme Court has held that special allowances will be a part of the basic salary and will be used while calculating an employee's



The All India Manufacturers Association had raised the issue EPFO SUPRIET SAWALI

Field offices must take permission from the EPFO's Central Intelligence Analysis Unit (CAIU) before carrying out inspections.

the purpose of compliance.

The All India Manufacturers Association (AIMO) said the move will provide relief to honest and law abiding entrepreneurs.

According to an AIMO release, Central PF Commissioner Sunil Barthwal said, "AIMO had raised this issue about its members and members of the business community in general being issued with notices by statutory authorities.

After serious deliberations we felt that it had a valid point and in the interest of the development of business in India, we have issued the above circular to our officers to carry out investigations only after taking permission from CAIU and following the administrative guidelines."

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- PROFESSION TAX
- SEMINARS ON VARIOUS LABOUR LAWS

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भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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अम और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 2 नवम्बर, 2016

सा.का.नि.1035(अ).— केन्द्रीय सरकार, कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की वारा 7 की उपधारा (1) के साथ पठित धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्मचारी भविष्य निधि स्कीम, 1952 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

1. (1) इस स्कीम का संक्षिप्त नाम कर्मचारी भविष्य निधि (पांचवा संशोधन) स्कीम, 2016 है।
(2) यह राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगा।
2. कर्मचारी भविष्य निधि स्कीम, 1952 में, पैरा 83 के उपर्ये (2) के खंड (प्रक) के, उपखंड (ख) के पश्चात् निम्नलिखित परंतुक अंतःस्पायित किया जाएगा, अर्थात् :-

"परंतु कोई कर्मकार, जो शांति और मित्रता की वर्ष 1950 की संधि के कारण नेपाली राष्ट्रिक है और कोई कर्मकार, जो शांति और मित्रता की वर्ष 2007 की संधि के कारण भूटानी राष्ट्रिक है, को भारतीय कर्मकार समझा जाएगा।"

[फा.नं. एस-35011/1/2011-एसएस-II]

आर. के. गुप्ता, संयुक्त सचिव

टिप्पण : कर्मचारी भविष्य निधि स्कीम, 1952, भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में अधिसूचना नं. का.नि.आ.1509, तारीख 2 सितंबर, 1952 द्वारा प्रकाशित की गई थी और अधिसूचना नं. सा.का.नि. 580 (अ), तारीख 7 जून, 2016 द्वारा अंतिम संशोधन किया गया था।

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. (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. Secy.

Note : The Employees' Provident Funds Scheme, 1952 was published in the Gazette of India, Extraordinary, 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. 580(E) dated the 07th June, 2016.

अधिसूचना

नई विज्ञप्ति, 2 नवम्बर, 2016

मा.का.नि.1036(अ).—केन्द्रीय मरकार, कर्मचारी भविष्य निधि और प्रक्रीय उपचार अधिनियम, 1952 (1952 का 19) की धारा 7 की उपचारा (1) के साथ पठित धारा 6 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्मचारी पेंशन स्कीम, 1995 का और संशोधन करने के लिए निम्नलिखित स्कीम बनाती है, अर्थात् :-

1. (1) इस स्कीम का संशिक्षण नाम कर्मचारी पेंशन (छाता संशोधन) स्कीम, 2016 है।
 (2) वह राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगा।
2. कर्मचारी पेंशन स्कीम, 1995 में, गो 43क के उपर्योग (1) में, खंड (viiiक) में उपखंड (घ) के पश्चात् निम्नलिखित परंतुक अंतःस्थापित किया जाएगा, अर्थात् :-

"परंतु कोई कर्मकार, जो शांति और मित्रता की वर्ष 1950 की संधि के कारण नेपाली राष्ट्रिक है और कोई कर्मकार, जो शांति और मित्रता की वर्ष 2007 की संधि के कारण भूटानी राष्ट्रिक है, को भारतीय कर्मकार समझा जाएगा।"

[फा.सं. एस-35011/1/2011-एसएस-II]

आर. के. गुप्ता, संयुक्त सचिव

टिप्पणी : कर्मचारी पेंशन स्कीम, 1995, भारत के राजपत्र, ज्ञानाधारण, भाग II, खंड 3, उपखंड (i) में अधिसूचना में, मा.का.नि.748(अ), तारीख 16 नवम्बर, 1995 द्वारा प्रकाशित की गई थी और अधिसूचना में, मा.का.नि. 657(अ), तारीख 1 जुलाई, 2016 द्वारा अंतिम संशोधन किया गया था।

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:—

1. (1) 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 (viiiia), 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.

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 the 16th November, 1995 and was lastly amended vide notification number G.S.R. 657(E) dated the 1st July, 2016.

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**HARINDRA
KUMAR**

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कर्मचारी भविष्य निधि संबंधन
EMPLOYEES' PROVIDENT FUND ORGANISATION
 राज एवं गोपनीय मंत्रालय, भारत सरकार
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 Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi-110066
 Website: www.eplindia.gov.in, www.eplindia.nic.in



No. INV- INV-11/1/2020-INV / 2025

Date:

04 JAN 2021

To

All Regional Provident Fund Commissioners,
Officers-In-Charge,
Regional offices.

Sub: Declaration of Rate of Interest for the Employees' Provident Fund Members Account for the year 2019-20 - regarding

Sir,

The Ministry of Labour and Employment, Government of India, has conveyed the approval of the Central Government under para 60(1) of Employees' Provident Fund Scheme, 1952 to credit interest @ 8.50 % for the year 2019-20 to the account of each member of the EPF Scheme as per the provisions under Para 60 of EPF Scheme, 1952.

2. You are accordingly, requested to issue necessary instructions to all concerned for crediting the said interest to the members' accounts.

(Authority: - Ministry of Labour and Employment letter No.R-11018/ 1/ 2017 -SS-II Dated 31st December, 2020).

Vishal Agarwal
04.01.2021
(VISHAL AGARWAL)

REGIONAL P. F. COMMISSIONER – I (INVESTMENT)

1. PPS to Secretary, Ministry of Labour & Employment – for information
2. PPS to AS, Ministry of Labour & Employment – for information
3. PPS to AS&FA, Ministry of Labour & Employment – for information
4. OSD to Central Provident Fund Commissioner – for information
5. PS to Central Provident Fund Commissioner – for information
6. PPS to FA&CAO and CVO – for information
7. All CBT Members.
8. Director, PDNASS, New Delhi

FAQ : ALLOWANCES for PF CONTRIBUTIONS

Q. What can be termed as crucial test to determine as to whether a particular allowance would or not to be basic wages for provident fund contribution?

A. The test adopted to determine if any payment was to be excluded from basic wage is that the payment under the scheme must have a direct access and linkage to the payment of such special allowance as not being common to all. The crucial test is one of the universality e.g. where the wage is universally, necessarily and ordinarily paid to all across the board such emoluments are basic wages.

Q. Whether the employees getting more than `15000 in basic wages + dearness allowance will be affected by the judgment?

A. No. Such type of types of employees are exempted from making PF contributions on amounts higher than `15000 by the proviso to para 26A of the Employees' Provident Fund Scheme, 1952. In an earlier case, Marathwada Gramin Bank Karamchari Sanghatana and Anr. vs. Management of Marathwada Gramin Bank and Ors., 2011 LLR 1130, the Supreme Court has confirmed this aspect.

While relying upon the above judgment, the Calcutta High Court in Nava Nalanada High School & Anr., Vs Employees' Provident Fund Organisation & Anr., 2014 LLR 301, has held that the ration laid down by the Supreme Court in the above noted decision, leads to an inevitable conclusion that the employer is statutorily bound to discharge its statutory liability towards provident fund and if any amount was paid in excess to the statutory liability, the authorities cannot compel the employer to pay the said amount by invoking the provisions contained under Section 12 of the Act

Q. Whether an establishment be required to revise its wages structure?

A. In most of the wages structure various allowances including special allowance are incorporated and no provident fund contributions are paid. The employees don't raise any objection since the lower paid employees will get higher pay package since their share is also not subjected to deductions. The Judgement under reference will definitely affect the wage/salary structure and compel the employers to maintain relation with ceiling that is fixed by law for PF contribution.

Q. What precautions are to be taken by an employer while revising the wage structure?

A. While revising the wage structure, the employer must take into consideration that the prevailing cage ceiling for coverage of an employee under the Act had been revised for nearly 5 years ago and the upward revision is expected at any time. More so, when the ceiling for eligibility of bonus by an employee has been revised at `21000 from `10000 per month w.e.f. 1/4/2014, the ESI has increased its ceiling from `15000 to `21000 per month w.e.f. 1/1/2017 and the Payment of Wages Act, 1936 has also revised the wage ceiling for coverage of an employee from `18000 to `24000 per month w.e.f 28/8/2017.

Q. Impact of judgment whether retrospective?

A. Yes. There is no such reference in the judgment that it would have prospective effect. The words retrospective and prospective are generally used for an amendment or a legislation whereas a judgment is variably retrospective. The present appeals pertains to past period and it is nowhere stated that the judgment will have prospective effect hence it should be understood that it will have retrospective effect.

Q. If the EPF contribution are demanded and/or recovered for the past period what will be the legal position with regard to damages and interest?

A. The provident fund authorities will certainly impose damages and interest for the delayed payments as defaulted. The employers will have to approach the higher courts and in this context reference is made to the case of D.A.V. College and another vs Regional Provident Fund Commissioner and Ors., 1988 (56) FLR 513 wherein it has been held that "we direct that the petitioners shall comply with the Act and the scheme framed there under regularly with effect for February 1, 1988. Whatever arrears they have to pay under the Act and the scheme in respect of the period between March 1, 1982 and February 1, 1988 shall be paid by each of the petitioners within such time as may be granted by the Regional Provident Fund Commissioner. If the petitioners pay all the arrears payable from March 1, 1981 up to February 1, 1988 in accordance with the directions of the Regional Provident Fund Commissioner he shall not levy any damages for the delay in payment of the arrears. Having regard to the special facts of these cases the subscribers (the employees) shall not be entitled to any interest on the arrears.

Q. For how long the provident fund authorities can ask the employer to produce record to determine the dues, damages and interest?

A. There is no limitation prescribed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. However, in The Nakodar Cooperative Sugar Mills Limited vs. The Employees' Provident Fund Appellate Tribunal and Anr., 2016 LLR 855, the Punjab and Haryana High Court has observed that an employer can challenge initiation of proceedings by the EPF Authority after a long period on the ground that he has changed his position and if recovery is made after a number of years, the prejudice to him is of an 'irrecoverable' nature by placing proof of loss of all relevant records for non-availability of personnel who were, several years ago, in charge of such payments and there is no other way to reconstruct the records or produce evidence. However, the defaulting employer must take such plea in defense in reply to the show cause notice with acceptable material if those pleas are rejected, he must take the same in appeal filed before the EPF Appellate Tribunal and a clear pleading in the writ petition. In this context the reference is made to the judgment of supreme court in Regional Provident Fund Commissioner vs. K.T. Rolling Mills Pvt. Ltd., 70 FLR 286 : 1995 AIR SC 898 wherein the subject matter pertained to levy of damages for the past periods i.e. more than 12 years. The Regional Provident Fund Commissioner levied the damages but the Bombay High Court set aside the order being belated. In a special leave Petition the Supreme Court set aside the judgment of the High Court and upheld the order of the Regional Provident Fund Commissioner. A question will certainly arise as to which date the Judgement would be effective, because it relates to liability for the past period. Some may claim that such Judgment enforcing agency i.e. the EPFO may go back as practices regarding retention of document or record is always referred. In some other case, record is preserved for such period after the audit is done. But such records required to be preserved under Income Tax Act would followed.

Q. When the payment by employer toward incentive to an employee would be excluded?

A. In order to exclude any incentive wage from basic wage, it should have a direct nexus and linkage with the amount of extra output.

A dispassionate perusal of the Judgement would reveal that any incentive or allowance which is intended to yield something extra or additional would not be basic wage. So precisely speaking this judgement has not changed the components of the allowance which fall outside the basic wage as enunciated by Supreme Court in earlier cases. Hence, only nomenclature of certain allowance should be changed to escape the

liability. The media gave sound and fury to certain news just cursorily declared that all allowances would be susceptible to PF contribution the position is not so. Incentives would still be outside basic wage.

Q. Whether the variable earning by an employee will be treated as basic wages?

A. Not necessarily. Any such earning which would vary from individual to individual according to their efficiency and diligence will stand excluded from the term basic wages as held by the Supreme Court in *Muir Mills Co. Ltd. vs. Its Workman*, AIR 1960 SC 985.

Q. Since house rent allowance is excluded what should be the quantum/ratio in addition to basic wages?

A. There is no parameter as prescribed and as such the total wages can be justifiably segregated between basic and house rent allowance.

Q. Will the Supreme Court ruling have any impact upon the entitlement of bonus and gratuity to an employee?

A. Both the Payment of Bonus Act, 1965 and the Payment of Gratuity Act, 1972 are independent and self-contained codes which exclude the allowances other than dearness allowance. Hence this judgment will not have any impact upon entitlement of bonus and gratuity to an employee. However, there will be indirect impact of the financial burden upon the employer towards bonus and gratuity since most of the allowances which were forming part of basic wages will have to be merged in the revised wages structure which will increase the basic wages for bonus and gratuity.

Q. Will encashment of leave also attract EPF contributions?

A. Encashment of leave will not attract EPF contributions. The Supreme Court in *Manipal Academy of Higher Education vs. Provident Fund Commissioner*, 2008 LLR 443, has held that encashment of leave will not attract EPF contributions since the definition of 'basic wages' given under the Act does not intend to include such type of payment.

Q. Special allowance - Will it invariably be treated 'basic wages' to attract provident fund contribution?

A. It is not a rule of thumb to consider special allowance as basic wages. In view of peculiar facts of the cases before the Supreme Court wherein no material has been placed by the establishments to demonstrate that the allowances in question including special allowance being paid to its employees were either variable or were linked to any incentive for production resulting in greater output by an employee and that the allowances in question were not paid across the board to all employees in a particular category or were being paid especially to those who avail of the opportunity. If an employer can produce the record about payment of such allowances as stated above, then even special allowance would be excluded from 'basic wages'.

Q. Whether the judgment of the Supreme Court will apply to the establishments which have been granted exemptions under section 17 of the Employees' Provident Funds & Miscellaneous Provisions Act?

A. Yes. These exempted establishment squarely covered by this judgment of the Supreme Court hence the exemption does not mean that the benefits which accrue by force of law would not be available.

Q. Will the employees who have left the service be entitled to the benefit arising by virtue of the judgment of the Supreme Court?

A. They will be entitled. In this context reference is made to paragraph 72 read with sub-para (6) provides as under :

72(6) Any amount becoming due to a member as a result of (i) supplementary contribution from the employer in respect of leave wages, arrears of pay, installment of arrear contribution received in respect of a member whose claim has been settled on account but which could not be remitted for want of latest address, or (ii) accumulation in respect of any member who has either ceased to be employed or died, but no application for withdrawal under paragraph 69 or 70 or transfer, as the case may be has been preferred within a period of thirty six months from the date it becomes payable shall be transferred to an account to be called the inoperative account.

Provided that in the case of a claim for the payment of the said balance, the amount shall be paid by debiting the Inoperative Account.

Q. What will be the position with regard to provident fund contributions on maternity leave?

A. Maternity leave is not earned leave but it is a benefit hence the provident fund contribution would be attracted. Merely that the employee was not 'on duty' would be deemed on duty.

Q. How the money payable by the employer will settled or determined?

A. If the employer is not voluntarily making arrears the payment which have become due because of the Supreme Court ruling the enforcement officer will prepare a report and calculate the liability whereas the Regional Provident Fund Commissioner or Assistant Provident Fund Commissioner will determine the money due from an employer under the provisions of the Act, the Scheme or the Pension Scheme or the Insurance Scheme, as the case may be.

Q. Can an employer deduct the employees share from his remuneration payable either lump sum or by installments?

A. No. If the employee would not agree, the employer cannot make any such deductions from the salary/remuneration payable to the employee. The reason being that the wage structure was fixed by the employer and not the employee. Also in this context reference is made to para 32 of the Employees Provident Fund Scheme providing for recovery of members share of contribution. Under Employees' Provident Funds & MP Act, the payment of both shares of contributions for the past period is the responsibility of the employer, as para 32 of the EPF scheme, 1952 does not permit him to recover the members' contribution for the past period. Those provision of Para 32 is invokable where it is established that employer avoided payment for past period, but where, non-deduction and non-payment of member's share is due to clerical error, member's share of contribution is deductible form the subsequent month's pay of the employee with the permission of inspector.

In the Dist.Exhibitors Association Muzzfarnagar and others vs Union of India and others, 1991 LIC 1332

the Supreme Court has held that under Paras 30 and 32 the employer has to pay the contribution of the employees share to provident fund account but he has a right to recover that payment by deduction the same form the wages due and payable to employees. The deduction is not from the wages payable for any period, but only from the wages for the period in respect of which the contribution is payable and no deduction could be made from any other wages payable to the employees. In other words, the payment of

employees contribution by the employer with the corresponding right to deduct the same from the wages of the employees could be only for the current period during which the employer has also to pay his contribution. Therefore, by retrospectively applying the scheme the employer could not be asked to pay the employees contribution for the period antecedent to the impugned notification by which the scheme was made applicable to the employer.

Q. Is there any silver line in the judgment for an employer to escape from contributions on allowances?

A. The above judgment has been passed on the peculiar facts and circumstances of the appeals decided by the Court and in fact it has reiterated the well settled legal position. that if the allowances paid to the employees are either variable or linked to any incentive for production beyond the norms of production and are not paid across the board, to all employees or only to those especially who avail the opportunity and are not in the nature of dearness allowance, they will not attract any PF contribution liability under section 2(b) read with section 6 of the Act. The Court has, however, not considered that if the allowances are purely discretionary payments made by an employer to its employees, not in terms of the contract of employment, they will not fall within the main part of the definition of basic wages under section 2(b) and further that even if conveyance allowance or other similar allowances as HRA, are paid to all the employees in a concern, in view of exclusion clause (ii) of section 2(b), they will be specifically excluded from basic wages.

Q. Will an employer liable for contributions for the past period when the inspections of the establishments have been made by the Enforcement Officers and in some cases even determination of money has been made under Section 7A of the Act?

A. There is no bar even when there have been no objection by the Inspecting Authority and also the objections have been clarified by the employers. So far as the determination under Section 7A of the Act is concerned these are quasi judicial proceedings and the principle of res judicata (a matter that has been adjudicated by a competent court and therefore may not be pursued further by the same parties) as applicable in judicial proceedings will not apply.

Q. What will be the position with regard to international workers?

A. The international worker from the countries with which India does not have SSA and are working in India would see a higher amount being deducted towards Provident Fund. Such workers are not exempted by the proviso exempting domestic workers earning more than `15000 per month. For such workers, there is no minimum threshold limit of `15000. The employer has to contribute 12% of basic pay to EPF compulsorily. Say, an expatriate earns `1 lakh as basic salary, another `1 lakh as special allowance and `2 lakh as perks. In such cases, the standard practice for employers was to contribute 12% of the basic pay (`1 lakh in the example) Now, their burden will increase substantially, and so will that of employees.

(Source - Labour Law Reporter).

PF Contribution Rates @10% for May-June-July

- The reduced rate of 10% PF contribution is applicable for the Salary months of May-June-July 2020.
- Incase an organization claiming benefits under PMGKY, then such organization CANNOT claim this 10% benefit.

MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 18th May, 2020

S.O. 1513(E).—Whereas due to Covid-19 pandemic, lockdown Is in force across the country and the Central Government after making necessary inquiry is satisfied that to provide liquidity in the hands of employers and employees, there arises a need to amend the notification of the Government of India in the Ministry of Labour published in the Gazette of India, Extraordinary, Part II, section 3, sub-section(ii) vide number S.O. 320(E), dated 9th April, 1997;

Therefore, in exercise of powers conferred by first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after making aforesaid inquiry, hereby makes the following amendments in the said notification number S.O. 320 (E) dated the 9th April, 1997, namely:-

In the said notification, in SCHEDELE II, after clause (iv), the following clause shall be inserted, namely:-

"(v) Any establishment, other than Central Public Sector Enterprises and State Public Sector Enterprises and other establishments owned by, or under the control of the Central Government or the State Government, as the case may be, in respect of wages payable by it for the months of May, June and July, 2020".

Provided that this clause shall not be applicable to the establishments eligible for relief under the Pradhan Mantri Garib Kalyan Yojana guidelines issued by the Employees' Provident Fund Organization vide its Office Memorandum No.C-1/Misc./2020-21/Vol.II/Pt. dated 9th April, 2020".

[F. No. S-35019/01/2020-SS-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 S.O. 320 (E), dated 9th April, 1997.

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FAQ's on Employees' Provident Fund

1. Whether an employer can deduct employer's share of contribution from the wages of employees?

Answer: No. It is not permissible. Any such deduction is a criminal offence.

2. Can the wages be reduced by the employer on account of payment to the EPF?

Answer: No. It is specifically barred under section-12 of the EPF & MP Act,1952.

3. Whether a daily rated employee or the piece rated employee can become a member of the EPF?

Answer: Yes.

4. If an employee is paid wages on daily basis or on piece rate basis how the contribution is determined?

Answer: The wages paid in a calendar month will be taken to determine the contribution due.

5. Whether the member is entitled for full interest on the belated deposit of PF dues by the employer?

Answer: After realising the dues, the PF members will be given full interest for each due month and it will in no way affect the interest due to members on the contributions paid. The employer shall be charged penal interest under section 7Q and penal damages under section 14B of the Act respectively.

6. An employee is paid subsistence allowance during the period of his suspension. Whether PF contribution is payable on this?

Answer: No.

7. Can an employee contribute to the EPF after leaving the service?

Answer: No. In the absence of wages & Employer no recovery can be affected. Any contribution by the member must be matched with employer's share of contribution.

8. The contribution has been recovered from the wages of the employee but the employer had not paid to the EPF. What is the remedy?

Answer: The Employees' PF Organization will invoke penal provisions of the Act to recover the dues from the employer. Complaint can be lodged with Police under section-406/409 of IPC by the EPFO for action against such employers.

9. What will be the effect of non-payment of PF dues by an employer? Or how a member is affected for non-payment of EPF dues by the employer?

Answer: The Provident Fund amount due to the member will be paid only to the extent of the amount realised from the employer.

10. Whether an employer can recover any outstanding dues from the PF amount payable to a member?

Answer: No. It is totally prohibited.

11. What are the measures by which the PF amount is recovered from a defaulting employer?

Answer: Attachment of Bank Accounts, Realisation of dues from Debtors, Attachment & Sale of properties, Arrest and Detention of the Employer, Action under Section 406/409 of Indian Penal Code and Section 110 of Criminal Procedure Code, Prosecution under section 14 of the EPF & MP Act,1952.

12. How a member is informed about the non-payment of contributions recovered from the wages of the employee but not paid to the EPF?

Answer: The Annual P.F. Statement of Account/Member Passbook will indicate the amount paid by the employer. The default period in a year is thus made known to the members. In the current scenario if the member has activated her/his UAN the non-payment/payment of contributions can be verified every month through the e-passbook. Currently, members also receive sms on their registered mobile phones on credit of monthly contribution into their PF account.

13. Whether the P.F. amount credited to the member can be attached against any liability?

Answer: No. The Provident Fund enjoys protection against attachment by any Court also as per the provisions of section 10 of the EPF & MP Act,1952.

14. When an employer becomes insolvent or when a company is wound up, whether the contributions will be paid in priority over other debts?

Answer: Yes.

15. When wages are not collected by the member whether the PF can be deducted or not?

Answer: The employer, before paying the member his wages, is required to deduct the PF contribution from his wages and pay to the Regional PF Commissioner. As such PF can be deducted.

16. Can a member pay contribution in excess of the statutory rate of 12%?

Answer: Yes. The member can pay voluntary contribution in excess of his normal contribution of 12% of Rs.15000/- . The total contribution i.e., voluntary + mandatory can be up to Rs.15000/- per month. (The employer may restrict his own share to the statutory rate). The member can also contribute on higher wages i.e., >15000/- after getting permission from APFC/RPFC as per the provisions of para-26(6) of the Scheme.

17. Can a member demand for showing the recovery of contributions from the employer?

Answer: Yes. The contribution card of each member in Form 3-A/ECR copy can be demanded from the employer.

18. How the contract employees are protected and given their P.F. when the contractor is not paying the dues to the principal employer?

Answer: It is the duty of the principal employer to ensure that the Contractor discharges his liability. The Principal Employer must allow payment of bills after ensuring that the Contractor has enrolled and complied in respect of all eligible contract employees every month. The Principle Employer can check the remittance and employee name by using the Establishment Search option available in our website <http://www.epfindia.gov.in>. The path is OUR SERVICES >> For Employers >> Important Links >> Establishment Search (Also view Remittances and member name). If the Principal Employer ensures that all contract employees activate their Universal Account Number (UAN), then any default by the contractor can be nipped in the bud.

19. Can a member refuse to part with the payment of contribution to the Pension Fund?

Answer: The Pension contribution is only a diversion from the employer's share of Provident Fund. Hence no consent is required from the member and refusal does not

20. Whether an employer can stop paying Employees' Provident Fund contribution in respect of a member who had attained the age of 55 or 60?

Answer: No. The Employees' Provident Fund Contribution should be paid till the date of his leaving the service, irrespective of the age of the member. Employees who ceases to be EPS(pension) member will get Employers 8.33% contribution in PF.

21. In case the PF amount is not settled within 20 days to whom the matter is to be reported?

Answer: He can approach the Regional P.F. Commissioner in charge of grievances; file a complaint on the website using the EPFiGMS feature in the section 'FOR EMPLOYEES'. The url for the grievance page is <http://epfigms.gov.in/> or he can appear before the Commissioner in the 'Nidhi Apke Nikat' program being conducted on 10th of every month.

22. Is there any time limit for withdrawal of Provident Fund dues?

Answer: Only in the case of resignation from service (not superannuation) a member has to wait for a period of two months for withdrawal of the PF amount.

23. When the employer is not attesting the claim form how to submit the application for withdrawal of provident fund?

Answer: It is the duty of the employer to attest the application form. In case of any dispute, the member may attain attestation preferably from the bank in which he has maintained his account and thereafter submit the same to Regional PF Commissioner, explaining the reasons for not obtaining the signature of the employer. The Regional P.F. Commissioner will pursue the matter with the employer wherever necessary. If the member has activated his Universal Account Number and linked his bank account and Aadhaar then he can submit composite claim (Aadhaar) which only requires the signature of the member.

24. In case of change in employment whether a member can get his PF account transferred?

Answer: On change in employment, the member should necessarily get his PF account transferred to his present establishment, duly submitting Form 13(R). A member can submit claim for transfer online using member interface at unified portal.

25. If past accumulations are not transferred on cancellation of exemption, how the provident fund amount is paid to the members?

Answer: The local RPFC will ensure transfer of securities/cash and arrange for refund of dues to the members.

26. How is a PF member informed of the transfer affected?

Answer: A copy of Transfer Certificate (Annexure-K) issued to the transferee Regional P.F. Commissioner/P.F. Trust giving full details of the transfer can be requested from the EPF office.

27. What is the method of crediting interest to the P.F. subscribers?

Answer: The compound interest is credited on monthly running balance basis at the statutory rate declared for each year. For 2016-17 the interest declared is 8.65%.

28. Whether provident fund provides for any refundable loan for Housing etc.?

Answer: No. But, non-refundable loans for housing are available.

29. I am an employee working in an establishment to which the PF Act is not applicable. Can I become a member of the EPF?

Answer: An employee can become a member only after the application of the Act to the establishment.

30. If an employee is not given the PF membership, to whom he can approach?

Answer: He can approach his employer failing which he can approach the Regional Provident Fund Commissioner of the nearest PF office.

31. Whether the employee working in a Branch Unit of an establishment located outside the state is eligible to become a member of the EPF?

Answer: The Act is applicable to an establishment as a whole. Hence, its employees, irrespective of their place of work or location, are eligible to become member of the Fund.

32. If an employee is working in more than one establishment how his membership is regulated?

Answer: His membership is reckoned separately for each establishment. (Under different Provident Fund Account Numbers/ member Ids)

33. Can an employee become a member of EPF without any age restriction?

Answer: There is no age restriction for becoming a member of the Provident Fund, whereas an employee who has already attained the age of 58 cannot become a member of the Pension Fund.

34. Whether an employee can become a member of the EPF without any restriction to his salary/wages?

Answer: The employees who are drawing the basic wages and dearness allowance up to Rs.15, 000/- are alone eligible to become a member. He will continue to be a member even when his pay exceeds Rs.15, 000/-. However, his contribution to the Fund will be restricted to Rs.15, 000/-. The employer is also required to pay his matching contribution up to Rs.15, 000/-. Employees drawing more than Rs.15000/- can also become a member of EPF by giving option under para 26(6) of the EPF Scheme. The option has to be submitted to the EPF office within 6 months of joining of such member.

35. Whether an apprentice can become a member of the EPF?

Answer: No. But, when he ceases to be an apprentice he should be enrolled immediately.

36. If an employee is drawing more than Rs. 15000/- (Basic + DA only) is he required to become a member of the EPF?

Answer: Such employee is not required to become a member, if he is not already holding the PF membership. Otherwise, if both the employer and employee are willing, he can become a member by giving option under Para-26 (6) of the PF Scheme. The option has to be submitted to the EPF office within 6 months of joining of such member.

37. If an employee is transferred from one establishment to another establishment whether he is required to be enrolled as a member once again?

Answer: He is required to be enrolled as a member under the new establishment, for transferring his Provident Fund from his previous account.

38. If a person is working in an establishment without receiving any wages whether he can be given the PF membership?

Answer: Membership is allowed only where the wages are payable to an employee.

39. Whether an employee can become a member of the Pension Scheme only, without contributing to the PF?

Answer: No. By virtue of membership of Provident Fund only one can become a member of the Pension Scheme. From 01/09/2014 any new employee joining an establishment and drawing basic wage more than Rs.15000/- per month can only become a member of the PF after submitting option as per the provisions of Para 26(6) of the EPF Scheme. However, he can not get the membership to the Pension Fund. Both employee share of 12% and employer share of 12% contribution shall be paid into the Provident Fund only for all such employees.

40. Whether an employee can continue as a PF member even after his retirement?

Answer: Yes. If one continues to work even after attaining the superannuation age.

41. Is there any option available to an employee whether to become a member of the EPF or not?

Answer: No option.

42. Whether an EPF member can discontinue his membership, while in employment?

Answer: Not permissible.

43. Where an establishment is having its own recognized private PF Trust whether an employee can be allowed to continue in the private PF without joining the EPF?

Answer: Employee can be allowed to join the private PF Trust but the Trust has to take exemption from the EPF Scheme. He will however continue to be governed by the Pension and EDLI Schemes. All private trusts must obtain exemption from EPFO to enjoy Income Tax benefits.

44. How long an employee can continue his EPF membership?

Answer: There is no restriction of period for membership. Even after leaving the establishment a person can continue his membership. However, if no contribution is received into a PF account for 3 consecutive years the account shall not earn any interest after 3 years from the stopping of contribution.

45. How the period of non-employment between two spells of employment is treated under EPF?

Answer: Non employment period is not affecting the EPF but affects the calculation of service to decide the quantum of benefit under the Employees' Pension Scheme.

46. What will happen for the EPF membership of an employee during the period of closure, lock-out, strike etc.?

Answer: During such period the membership will continue and in the absence of wages no recovery of contribution will be made.

47. Whether an employer can also join the PF?

Answer: No.

48. Whether an employee can continue his EPF membership after leaving the employment?

Answer: Yes.

49. Whether any employee can join the EPF directly?

Answer: No. It is only by way of employment in an establishment covered under the provisions of the EPF & MP Act, 1952.

50. A Security Guard is working for different establishments; under whom he is required to secure membership?

Answer: If the employer of the Security Guard has been brought under the Act, the membership will be given through the employer, irrespective of his place of work.

51. If the establishment is not employing 20 persons, whether an employee can join the EPF?

Answer: Yes. The majority of employees and the employer can voluntarily opt for joining the Scheme as per provisions of Section-1(4) of the Act (Voluntary Coverage).

52. What other benefits are accrued on joining the EPF?

Answer: On joining the EPF, the member is provided the benefits under Pension (restricted to employees with Rs.15000/- or less monthly wage) and Employees' Deposit Linked Insurance Scheme.

53. Whether an employee already drawing Pension under EPS, 1995 is required to join the PF and Pension Fund?

Answer: He is required to join only the PF and he cannot become a member of the Pension Scheme.

54. An employee who joins an establishment at the age of 58 is eligible to become a member of the Pension Fund?

Answer: No.

55. How long a member can retain his Provident Fund in his account?

Answer: The membership can be retained till the withdrawal of his Provident Fund dues. However, if the account does not receive any contributions for more than 3 years interest won't be credited to the account after the 3rd year.

56. In the absence of nomination, how the P.F. amount of a deceased member is paid?

Answer: It is payable to the family members in equal shares, under Para 70 (ii) of EPF Scheme, 1952. If there is no eligible family member, it is payable to the person(s) who are legally entitled to it.

57. What is the need for giving nomination for pension?

Answer: On the death of a Pension member (before receiving the pension), if there is no eligible family member, pension is payable to the nominee.

58. In the absence of valid nomination and no family to whom the Pension amount is payable?

Answer: Payable to the dependant parents, (dependant father followed by dependant mother).

59. Whether an unmarried person can nominate somebody from outside?

Answer: Yes. But, on acquiring a 'Family' the nomination is treated as invalid and the benefits shall be paid to the spouse and children if any.

60. Whether an employee who has not opted for the earlier Family Pension Scheme, 1971 can join the Pension Scheme?

Answer: Yes.

61. What is the formula for calculating the Pension amount?

Answer: Pension = (Pensionable Salary (average of last 60 months) X Pensionable Service)/70.
Pensionable Service is the period for which contributions have been received.

62. What is the quantum of pension a member can get on his superannuation?

Answer: A member who joins the Employees' Pension Scheme 1995 at the age of 23 and superannuates at the age of 58, and contributing to the (present) wage ceiling of Rs.15000/- may get about Rs.7500/- as pension if service is 35 years.

$$(\text{Pensionable Salary} \times \text{Pensionable Service})/70 = (15000 \times 35)/70 = 7500$$

63. How the average salary is determined for granting pension?

Answer: The average salary is determined only for giving the pension to member. It is the average of last 60 months. (Non-contributory period, if any, is reduced)

64. What are the advantages of taking a Scheme Certificate?

Answer: 1) It facilitates transfer of Pension Accounts when the employment is changed. 2) If the Holder of Scheme Certificate dies the family will get family pension. 3) It is like a Policy for Pension without paying the premium.

65. In case of death of a member, who was an Ex-serviceman whether family pension is payable or not?

Answer: Family pension is payable i.e. in addition to the Military Pension, i.e. family pension under Rule 54 of the CCS (Pension) Rules, 1972. (Effective from 27-07-2001 only)

66. Can a member seek exemption from the Pension Scheme?

Answer: Individual member cannot seek exemption from the Pension Scheme. Only an establishment can seek exemption.

67. At what age a member is eligible for pension?

Answer: A member is eligible for pension on superannuation at the age of 58 years. If a member leaves employment between 50 and 57 years he can avail the early (reduced) pension.

68. What is the service required for giving pension in case of death of the member?

Answer: The minimum service of 10 contributory years is only for payment of pension to a member. It is not applicable, where a member dies. In case of death of a member, The family pension and child pension is payable even after receiving one month's contribution (including part of the month) for Pension Fund.

69. If a member dies to whom the pension is payable?

Answer: On death of the member the Pension is automatically payable to the spouse (Widow/Widower). In addition, the children are also eligible till attainment of 25 years of age (2 at a time). Any disabled child in the family shall get disabled pension for life apart from the two child pensions.

70. In case the employer has failed to pay the pension contribution whether any pension is payable or not?

Answer: Non-payment of pension contribution by an employer will not affect the grant of Pension. Pension is guaranteed.

71. Can a pensioner get pension anywhere in the country?

Answer: Yes.

72. How the pension of a member who works for different establishment is determined?

Answer: The wages and the service of the member are consolidated to determine the Pension.

73. Is there any increase in the pension amount every year?

Answer: There is a provision for valuation of the pension fund and review of the rates of contributions and quantum of the pension and other benefits in para 32 of the Employees' Pension Scheme, 1995.

74. When a member avails reduced pension at the age of 50 can he get his full pension on attaining 58 years?

Answer: No. Once Pension is sanctioned it cannot be altered.

75. What are the criteria for determining the date of eligibility for early pension (Before 58) ?

Answer: The member is required to indicate his option regarding the date from which he requires early pension in the application form. If no date is given in the claim form then the date of application shall be taken as the opted date.

76. Can a member avail pension even while he is in service?

Answer: The member who continues in service even after 58 years can avail the Pension from the age of 58. If a pensioner, who has availed the early pension, may take up employment thereafter and in such cases he will not be eligible to join the Pension Scheme. And the 8.33% contribution from Employer side will go towards EPF fund.

77. Can I surrender or sell my full pension for getting a lump sum payment?

Answer: No.

78. Is it compulsory to withdraw the pension benefit along with the P.F. amount?

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Answer: No. A member can withdraw his PF amount (member share only) and maintain a lien in the Pension Scheme by availing a Scheme Certificate.

79. Can I change my Date of Birth/Age?

Answer: Yes. Date of Birth/ Age once given is not normally changed, however it can be changed with proper documentary evidence. A copy of the circular dated 02/12/2013 in this regard is available on our website. The path is OUR SERVICES >> For Employers >> Downloads >> Process for Change in Name & Basic Details of Members. A joint request has to be submitted by the employee and employer to the concerned EPF office along with documents like Aadhaar, PAN etc.

80. Can a married daughter be excluded from receiving the family pension?

Answer: The marital status has no relevance if the children are below 25 years; they are eligible for family pension in the event of demise of the member.

81. If a member is having two wives to whom the family pension is payable?

Answer: If the second marriage is legally valid, it is payable to the eldest with reference to the date of marriage and on her death, payable to the next surviving widow.

82. In the absence of family member whether a pensioner can nominate any other person to receive family pension?

Answer: No. In the absence of family member on the date of the death of the member (before eligibility for member pension), the family pension is payable to nominee and in the absence of a valid nomination it is payable to dependant father followed by dependant mother. Once the pension is received by the member there is no validity for nomination. A pensioner cannot nominate any person.

83. What will be the effect of unemployment period under the Pension Scheme?

Answer: The unemployment period will be excluded from the actual service. Pension is based on contributory service only.

84. Is it possible to exclude my spouse from receiving the family pension?

Answer: No. The spouse is an automatic beneficiary unless he/she is legally divorced. However, a lady can keep her husband out from her family and deny him family pension by submitting a request in this regard in writing to the Commissioner.

85. In the absence of family members (family here means the family procreated by the member and not the family in which he/she was born) and nominee, to whom the pension is payable?

Answer: It is payable to the dependant parents.

86. Who is eligible for disablement pension?

Answer: Any Pension member irrespective of age and service who is declared as disabled (with 100% disability with respect to employability) certified by the designated Hospital and where the member had left service only on account of his disablement is eligible for disablement pension.

87. Why a pensioner's widow gets lesser pension when compared to non-pensioner's widow?

Answer: The pension and family pension under Employees' Pension Scheme, 1995 are the Social Security benefits. It is viewed as a need based benefit. It is not related to the quantum of contribution paid by a member. A pensioner after attaining the age of 58 years is to take care of his spouse and in his absence the liability is restricted to one person. Hence 50% of the pension is payable. Whereas in the case of a member (non-pensioner) who dies leaving behind his spouse, children who are yet to complete their education, marriage etc. and also considering the premature death of a member the quantum of pension payable to non-pensioner's widow is on the higher side.

88. Whether family pension is payable to a widow who was married to a pensioner? (After his superannuation)

Answer: The widow of a pensioner is eligible for family pension (irrespective of the date of marriage whether prior to his superannuation or thereafter)

89. In case the widow or widower remarries, to whom the family pension is payable?

Answer: The pension payable to the widow/widower will be stopped and thereafter the children pension will be converted to orphan pension (75% of the widow pension).

90. What is the period up to which pension is payable to the widow or widower?

Answer: Pension is paid till the remarriage of the widow/widower or till death.

91. When a member is having children through his first and second wife, how the eligibility for children pension is determined?

Answer: The children of both first and second wife should be arranged in the order of their date of birth and then the children pension is allowed to the eldest two children but below 25 years of age.

92. Is it necessary to open a separate bank account to draw the child pension?

Answer: Yes.

93. Can the widow and children draw pension in different places/banks?

Answer: No. The pension should be drawn by widow and children in the same bank and branch.

94. Who is eligible to get a Scheme Certificate?

Answer: A member whose service is 10 years or more and not attained the age of 58 years will be mandatorily issued scheme certificate. A member whose service is less than 10 years can avail the Scheme Certificate to carry forward his pension service but it is not mandatory.

95. Whether a member/family member can avail more than one pension for one service under the Employees' Pension Scheme, 1995?

Answer: No.

96. When and to whom the pensioner is to give a life and non-remarriage certificate?

Answer: All pensioners drawing pension under Employees' Pension Scheme, 1995 are required to give a Life/Non-Remarriage Certificate, duly attested by the Bank Manager/Gazetted Officer in the month of November each year. To be submitted to the Bank through which the pension is being paid. Failure to submit will result in stoppage of pension from the month of January. Currently, digital life certificate has been introduced from 2015-16. Pensioners can use their Aadhaar number to obtain the DLC. The facility is available in banks as well as PF offices.

97. Whether a Scheme Certificate holder with a service period of 8 years can avail the withdrawal benefit on surrender of Scheme Certificate?

Answer: No. Only on attaining 58 years he can surrender either to avail the Pension (if eligible) or withdrawal benefit.

98. Whether the Orphan Children are eligible for double Orphan Pension where both the parents were making contributions under Employees' Pension Scheme, 1995?

Answer: Yes. The benefit under the Pension Scheme is a direct consequence of the contributions paid by the member of EPS, 1995; hence, if both parents were members and have contributed independently to the said Scheme, the Orphan will be eligible to two pensions separately. The normal ceiling as provided for in the Employees' Pension Scheme shall however, continue to apply.

99. Whether Withdrawal Benefit will be payable to a member in case of defaulting establishment?

Answer: In respect of an establishment defaulting in remitting contribution to the Employees' Pension Fund 1995 for any period, withdrawal benefit will not be paid to the member in respect of the default period. The member is entitled to withdrawal benefits only in respect of the period for which the contributions are received.

100. Whether member can delay the pension beyond 58 years?

Answer: Yes, the member has option to delay the pension beyond 58 years: 1) Member can opt for receiving pension after attaining 59 or 60 years of age but pension contribution stops after 58 years. In this scenario quantum of pension is increase by 4% per year beyond 58 years. 2) Member can opt for receiving pension after attaining 59 or 60 years of age but pension contribution continues after 58 years. In such a scenario the quantum of pension shall be higher than the first case cited above.

101. Whether Assurance benefit under EDLI Scheme is payable for death occurring after leaving the service?

Answer: No. Admissible only in case of death while in service.

102. To whom the EDLI benefit is payable?

Answer: EDLI benefit is payable to the persons eligible to receive the EPF dues.

103. Whether Assurance Benefit is payable to missing EPF member?

Answer: Payment of Assurance Benefit under EDLI Scheme 1976 is only available on the member's death while in service to the nominees/legal heirs.

104. What is the maximum quantum of Assurance benefit?

Answer: Currently, the maximum assurance benefit is Rs.600,000/-.

105. Can a member withdraw the entire amount through money order?

Answer: No.

106. Whether pension can be paid by money order or cheque?

Answer: Pension is payable through the designated banks notified for each region through CBS.

107. What is the Universal Account Number?

Answer: Universal Account Number (UAN) is a 12 digit number allotted to each subscriber by linking it to the member's currently active PF account number (from 31/07/2014 to 30/11/2016). From 12/2016 any new member has to be allotted a Universal Account Number linked to the establishment's code number.

108. Who allots the Universal Account Number?

Answer: The number is allotted by EPFO on the request of the Employer and populated in the Employer's login in the unified portal <http://www.unifiedportal-emp.epfindia.gov.in>. The UAN can also be generated by any individual using his/her aadhaar if his UAN is not already generated.

109. What are the advantages of having a UAN?

Answer: Once the member has activated his/her UAN on the unified portal he can enjoy the following benefits: Download/Print your Updated Passbook anytime. Download/ Print your UAN Card. List all your Member IDs to UAN. File online transfer claim on OTCP Update your KYC information.

110. How can I know the status of my UAN?

Answer: The facility is available in the unified portal at <https://unifiedportal-mem.epfindia.gov.in>.

111. How can I know the balance in my PF account?

Answer: Please activate your UAN and check/download your passbook.

112. How can I know the status of my application for PF settlement, advance or transfer submitted to the EPF office?

Answer: Please use the url <https://passbook.epfindia.gov.in/MemClaimStatusUAN/> for checking your claim status.

113. Whether a PF member can submit claims for settlement without attestation of the Employer?

Answer: Currently the member can submit 3 types of claims without attestation of Employer namely, Form-19, 10C and 31. However, the member must ensure that his UAN is activated and at least the bank account and Aadhaar KYC's in respect of his account are approved by the Employer using his Digital Signature Certificate.

114. What is the Composite Claim Form?

Answer: EPFO has launched a consolidation of the settlement claim forms. Accordingly one composite claim form (Aadhaar & Non Aadhaar) has been issued to replace the existing claim forms no.19, 10C and 31 and UAN forms no.19, 10C & 31. Another composite form replaces the existing Form no.20, 10D & 5-IF.

115. I want to know more about Employees' Provident Fund Organisation.

Answer: Please visit EPFO Website: <http://www.epfindia.gov.in>

116. Who can be member of EPFO?

Answer: A person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of a establishment covered under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, and who gets his wages directly or indirectly from the employer, and includes any person employed by or through a contractor in or in connection with the work of the establishment.

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117. Who can be a member?

Answer: An employee of a covered establishment, if not excluded, is compulsorily a member of the employees' Provident Funds Scheme. The employer of the establishment himself makes the employee a member by following prescribed procedure. An excluded employee is an employee whose pay at the time of being a member exceeds Rs. 15,000/- per month

118. Can a member contribute at a higher rate (above 12%) on voluntary basis?

Answer: Yes

119. What is contribution rate payable for a member?

Answer: At present, an employee contributes 12% of the Basic wages + Dearness allowance + Retaining allowance in EPF. The employer also pays 12% of pay out of which 8.33% of pay is diverted to Pension Fund and the rest 3.67% is diverted to EPF.

120. Does a member contribute to employees' Pension Scheme and employees' Deposit-Linked Insurance Fund Scheme (EDLI)?

Answer: No. The employer pays 12% out of which 8.33% is diverted to Pension Fund. An employer also pays 0.5% of Pay in EDLI Scheme.

121. What are benefits available to EPF members?

Answer:

A. Advances: A member can take non-refundable advances during service period for various purposes:-

- Treatment of illnesses of self/family: TB, leprosy, paralysis, cancer, mental derangement heart ailment or major surgical operation
- Marriage of self, daughter, son, brother & sister.
- Post-matriculation education of son/daughter
- Withdrawal for purchase of house, flat, dwelling house, addition/alteration of house and repayment of loan for the purpose.

B. Withdrawal within one year before retirement: Upto 90% of total PF balance.

C. Advance on unemployment:

- Upto 75% of total PF balance.
- Other purposes (for details please see table below)

D. Final settlement:

- On retirement or two months after ceasing to be an employee.
- Pension after retirement subject to the eligibility
- Insurance in case of death while in service.

122. What are the different types of non-refundable advances?

Answer:

S.N.	Para of EPF Scheme 1952	Purpose	Eligibility	Amount admissible
1.	62	Financing of Member's Life Insurance Policies	A policy in the name of the member. Policy should be legally assigned to CBT (EPF).	Employees' share should have sufficient balance to pay the premium.
2.	68-B, 68-BC, 68-BD	Purchase of House/flat, including acquisition of land.	Five years membership of the Fund. Employees' share is more than Rs 1,000/-	Twenty four months wages & DA or total balance in PF account (Employees' + Employer) or total cost, whichever is less. After five years another part withdrawal equal to 12 months wages & DA or employees' share for addition/alteration. After ten years from the original sanction, another part withdrawal equal to 12 months wages & DA or employees' share for addition/alteration.
3.	68-BB	Repayment of housing loan.	Loan should have been taken from notified agencies. 10 years membership of Fund. employees' share in PF account should be more than Rs 1,000/-	Thirty six months wages & DA or total balance in PF account (employees' + employer share) or total outstanding loan & interest thereon, whichever is less
4.	68-BC	Purchase of House/flat, including acquisition of land.	Five years membership of the Fund. employees' share is more than Rs 25,000/-	Total balance in PF account officemember or cost of acquisition, whichever is less.
5.	68-BD	Purchase of House/flat,	Three years membership of the	90% of PF accumulation (both shares) or cost payable, whichever is

		including acquisition of land.	Fund. Member of a registered Cooperative Society.	less. Employees' share is more than Rs 25,000/-
S.N .	Para of EPF Scheme 1952	Purpose	Eligibility	Amount admissible
1.	68-H	If establishment / factory is closed/locked down	Employee receives no compensation or has not got wages for two months or more.	Upto 100% of employees' share.
2.	68HH	If the employee remains unemployed for more than one month	Unemployment should be more than one month	Upto 75% of total PF balance.
3.	68-J	Illness of self and family	Hospitalization for more than one month, major illnesses or major surgery.	Basic Wages & DA for six months or employees' share, whichever is less.
4.	68-K	Marriage (self , children , brother & sister) or post matriculation education of children	Seven years' membership of fund. employees' share in PF balance is more than Rs 1,000/- Only three withdrawals allowed.	50% of employees' share.
5.	68-L	Natural calamity	Natural calamity declaration by State Government & proof of damage to property.	Employees' share or Rs 5,000/-, whichever is least.
6.	68-M	Cut in electricity in factory/establishment	Cut in electricity supplied by State Government.	Wages for a month or Rs 300/- or employees' share, whichever is less.
7.	68-N	Physically	On account of physical	Basic Wages & DA

		handicapped members for purchase of equipment	handicap.	for six months or employees' share or cost of equipment, whichever is less.
8.	68-NN	Withdrawal one year before retirement.	Age of member is 54 years and above	90% of total PF balance
9.	68- NNN	For investment in Varishta Pension Bima Yojana.	Age of member is 55 years and above	90% of total PF balance.

123. What are the documents required to be submitted for availing above advances?

Answer: No document is required to be submitted.

124. What are the other facilities available for the member?

Answer:

Member portal: EPFO provides UAN based online account of member data on EPF website secured with login password.

Passbook: for updated balance

Online claim filing: A member can file online EPF claims for various benefits through member portal if the EPF account is seeded with Aadhar, PAN & Bank account.

Online filing of transfer claim from previous account to new EPF account in case of job change from one covered EPF establishment to another EPF Covered establishment.

Modified Declaration form (Form No-11) for automatic transfer of Funds: Member can effect transfer of EPF Fund from previous account to new account without transfer claim if both account is linked with UAN and Aadhar seeded.

125. Which forms to be filled for claiming benefits?

Answer:

- **For Final settlement/Withdrawal benefits/Advances:** Composite Claim form (Aadhar/non-Aadhar)
- **Scheme certificate:** Form 10C

- **For pension:** Form 10D
- **For transfer of previous account balance to new account:** Form 13
- **For nomination of family members:** Form 2
- **Declaration of previous service:** form 11

126. How to submit claim form?

Answer:

A. Online: If PF account is seeded with Aadhaar, PAN and Bank account is updated. Only Composite Claim Form (Aadhaar) for PF final withdrawal, Pension withdrawal benefits and PF non-refundable advances can be filed online.

B. Offline: All type of claims.

127. How to Update Bank account?

Answer: A member can update his bank account through member portal which is then approved by employer.

128. How much time is taken to settle claim?

Answer: As per EPF Scheme, a claim is required to be settled within 20 days.

129. How do I get my grievances redressed?

Answer: A member can approach the concerned Regional P.F. Commissioner. A member can also file a complaint online at the following link: <http://www.epfigms.gov.in>

130. What is KYC?

Answer: KYC (Know Your Customer) is member's data updation to improve the services of EPFO for members. These KYC details include PAN, Aadhaar and Bank Account details. If you have not yet updated these details on the EPFO Member Portal, you may do it now.

131. How can I update KYC?

Answer: Member can update KYC details online in EPFO's UAN Portal.

132. What are the benefits of KYC?

Answer: Claim can be submitted through online mode without attestation of the employer. A member can view his monthly contribution statement by logging on UAN portal.

133. What are KYC documents that can be submitted?

Answer: Following documents are considered for KYC -

- National Population Register

- AADHAR
- Permanent Account Number (PAN)
- Bank Account Number
- Passport
- Driving License
- Election Card
- Ration Card

134. How do I apply for correction in KYC/members' details?

Answer: In order to update or change in KYC (Know your customer) detail on UAN EPFO portal, a member requires UAN (Universal Account Number). Member can login to EPFO UAN portal and update KYC by uploading necessary documents online. Online request for correction in name, date of birth and gender has been introduced.

135. What is UAN?

Answer: UAN (Universal Account Number) is a unique 12 digit number allotted to a member. It is a permanent number and remains valid throughout the life of a member. It does not change with the change of employment. UAN helps in automatic transfer of Funds and PF withdrawals.

136. Who can generate UAN and How I can get my UAN?

Answer: Your Employer can generate the UAN. In case of change in employment, the previously allotted UAN may be provided to the employer.

137. How Aadhaar is seeded with UAN?

Answer: Member can seed his Aadhar through Member portal, after UAN is activated by employer.

138. How PAN is seeded with UAN?

Answer: Member can seed his PAN through Member portal, after UAN is activated by employer.

139. How bank account is seeded with UAN ?

Answer: Member can seed his Aadhar through Member portal, approved by employer.

140. What are the benefits of Aadhaar, PAN &Bank accounts details seeded with UAN ?

Answer:

- Member can submit claims through online mode
- Member can file claim directly without employer's signature.

141. What is an Inoperative Account?

Answer: An account is classified as Inoperative account in which contribution has not been received for 3 years after retirement or permanent migration abroad or in case of death. At present, all accounts will earn interest upto 58 years age of a member.

142. Will my inoperative account earn interest?

Answer: No. However, at present, all accounts will earn interest upto 58 years age of a member.

143. What should I do if my account becomes inoperative?

Answer: If you are still working in an establishment covered under EPF & MP Act, 1952, you should get the amount transferred into your new account either by online or offline mode. If you have retired then you may withdraw the amount.

144. Will my withdrawal be subject to deduction of income tax (TDS)?

Answer: In case a member withdraws his EPF and has rendered less than 5 years of service and accumulated amount is more than Rs. 50,000/, TDS shall be applicable on the following rates:-

Submission of PAN	Non submission of PAN	No TDS deducted in case of
If 15G/15H is submitted, no TDS is deducted If 15G/15H is not submitted, TDS deducted at 10%	TDS is deducted at Maximum Marginal Rate (34.606%)	Transfer of Fund Payment of advance Service is terminated by employer beyond control of employee

145. Will tax be deducted at source (TDS) if my service is more than 5 year (60 months)

Answer: No. The service rendered at previous as well as present employer would be added to arrive at total service.

146. What is the benefit of providing PAN?

Answer: If a member provides/link PAN and the PF balance is more than Rs. 50,000/ and service rendered is less than 5 years, then tax (TDS) would be deducted @10% and not

147. What is Form 15G/15H?

Answer: Form 15G and Form 15H are declarations which can be submitted to receive payments without deduction of tax in case of members having total annual income of Rs. 2.50 lacs and Rs 3.00 lacs respectively. Form 15H is applicable for Senior Citizens (60 years or older) whereas Form-15G is for everybody else. Also, a member must have a PAN before applying in these forms.

148. How many copies of 15G/15H have to be submitted?

Answer: Two copies of form 15G/15H, whichever is applicable, are to be submitted with the claim forms.

149. How to file Nomination form for EPF?

Answer: Form No-2 is prescribed under Employees Provident Fund, employees' Pension Scheme and Employee's Deposit Link Insurance Scheme for submitting family and nomination details.

150. What are benefits of submitting Form No-2?

Answer: In case of a member's death, the family can get the benefit PF/Pension/Insurance without any delay.

151. How do I fill Form No-2?

Answer: Member can submit Form No.-2 online through the employer. E-sign facility has also been extended to the members to submit Form No.-2 online. In case, new family member is added, the EPF member should fill Form No- 2 to update the details in EPFO. Form No.-2 can be submitted online as well as offline mode.

152. What if my employer is not available to sign the claim form or the establishment has closed down?

Answer: In such a scenario, the claim form may be attested by the Manager of the Bank in which your savings Bank Account is currently maintained.

153. Am I required to affix revenue stamp of Re 1/- on the claim forms?

Answer: No.

154. Is it compulsory to enclose cancelled original cheque with the claim form?

Answer: Yes. A cancelled original cheque bearing name of the member, his bank account number and IFS Code of the bank should be printed on the cheque itself. In case, members's bank account is 'without cheque-book' facility, then copy of first page of passbook duly attested by the employer or the bank manager may be enclosed with the claim form.

155. What is Composite Claim Form (Non-Aadhaar)?

Answer: Composite Claim Form (Non-Aadhaar) is a single page form for settlement of PF final withdrawal, pension withdrawal benefits and PF non-refundable advances. The claim is required to be submitted offline and attested by the employer.

156. What is Composite Claim Form (Aadhaar)?

Answer: Composite Claim Form (Aadhaar) is a single page form for settlement of PF final withdrawal, pension withdrawal benefits and PF non-refundable advances. It can be submitted both in online as well as offline mode and does not require the attestation of the employer. This

form is applicable in cases where employees' complete details in Form No-11 (New), Aadhaar number and Bank Account details are available on UAN Portal and UAN has been activated.

157. Are the payments made through NEFT (National Electronic Funds Transfer)?

Answer: All payments are made electronically through NEFT or CBS (Core-Banking Solutions).

158. What does Commutation of Pension mean ?

Answer: Commutation of Pension means payment of lump sum amount in lieu of a portion of pension surrendered voluntarily by the pensioner

159. What is Employees' Pension (Amendment) Scheme 2020?

Answer: In the Employees' Pension Scheme 1995, after paragraph 12, the following paragraph has been inserted which is thereby called Employees' Pension (Amendment) Scheme 2020: "12B. Restoration to normal pension in cases of grant of commutation – The normal pension in respect of those members who availed the benefits of commutation of pension under the erstwhile paragraph 12 A of this Scheme on or before the 25th day of September 2008 shall be restored after completion of fifteen years of the date of such commutation."

160. Who can avail the benefits of restoration to normal pension in cases of grant of commutation?

Answer: Those members who availed the benefits of commutation of pension under the erstwhile paragraph 12 A of this Scheme on or before the 25th day of September 2008 shall be restored after completion of fifteen years of the date of such commutation.

161. What changes does the new Gazette Notification No.132 (E) on restoration of commutation contain?

Answer: The relevant provision in Para 12A entitled the pensioner to commute 1/3rd pension & thereafter his entitlement was to get balance 2/3rd pension. The scheme did not have any provision for restoration of the original pension of the pensioner once the pension has been commuted. However, According to the government notification G.S.R No. 132(E) dated 20.02.2020 introduced Para 12B allowing restoration of original pension after 15 years.

162. When pensioners who opted for commutation will receive their full pension?

Answer: The Pensioners would receive their full pension after completion of fifteen years from the date of commutation.

163. Has there been any educational programme conducted for pensioners?

Answer: Yes. EPFO is conducting webinars through its Regional Offices and Pensioners may request the concerned Office for participation to resolve any querry.

164. Explain about the scheme of EPFO to settle claims on the day of retirement / superannuation. Answer: EPFO has launched a scheme called 'Prayaas- an endeavour to release Pension on the day of Superannuation' for members of Employees Pension Scheme 1995. Members superannuating within 03 months are guided to submit Pension claims one month before the day of retirement so that Pension Claims of these employees can be settled for issuance of PPOs on the Date of retirement.

International Worker under Employees' Provident Fund & Miscellaneous Provisions Act, 1952

Background:

- Till 2008, foreign nationals exercising employment in India were not covered under the Provident Fund (PF) regulations, since PF contributions were not mandatory where the employees' pay exceeded the wage ceiling.
- On the contrary, Indian nationals working abroad were required to contribute to the social security scheme of the respective country.
- However, these contributions were generally lost due to limited tenure overseas or in failing to fulfill the minimum qualifying period of contribution or residence.
- To eliminate the undue advantage foreign nationals had while exercising employment in India, and to create a level playing field for Indians embarking on work outside India, the Ministry of Labour, Government of India vide Notification dated 1st October 2008 made certain fundamental changes in the Employees Provident Fund Scheme, 1952 and the Employees Pension Scheme, 1995 (collectively referred to as Indian social security schemes) to define a new category of workers called 'International Worker' (IW).
- IW covers foreign nationals working in an establishment in India which is mandatorily required to contribute to provident fund. As a consequence, every eligible IW was required to be enrolled in the schemes with effect from 1 November 2008.
- This enabled India to bring to the table other countries which had a significant inbound population into India, to negotiate Social Security Agreements (SSA) with such countries.

Writeup on special provisions for International Workers

International Workers:-

The Government of India through its initiative for the benefit of both the employers and employees has entered into Agreement with several countries to ensure that the employees of home country do not remit contribution in that country, get the benefit of totalisation period for deciding the eligibility for pension, may get the pension in the country where they choose to live, and the employers are saved for making double social security contributions for the same set of employees. The Employees Provident Fund Organisation has been authorized to issue the Certificate of Coverage to the Employees posted to the countries having signed Agreement with the Government of India.

Operating SSA's (SSA Signed Countries) :-

Sr. No.	Country	Effective Date
1	Belgium	1 st September, 2009
2	Germany	1 st October, 2009
3	Switzerland	29 th January, 2011
4	Denmark	1 st May, 2011
5	Luxembourg	1 st June, 2011
6	France	1 st July, 2011
7	South Korea	1 st November, 2011
8	Netherlands	1 st December, 2011
9	Hungary	1 st April, 2013
10	Sweden	1 st August, 2014
11	Finland	1 st August, 2014
12	Czech Republic	1 st September, 2014
13	Norway	1 st January, 2015
14	Austria	1 st July, 2015
15	Canada	1 st August, 2015
16	Australia	1 st January, 2016
17	Japan	1 st October, 2016
18	Portugal	8 th May, 2017

Status of Singapore, Nepal & Bhutan Nationals

- On account of **Treaty of Peace & Friendship of 1950** with Nepal and on account of **India-Bhutan Friendship Treaty of 2007**, nationals of Nepal & Bhutan are deemed to be an **Indian Employee**.
- On account of the **Comprehensive Economic Cooperation Agreement (CECA)** between India and Singapore, any Singapore Citizen working in India purely as a temporary worker, and does not hold the status of permanent resident, is to be treated as '**excluded employee**'.

Global Demographic pressures coupled with free market economy have led to increasing labour mobility, raising concerns regarding provisions of adequate social security cover to Indian

employees deployed abroad. To safeguard the interest of such Indian workers, the government of India has negotiated social security agreements (SSAs) with some countries with the objective of providing exemptions to Indian employees from the mandatory social security contributions in those countries, thus eliminating dual coverage SSA is a bilateral instrument to protect the social security interests of employees and it covers three important benefits, namely, detachment, totalisation and portability. At present India has entered into social security agreement with Belgium, Germany, Switzerland, Luxembourg, France, Denmark, Korea, Netherland, Hungary, Finland, Sweden, Czech Republic, Norway, Austria, Canadaand also has entered into comprehensive economic agreement with Singapore.

International Workers from non-SSA countries can withdraw on retirement of services only on attainment of 58 years of age.

To, implement the bilateral SSAs, enabling provisions for international workers were introduced through para 83 in the Employee's Provident Fund Scheme, 1952 and para 43-A in the Employees Pension Scheme, 1995 effective from 01 October 2008. This special provisions provide the legal frame work of the definition of international workers, the applicability of this provisions, contributions payable and benefits available to international workers.

Subsequently, this provisions were amended with effect from September 11, 2010, whereby withdrawals of PF accumulations by international workers is permitted only after 58 years of age, and withdrawal benefits under EPS, 1995, is available only to those covered under an SSA. Also, the employers contributions of 8.33% (to the pension fund) is now payable on full salary, and restricted to this ceiling amount of Rs. 15000/-.

An International workers means:-

- An Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
- An employee other than an Indian employee, holding other than Indian passport, working for an establishment in India to which the act applies.

Contributions in respect of International Workers are payable on full salary, i.e. not restricted to the ceiling of Rs. 15000/-. The contribution is calculated on the basis of monthly pay containing the following components actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis:-

- Basic wages
- Dearness allowance (all cash payments by whatever name called paid to an employee on account of a rise in the cost of living)
- Retaining allowance
- Cash value of any food concession

Note : EPFO Circular dated 25th May, 2012 : Contribution in respect of all International Workers is required to be **paid by the employer on full salary** (i.e. Without any wage ceiling).

Benefits available to an International Worker under the EPF Scheme 1952.

➤ **Final withdrawal:-**

i) **To member;-**

- On retirement & attaining the age of 58 yrs.
- On retirement on permanent disability due to bodily or mental infirmity (includes TB, Leprosy and Cancer)
- On the grounds as specified in the SSA

ii) **To survivor(s), on death of the member.**

➤ **Partial withdrawals / advances:-**

For housing, marriage, hospitalization, education etc.

Benefits available to an international worker under the EPS 1995

- Pension payment for life on Retirement / Superannuation
- Pension Payment for life on disablement during employment
- Withdrawal benefit (for service less than 10 years after totalisation) only for members covered under SSA
- Exportability and totalisation of benefits as per the SSA.

The provisions of Inoperative accounts will not be applicable to International Workers. However, the International Worker will continue as such till he avail the benefits of final withdrawal.

Social Security Agreements (SSA)

- SSA is a bilateral agreement between India and a foreign country
- Designed to protect the interests of cross border workers.
- provides for avoidance of 'double coverage' and ensures equality of treatment to workers of both countries from a social security perspective.
- 18 Countries having Social Security Agreements (SSAs) have been signed & made operational
- **Key benefits under these SSAs**
 - ✓ Detachment,
 - ✓ Exportability of Pension,
 - ✓ Totalisation of Benefits
 - ✓ Withdrawal of Social Security Benefits

Detachment:

Employees moving on employment to any SSA country are exempt from making social security contributions in the host country for a specified period (specific to each SSA), provided they continue to make social security contributions in their home countries. The said benefit can be claimed by obtaining a '**Certificate of Coverage**' (CoC) from the home social security authorities and submitting the same with the social security authorities of the host country.

Exportability:

The employees may choose to receive benefits of social security in their home country or any other country where they are currently residing (subject to the respective SSA) without any reduction of those benefits, i.e. benefits can be exported.

Totalisation:

The period of service rendered by an employee in the host country is to be counted for checking the "eligibility" of social security payment in the home country and vice-versa. However, the payment is restricted to the length of service in that country on a pro-rata basis.

CHAPTER - II

PROVISIONS OF PARA 83 OF EPF SCHEME, 1952

83 Special provisions – in respect of international workers:-

The Scheme, shall, in its application to international workers as defined in this paragraph, be subject to the following modifications, namely:-

- 1) For clause (f) of paragraph 2, the following clause shall-be substituted namely:-
(f) excluded employee means an international worker, who is contributing to a social security programme of his country of origin, either as a citizen or resident, with whom India has entered into a social security agreement on reciprocity basis and enjoying the status of detached workers for the period and terms, as specified in such an agreement;
- 2) After clause (j) of paragraph 2, the following clause shall be substituted, namely:-
(ja) "International Worker" means,-
 - (a) An Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
 - (b) An employee other than an Indian employee, holding other than air Indian Passport, working for an establishment in Indian to which the Act applies;
- 3) For paragraphs, 26, 26-A and 26-B, the following paragraphs shall be substituted, namely:-

26. Class of International Workers entitled and required to join the Fund:-

- 1) (a)every international worker (other than an excluded employee), employed as on first day of October, 2008 in an establishment to which this Scheme applies, shall be entitled and required to become a member of the Fund with effect from the first day of November 2008.
- 2) Every International Worker (Other than in excluded employee), employed after the 1st October 2008 in an establishment to which this Scheme applies, who has not become a member of the fund from the date of his joining the establishment.

Where the Scheme applies to an establishment on the expiry or cancellation of an order of exemption under section 17 of the act, every international worker who, but for the exemption would have become and continued as a member of the fund shall become a member of the fund forthwith.

- 3) An excluded employee of an establishment to which this Scheme applies shall, on ceasing to be such an employee, be entitled and required to become a member of the fund from the date he ceases to be such employee.
- 4) On re-election of a class of international workers exempted under paragraph 27-A to join the fund or on the expiry or cancellation of an order under that paragraph, every international worker, who but for such exemption would have become and continued as a member of the fund, shall forthwith become a member thereof.
- 5) Every international Worker who is a member of a private provident fund maintained in respect of an exempted establishment and who, but for the exemption, would have become and continued as a member of the fund shall, on joining an establishment to which this Scheme applies, become a member of the Fund forthwith.

26-A. Retention of Membership:-

A member of the fund shall continue to be a member until he withdraws under paragraph 69 the amount standing to his credit in the Fund or is covered by a notification of exemption under section 17 of the act or an order of exemption under paragraph 27 or 27-A or the benefits are settled in terms of the relevant provisions under the social security agreement entered into between India and his country' of origin.

26-B. Resolution of doubts:-

If any question arises as to whether an International Worker is entitled or required to become or continue as member, or as to the date from which he is entitled or required to become a member, the decision thereon of the Regional Commissioner shall be final:

Provided that no decision shall be given unless both the employers and the international Worker have been given an opportunity of being heard.

4. In paragraph 29, in sub-paragraph (1), after the points, the following provision shall be inserted, namely:-

Provided further that where wages are paid in a currency other than in the Indian Rupee, the rate of conversion of that currency shall be the telegraphic transfer buying rate offered by the State Bank of India established under the State Bank of India act, 1955 (23 of 1955) for buying such currency on the last working of the month for which the wages are due.

5. For paragraph 36, the following paragraph shall be substituted, namely:-

"36. Duties of employer -

(1) Every employer of an establishment to which this Scheme applies shall send to the commissioner within fifteen days from the application of the Scheme to such establishment, a consolidated return in such form as the Commissioner may specify, of the International workers

(indicating distinctly the nationality of each and every International workers) required or entitled to become members of the Fund showing the basic wage, retaining allowance (if any) and dearness allowance including the cash value of any food concession paid to each of such International Worker:

Provided that if there is no International Worker who is required who is required or entitled to become a member of the Fund, the employer shall send a 'NIL' return.

(2) Every employer shall send to the Commissioner, within fifteen days of the close of each month, a return -

- (a) in Form 5, of the International Workers qualifying to become members of the Fund for the first time during the preceding month together with the declaration in Form 2 furnished by such qualifying International Workers (Indicating distinctly the nationality of each and every International Worker), and
- (b) in such form as the Commissioner may specify, of the International Workers (indicating distinctly the nationality of each and every International Worker) leaving service of the employer during the preceding month:

Provided that if there is no International Worker qualifying to become a member of the Fund for the first time or there is no International Workers leaving service of the employer during the preceding month, the employer shall send a 'NIL' return.

6. For paragraph 69, the following paragraph shall be substituted, namely:-

"69. Circumstance in which accumulations in the Fund are payable to an International Workers -

- (1) An International Worker may withdraw the full amount standing to his credit in the Fund-(a) on retirement from service in the establishment at any time after the attainment of 58 years;
- (b) on retirement on account of permanent and total incapacity for Work due to bodily or mental infirmity duly certified by the medical officer of the establishment, or where an establishment has no regular medical officer, by a registered medical practitioner designated by the establishment:

2A EPF 14 Provided that -

- (1) where an establishment has been closed, the certificate of any registered medical practitioner may be accepted;
 - (i) where the establishment is 'covered by the Employee's State Insurance Scheme, medical certificate from a medical officer of the Employee's State Insurance Dispensary with which or 'from' the Insurance Medical practitioner with whom the employee is registered under the Scheme, shall be produced;
 - (ii) Where by mutual agreement of employers and employees, a-Medical Board exists for any establishment or a group of establishments, a certificate issued by such Medical Board may also be accepted for the purposes of this sub-paragraph.
- (2) It Shall be open to the Regional Commissioner to demand from the member a fresh certificate from a Civil-Surgeon or any doctor acting on his behalf where the original certificate produced by him under clause (b) of sub-paragraph (1) gives rise to suspicion regarding its genuineness:

Provided that the entire fee of the Civil Surgeon or any doctor acting in his behalf shall be paid from the Fund in case the findings of the Civil Surgeon or any doctor acting on his behalf agree with the original certificate, and that where such doctor acting in his behalf agree with the original certificate and that where such findings do not agree with the original certificate, only half of the fee shall be paid from the Fund and the remaining half shall be debited to the member's account.

- (3) A member suffering from tuberculosis or leprosy or cancer, even if contracted after leaving the services of an establishment on grounds of illness but before payment has been authorized, shall be deemed to have been permanently and totally incapacitated for work.
- (4) In respect of a member covered under a social security agreement entered into between the Government of India and any other country, on such grounds as may be specified in that agreement.

7. For paragraph 72, the following paragraph shall be substituted, namely:-

"72. Payment of Provident Fund-

- (1) When the amount standing to the credit of a member becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in the scheme.
- (2) The due amount shall be payable to the member covered under a social security agreement entered into between the Government of India and any other country, in the manner and as per the terms specified in the agreement.
- (3) In all the other cases, the amount due shall be payable to the credit of the payee's bank account in India,

8. After paragraph 78, the following paragraph shall be namely:-

"78-A. performing certain special functions under social security agreements-

The Commissioner shall perform all such functions as are assigned to the Employees Provident Fund Organization under a social security agreement entered into between by the Government of India and other country, in the manner and as per the terms specified therein.

Para 2(f), Para 26A & Para 29 of the EPF Scheme, 1952 has been amended for International Workers as under;

	Regular Employees	International Worker
Para	Definition of excluded employee	Definition of excluded employee
(i)	An employee who, having been a member of the Fund, withdrew the full amount of his accumulation in the Fund	An International Worker who is contributing to a social security programme of his country of origin, either as a citizen or resident, with whom India has entered into a social security agreement on reciprocity basis and enjoying the status of detached worker for the period and terms as specified in such an agreement, or
(ii)	An employee whose pay at the time he is otherwise entitled to become a member of the Fund, exceeds fifteen thousand rupees per month. Explanation.: "Pay" includes basic wages with dearness allowance, retaining allowance (if any) and cash value of food concessions admissible thereon.	An International Worker, who is contributing to a social security programme of his country of origin, either as a citizen or resident, with whom India has entered into a bilateral comprehensive economic agreement containing a clause of social security prior to 1 st October, 2008, which specifically exempts natural persons of either country to contribute to the social security fund of host country.
Para 26A	Retention of Membership	Retention of Membership
	Every member employed as an employee other than an excluded employee in a factory or other establishment to which this Scheme applies shall contribute to the Fund and the contribution shall be payable to the Fund in respect of him by the employer. Such contribution shall be in accordance with the rate specified in Paragraph 29. Provided that where the monthly pay of the member exceeds fifteen thousand rupees the contribution payable by him, and in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of fifteen thousand	A member of the Fund shall continue to be a member until he withdraws the amount standing to his credit in the Fund or is covered by the notification of exemption under Section 17 of the Act or an order of exemption under Para 27 or 27A of the benefits are settled in terms of the relevant provisions under the social security agreement entered into between India and his country of origin.

	rupees including dearness allowance, retaining allowance (if any) and cash value of food concession.	
	Regular Employees	International Worker
Para 29(1)	<p>The contribution payable by the employer under the Scheme shall be at the rate of ten percent of the basic wages, dearness allowance including the cash value of any food concession and retaining allowance if any payable to each employee to whom the Scheme applies:</p> <p>Provided that the above rate of contribution shall be twelve percent in respect of any establishment or class of establishments which the Central Government may specify in the Official Gazette from time to time under the first proviso to sub-section (1) of Section 6 of the Act.</p>	<p>The contribution payable by the employer under the Scheme shall be at the rate of ten percent of the basic wages, dearness allowance including the cash value of any food concession and retaining allowance if any payable to each employee to whom the Scheme applies:</p> <p>Provided that the above rate of contribution shall be twelve percent in respect of any establishment or class of establishments which the Central Government may specify in the Official Gazette from time to time under the first proviso to sub-section (1) of Section 6 of the Act.</p> <p>Provided further that where wages are paid in foreign currency other than in the Indian Rupee, the rate of conversion of that currency shall be the Telegraphic Transfer Buying Rate ("TT buying rate") offered by the State Bank of India established under the State Bank of India Act, 1955 for buying such currency on the last working day of the month for which the wages are due.</p>

CHAPTER - III

PROVISIONS OF PARA 43(A) OF EPF SCHEME, 1995

43. Payment of pension in the case of a person charged with the offence of murder.-

- (1) If a person, who in the event of the death of a member of the pension fund is eligible to receive pension of the deceased under paragraph 12 or paragraph 16, is charged with the offence of murdering the member or for abetting the commission of such an offence, his claims to received pension shall remain suspended till the conclusion of the criminal proceedings instituted against him for such offence.
- (2) If on the conclusion of the criminal proceedings referred to in sub-paragraph (1), the person concerned is:

- (a) Convicted for the murder or abetting in the murder of the member, he shall be debarred from receiving pension which shall be payable to other eligible members if any, of the family of the member; or
- (b) Acquitted of the charge of murder or abetting the murder of the member, pension benefit shall be payable to him.

43-A. Special provisions in respect of International Workers.-

The Scheme, shall, in its application to International Workers as defined in this paragraph, be subject to the following modifications, namely;

- (1) After clause (vii) of paragraph 2, of the following clause shall be inserted, namely:
"International Worker" means,-
 - (a) an Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
 - (b) an employee other than an Indian employee, holding other than an Indian passport, working for an establishment in India to which the Act applies;
- (2) For clause (xv) of paragraph 2, the following clause shall be substituted, namely;-
(xv) "pensionable service" means the service rendered by the member of which contributions have been received or are receivable and the period of coverage earned in another country and considered as eligible under a relevant social security agreement.
- (3) Sub-paragraphs (2), (3) and (4) of paragraph 3, shall be omitted,
- (4) Proviso to sub-paragraph (2) of paragraph 4, shall be omitted.
- (5) For sub-paragraph (1) of paragraph 10, the following sub-paragraph shall be substituted, namely;
- (2) The pensionable service of the member covered by an international social security agreement shall be determined with reference to the contributions received or are receivable on his behalf in the Employees' Pension Fund:

Provided that for the purposes of determining the pensionable service of a member covered by an international social security agreement, the period of service rendered under a relevant social security programme shall be added to the pensionable service under this sub-paragraph only for the purposes mentioned under such an agreement.

CHAPTER - IV

FREQUENTLY ASKED QUESTIONS (FAQs)

SPECIAL PROVISION FOR INTERNATIONAL WORKERS

1. Who is an International Worker (IW)?

Ans: An International Worker (IW) may be an Indian worker or a foreign national. International Worker mean:-

- Any Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;

- An employee other than an Indian employee, holding other than an Indian Passport, working for an establishment in India to which the EPF & MP Act, 1952 applies;

2. Is an Indian worker holding COC (Certificate of Coverage), an International Worker?

Ans: Merely holding the COC does not make an employee an International Worker. He becomes IW only after being eligible to avail the benefits under social security programme of any country. After obtaining COC, the employee is exempted from contributing to the social security systems of the foreign country with whom India has SSA, hence he is not eligible to avail the benefits under the social security programme of that country.

3. Who is an 'excluded employee' under these provisions?

Ans: A detached International Worker contributing to the social security programme of the home country and certified as such by a Detachment Certificate for a specified period in terms of the bilateral SSA Signed between that country and India is an 'excluded employee' under these provisions.

4. Who all shall become the members of the Fund?

Ans:

- a) Every International Worker, other than an 'excluded employee' – from 1st October, 2008.
- b) Every Excluded employee on ceasing the status – from the date he ceases to be excluded employee.

5. Which Category of establishments shall take cognizance of these provisions?

Ans: All such Establishments covered/ coverable under the EPF & MP Act, 1952 (Including those exempted under section 17 of the Act) that employ any person falling under the category of 'International Worker' shall take cognizance of these provisions.

6. Whether PF rules will apply to an employee if his salary is paid outside India?

Ans: Yes, the provisions will apply irrespective of where the salary is paid. The PF contributions are liable to be paid on wages DA, and Retaining Allowance if any payable to the employee hence if salary is payable by establishment in India contribution shall be payable in India and other rules will also apply accordingly.

7. Whether PF will be payable only on the part of salary paid in India in case of split payroll?

Ans: In case of split payroll the contribution shall be paid on the total salary earned by the employee in the establishment covered in India.

8. 'Monthly Pay' for calculating contributions to be paid under the Act?

Ans: The contribution shall be calculated on the basis of monthly pay containing the following components actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis:

- Basic wages
- Dearness allowance (all cash payments by whatever name called paid to an employee on account of a rise in the cost of living)
- Retaining allowance
- Cash value of any food concession

9. What portion of salary on which PF would be payable in case an individual has multiple county responsibilities and spends part of his time outside India?

Ans: Contribution is payable on the total salary payable on account of the employment of the employee employed for wages by an establishment covered in India even for responsibility outside India.

10. Is there a minimum period of days of stay in India which the employee can work in India without triggering PF compliance?

Ans: No Minimum period is prescribed. Every eligible International Worker has to be enrolled from the first date of his employment in India.

11. Is there a cap on the salary up to which the contribution has to be made by both the employer as well as the employee?

Ans: No there is no cap on the salary on which contributions are payable by the employer as well as employee.

12. Is there a cap on the salary up to which the employer's share of contribution has to be diverted to EPS?

Ans: No, there is no cap on the salary up to which the employer's share of contribution has to be diverted to EPS, 1995 and the same is payable on total salary of the employee.

13. What is Social Security Agreement (SSA)?

Ans: A Social Security Agreement is a bilateral instrument to protect the social security interests of workers posted in another country. Being a reciprocal arrangement, it generally provides for equality of treatment and avoidance of double coverage.

14. What are the provisions covered in a Social Security Agreement (SSA)?

Ans: Generally a Social Security Agreement covers 3 provisions. They are:

- (a) Detachment: Applies to employees sent on posting in another country, provided they are complying under the social security system of the home country.
- (b) Exportability of Pension: Provision for payment of pension benefits directly without any reduction to the beneficiary choosing to reside in the territory of the home country as also to a beneficiary choosing to reside in the territory of a third country.
- (c) Totalisation of Benefits: The period of service rendered by an employee in a foreign country is counted for determining the "eligibility" for benefits, but the quantum of payment is restricted to the length of service, on pro-rata basis.

15. What is the status of the Social Security Agreements (SSA)?

Ans: Eight Social Security Agreements in respect of Belgium, Germany, Switzerland, Denmark, Luxembourg, France, South Korea and the Netherlands have been made effective from 1st September, 2009, 1st October, 2009, 29th January, 2011, 1st May, 2011, 1st June, 2011, 1st July, 2011, 1st November, 2011 and 1st December, 2011 respectively.

16. Should the eligible employees from any country other than the countries with whom India has entered a social security agreement contribute as International Workers?

Ans: Yes, International Workers from any country can be enrolled as members of EPF.

17. Regarding Indian employees working abroad and contributing to the Social Security Scheme of that country with whom India has a Social Security Agreements, are they coverable for PF in India or treated as excluded employees?

Ans: No, Only employees working in establishments situated and covered in India.

18. Regarding Indian employees working abroad and contributing to the social security scheme of a country with which India DOES NOT have a Social Security Agreement, are they coverable for PF in India?

Ans: If an Indian employee is employed in any covered establishment in India and sent abroad on posting, he is liable to be a member in India as a domestic Indian employee, if otherwise eligible. He is not be International Worker.

19. Whether foreign nationals employed in India and being paid in foreign currency are coverable?

Ans: Yes, foreign nationals drawing salary in any currency and in any manner are to be covered as IWs.

20. Whether foreigners employed directly by an Indian establishment are coverable?

Ans: Foreigners employed directly by Indian establishments would be coverable under the EPF and MP Act, 1952 and IWs.

21. What is the criterion for receiving the withdrawal benefit for services less than 10 years under EPS, 1995?

Ans: Only those employees covered by a SSA will be eligible for withdrawal benefits under the EPS, 1995, who have not rendered the eligible service (i.e. 10years) even after including the totalisation benefit if any as may be provided in the said agreement. In all other cases of IWs not covered under SSA, withdrawal benefit under the EPS, 1995 will not be available.

22. How long can an Indian employee retain the status of "International Worker"?

Ans: An Indian employee attains the status of "International Worker" only when he becomes eligible to avail benefits under the social security programme of other county by virtue of the eligibility gained or going to gain, under the said agreement on account of employment in a country with which India has signed SSA. He/She shall remain in that status till the time he/she avails the benefits under EPF Scheme. In other words, once an IW, always an IW.

23. Whether the International Worker will earn interest even after cessation of service after three years also in view of provisions of inoperative accounts?

Ans: Since the provisions of inoperative accounts are not applicable in case of International Workers, continue the restriction of earning interest will not apply. The international worker shall contribute to earn interest upto the age of 58 years or otherwise becomes eligible for withdrawal.

24. Under what circumstances in which accumulation in the Fund are payable to an International Worker?

Ans: On retirement from service in the establishment at any time after the attainment of 58 years. On retirement on accounts of permanent and total incapacity for work due to bodily or mental infirmity. A member suffering from tuberculosis or leprosy or cancer. In respect of a member covered under a social security agreement entered into between the Government of India and any other county on such grounds as may be specified in that agreement till the time he/she avails the benefits under a social security programme covered under that SSA.

25. Under what condition the contributions received in the PF account are payable along with interest to International Worker?

Ans:

The full amount standing to the credit of a member's account is payable if any one of the circumstances mentioned under amended Para 69 of the EPF Scheme, 1952 is fulfilled, namely:-

- (i) on retirement from service in the establishment at any time after 58 years of age;
- (ii) on retirement on account of permanent and total incapacity for work due to bodily or mental infirmity, duly certified by the authorized medical officer;
- (iii) in accordance with the terms and conditions provided in an SSA

26. Is there a cap on the salary up to which the contribution has to be made under the EDLI Scheme, 1976 by the employer?

Ans: Yes, the cap on the salary up to which contribution has to be made under the EDLI Scheme, 1976 is Rs.15000/-.

27. We engage daily wagers at a rate of Rs. 300 to Rs. 350 per day who work for a week to 10 days. Are we under obligation to cover such employees under the Employees' Provident Fund?

A. Every wage earner engaged in or in connection with the work of any 'Establishment', is an 'Employee'. Every employee other than an 'Excluded Employee' need be covered under the EPM&MP Act, 1952 and the Schemes framed there under and compliance made by the 'Employer' of the establishment. Obligation for the workers mentioned in the quarry shall arise as their monthly earning at mentioned details will be within coverage limit.

REASON FOR WITHDRAWAL	LIMIT	NO OF YEARS OF SERVICE NEEDED	OTHER CONDITIONS
 Marriage	Up to 50% of employee's share of contribution to EPF	7 years	For the marriage of self, son/daughter, brother/sister.
 Education	Up to 50% of employee's share of contribution to EPF	7 years	For the education of either self or children after class 10.
 Purchase of land. Purchase or construction of a house	For land: up to 24 times monthly wages plus dearness allowance For house: up to 36 times monthly wages plus dearness allowance	5 years	The asset, land or the house, should be in the name of the employee or spouse or held jointly.
 Home loan repayment	Up to a maximum of 90%, from both employee's contribution and employer contribution in Employee Provident Fund.	10 years	i. The property should be registered in the name of the employee or spouse or jointly. ii. Withdrawal permitted subject to furnishing of requisite documents as called for by the EPFO relating to the housing loan availed. iii. The accumulation in the member's PF account (or together with the spouse), including the interest, has to be more than ₹ 20,000.
 Renovation of house	Up to 12 times the monthly wages	5 years	The property should be registered in the name of the employee or spouse or jointly.
 Medical emergency	6 months' basic wages and DA or the employee share with Interest, whichever is least	NA	For self or family member's treatment (certificate must be signed by doctor and employer).
 A little before retirement	-	On reaching age of 57 years	-

Pensioners Life Certificate".... now online.

- Now senior citizens need not required to go to the bank for submission of Jeevan Praman (Life Certificate or हयातीचा दाखला) every year in November / December.

Just login to website: <https://jeevanpramaan.gov.in>

- ✓ Click generate live certificate.
- ✓ Enter your Aadhar number.
- ✓ You will receive an OTP on your mobile number.
- ✓ Feed it and you will get your live certificate within seconds.



Aatma Nirbhar Bharat Rozgar Yojana

- Aatma Nirbhar Bharat Rozgar Yojana as announced by FM.
 - Under the scheme, those establishments that make new hiring will get a special EPF subsidy from the central government.
 - The EPF statutory subsidy will be given for a period of two years from the date of their employment during the above period.
 - Any new employee joining employment in EPFO registered establishments on monthly wage of less than Rs. 15,000 will be eligible to get the benefit. Employees contribution (12%) and employer's contribution (12%) totalling 24% of wages will be given to establishments, finance minister said.
 - Employees contribution (12% of wages) and employer's contribution (12% on wages) totalling 24% of wages will be given to establishments for two years.
 - Every Employees' Provident Fund Organisation (EPFO) registered establishment taking new employees will be eligible to get the benefit of this subsidy.
 - However, there are some pre-conditions that the employers must fulfill to avail the benefits announced under Aatma Nirbhar Bharat Rozgar Yojana.
 - The scheme will also cover EPF members drawing monthly wages of less than ₹15,000, who made an exit from employment during COVID-19 pandemic from 1 March, 2020 and is employed on or after 1 October, 2020
 - The condition will be adding a minimum of 2 new employees for establishments with up to 50 employees. Those establishments with more than 50 employees, will have to give a minimum of 5 new jobs.
- The scheme would be applicable till 30 June, 2021.

Aatma Nirbhar Bharat Rozgar Yojana (1. Boost for Employment)

- The Prime Ministers Rozgar Protsahan Yojana (PMR PY) was implemented upto 31/03/2019 to incentivize formalization and creation of new employment.
- Total benefit of Rs. 8300 Crore has been given to 1,52,899 Establishments covering 1,21,69,960 Beneficiaries under PMR PY
- A new Scheme "AATMA NIRBHAR BHARAT ROZGAR YOJNA" is being launched to incentivize creation of new employment opportunities during the COVID recovery phase.

Aatma Nirbhar Bharat Rozgar Yojana

- Aatma Nirbhar Bharat Rozgar Yojana as announced by FM on 12th Nov., 2020.
- Under the scheme, those establishments that make new hiring will get a special EPF subsidy from the central government.
- The EPF statutory subsidy will be given for a period of two years from the date of their employment during the above period.
- Any new employee joining employment in EPFO registered establishments on monthly wage of less than Rs. 15,000 (i.e. upto Rs. 14,999/-) will be eligible to get the benefit.
- Employees contribution (12% of wages) and employer's contribution (12% on wages) totaling 24% of wages will be given to establishments for two years.

Aatma Nirbhar Bharat Rozgar Yojana

- Every Employees' Provident Fund Organisation (EPFO) registered establishment taking new employees will be eligible to get the benefit of this subsidy.
- However, there are some pre-conditions that the employers must fulfill to avail the benefits announced under Aatma Nirbhar Bharat Rozgar Yojana.
- The scheme will also cover EPF members drawing monthly wages of less than ₹15,000, who made an exit from employment during COVID-19 pandemic from 1 March, 2020 and is employed on or after 1 October, 2020

Aatma Nirbhar Bharat Rozgar Yojana (2. Eligibility criteria for Establishments)

1. Establishments registered with EPFO if they add new employees compared to reference base of employees as in September, 2020 as under :
 - Minimum of two new employees if reference base is 50 employees or less
 - Minimum of five new employees if reference base is more than 50 employees.
2. Establishments registering with EPFO after commencement of Scheme to get subsidy for all new employees.
3. Scheme to be operational till 30th June 2021

Aatma Nirbhar Bharat Rozgar Yojana

(3. Subsidy support from Central Govt.)

1. Central Govt. to provide subsidy for two years in respect of new eligible employees engaged on or after 01/10/2020 at following scale :
 - Establishments employing up to 1000 employees : Employee's contributions (12% of Wages) & Employer's contributions (12% of wages) totaling 24% of wages.
 - Establishments employing more than 1000 employees : Only Employee's EPF contributions (12% of EPF wages)
2. The subsidy support to get credited upfront in Aadhar seeded EPFO Account (UAN) of eligible new employee.

Aatma Nirbhar Bharat Rozgar Yojana

- This is huge incentive by the Government to encourage businesses to add new employees and also to establishments not yet registered with EPFO to do so.

Case Study :-

- If an employee is at 14,999/- then Rs.1800/- (12% employee share) and Rs.1800/- (12% employer share), total Rs.3600/- per month shall be paid by the Government for 2 years
- Total of $3600 \times 24 = \text{Rs.}86,400$
- Both Employer and Employee get benefit of upto Rs.43,200/- each year in 2 years
- It means PF shall not be deducted from new eligible employees
- Ironically, it means that New eligible employees get Rs.1800/- per month more than existing old employees presently drawing less than Rs.15,000/- wages per month, for 2 years

Aatma Nirbhar Bharat Rozgar Yojana

- It also means that Employees who left on or after 01.03.2020 and rejoin after 01.10.2020 shall get this incentive of upto Rs.1800/- pm but if any loyal employee stayed back and continued to work or joined before 01.10.2020 shall not be eligible for this benefit.
- nonetheless It is a grand incentive for new businesses that employ 20 or more employees on or before 30th June 2021
- It's also a grand incentive for existing businesses not yet covered in PF (employees less than 20) or those who have avoided or evaded PF registration. Till now enforcement department of PF would not only recover old PF dues, they would also recover interest and penalty. But now, there's this huge incentive for such units to get voluntarily covered in PF.

Aatma Nirbhar Bharat Rozgar Yojana

Case Study:

- Suppose one is able to adds 20 employees, it will mean benefit of upto Rs.43,200 X 20 X 2= Rs.17,28,000/- in 2 years
- And for new employees that one adds till 30.06.2021, each employee shall get additional benefit of Rs.43,200/- per year.
- The employees can also get benefit of 24% of basic wages upto Rs.3600/- per month as this amount shall be deposited in their PF account by the Government for 2 years.

FAQs on ATMANIRBHAR BHARAT ROZGAR YOJANA

1 What is the objective of this ABRY?

To incentivise the employers of establishments, registered under EPF & MP Act, 1952, for generation of new employment and to support the new employees entering the formal / organized sector with monthly wage of less than Rs.15000/& re-employing persons from low wage bracket who lost their jobs during COVID-19 pandemic.

2 What is the validity period for registration of beneficiaries under ABRY?

The ABRY is open for the period from the wage month of October, 2020 to wage month of June, 2021 for registration of new employees.

3 Will the benefits under ABRY be available only during the above validity period?

The benefit shall be available for a period of twenty four wage months from date of registration of new employee by the employer of eligible establishment.

4 What does reference base of employees mean?

The number of employees with Universal Account Number (UAN) for whom the employer has remitted EPF/EPS contributions through ECR filed for the wage month of September, 2020 **up to the due date** shall be taken as reference base of employees for the determining the eligibility of any establishment.

For any new establishment getting registered under EPF & MP Act, 1952 from 01.10.2020 to 30.06.2021, the reference base of workers shall be treated as Zero.

5 How will the eligibility and reference base of employees be decided for establishments which failed to file ECR and pay dues for the wage month of Sept 2020 within due date?

Establishment will be eligible for the ABRY benefits only if the ECR for wage month of September 2020 is filed on or before 15th December 2020.

If ECR for September, 2020 is filed after 15.10.2020 but up to 15.12.2020, then reference base of employee will be the number of Contributory UANs in the ECR for the wage month of September 2020, or the number of employees in previous wage month for which ECR was filed up to 11.11.2020, whichever is higher. Detailed illustration is provided in Q. no. 33.

6 What are the eligibility criteria of establishments for getting the benefit of contributions from Central Govt.?

- Establishments already registered before the commencement of this Scheme shall have to employ, over and above the reference base, minimum two new employees (if the reference base of employee is less than or equal to 50) and minimum five new employees (if the reference base of employees is more than 50)
- For new establishments getting covered & registered under EPF & MP Act, 1952 from any date during validity period of this Scheme from 01.10.2020 to 30.06.2021, the reference base of employees shall be treated as Zero and benefits can be availed for all new eligible employees.

7 Who is "new employee" for the purpose of ABRY?

"New employee" means any employee drawing EPF Wages less than Rs 15000 per month–

- (i) Who was not working in any establishment and did not have a Universal Account Number prior to 01st October, 2020 and joins employment in any establishment on or after 01.10.2020 up to 30.06.2021 and who is allotted Aadhaar validated UAN.
- (ii) Any EPF member, already allotted with UAN, who exited from employment during 01.03.2020 to 30.09.2020 from any establishment, such date of exit being recorded in UAN and who joins in any EPFO registered establishment on or after 01.10.2020 and up to 30.06.2021.

8 What if the establishment is a contractor who remits PF dues through the payment received from principal? employer?

In case any eligible establishment (including establishments getting covered & registered after commencement of this Scheme) is a contractor providing manpower to one or more Principal Employers, then the employer's share of contributions of new employee shall not be claimed from the Central Government under this Scheme for any wage month if the same is claimed or received from the Principal Employer concerned. If any such



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

No. CAIU/011(16)2020-21/ABRY/1179

Date: 31.12.2020

To,

- All Addl. CPFCs in charge of Zones
- All RPFCs in charge of Regional Offices
- All OICs in charge of District Offices

Sub: Forwarding of Scheme Guidelines approved by Ministry of Labour, Govt. of India to implement the Aatmanirbhar Bharat Rozgar Yojana (ABRY) to incentivize creation of new employment opportunities in EPFO registered establishments.

Sir,

The Govt. of India on 12.11.2020 announced the Aatmanirbhar Bharat Rojgar Yojana (ABRY) as part of the Aatmanirbhar Bharat 3.0 package to incentivize creation of new employment opportunities during the COVID recovery phase by providing assistance to the employers of establishments registered with EPFO to recruit unemployed persons including re-employment of those who were rendered un-employed during the Pandemic.

To implement the aforesaid package, the Ministry of Labour, Govt. of India, has approved a Scheme with guidelines which has been issued vide Office Memo no. CAIU/011(16)2020-21/ABRY/1178 dated 31.12.2020 (Copy enclosed). The said document along with illustrations is accessible under the TAB "ABRY" on home page of EPFO Website.

The electronic facility to claim the benefits by filing of ECR is deployed as per the Procedure and Instructions for availing benefits set out in Para 9 of the Scheme Guidelines.

All the Zonal and Regional Offices are required to ensure adequate publicity of the aforesaid Scheme and render appropriate guidance and assistance to the establishments so that all the eligible employers and new employees are able to take benefit of payment of employees and employers share of contributions by the Central Govt.

The IS Division shall ensure all technical and software preparedness for smooth filing of ECR, validation of eligibility and upfront credit of Central Govt. relief in r/o eligible employees in eligible establishments.

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

Yours faithfully

Encl: As above

(Pankaj Raman)

Addl. CPFC (Compliance)



कर्मचारी भविष्य निधि संगठन

(मप एवं सोलगार मंत्रालय, भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

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

मुख्य कार्यालय / Head Office

भविष्य निधि भवन, 14-बैंकगढ़ी कामा गेट, नई दिल्ली-110 066
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi - 110 066.

No. CAIU/011(16)2020-21/ABRY/1178

Date: 31.12.2020

OFFICE MEMORANDUM

Subject: Scheme Guidelines for Implementation of Aatmanirbhar Bharat Rozgar Yojana (ABRY) - to incentivize creation of new employment opportunities in EPFO registered establishments.

As part of the Aatmanirbhar Bharat 3.0 package, the Central Govt. has launched the Aatmanirbhar Bharat Rozgar Yojana to incentivize creation of new employment opportunities during the COVID-19 recovery phase by providing assistance to the employers of establishments registered with EPFO to recruit unemployed persons including re-employment of those who were rendered un-employed during the Pandemic.

The undersigned is directed to enclose herewith the Scheme guidelines approved by Ministry of Labour & Employment, Govt. of India containing the eligibility criteria, scale of benefits, procedural and operational framework for implementing the Aatmanirbhar Bharat Rozgar Yojana (ABRY) by upfront credit of both the employees' share (12% of wages) and employer's share (12% of wages) of contribution payable or only the employees' share, depending on the employment strength of the establishment, by the Central Govt. in the Universal Account Number (UAN) of eligible new employees employed in EPFO registered establishments.

The ABRY stands commenced from 1st October, 2020 and shall remain open for registration of eligible employers and new employees up to 30th June, 2021.

(Authority: MoL & E, Govt. of India, Letter no. DGE-U-13015/03/2020-MP (G) dated 30.12.2020)

Encl: As above

Pankaj Raman

(Pankaj Raman) - -

Addl. CPFC (Compliance)
EPFO, Head Office

To,
(As per the list)

AATMANIRBHAR BHARAT ROZGAR YOJANA

A scheme to boost creation of new jobs in formal sector through support of EPF contributions by the Central Government for new employees

SCHEME GUIDELINES

1. Introduction:

The Central Government on 12.11.2020 announced the Aatmanirbhar Bharat 3.0 package containing several stimulus measures to revive the economy and provide relief to stressed sectors. As part of the package Aatmanirbhar Bharat Rozgar Yojana (ABRY) Scheme is announced to incentivize creation of new employment and restoration of loss of employment during the COVID pandemic.

2. Scheme Objectives:

The Scheme proposes to incentivize employers, registered with EPFO, for giving employment to new employees and re-employing persons from low wage bracket who lost their jobs during COVID-19 pandemic.

The Central Government will pay both the employees' and employer's share of contribution payable under the EPF & MP Act, 1952 or only the employees' share, depending on the employment strength of the establishment, directly to the Universal Account Number of eligible employee maintained by the EPFO.

3. Validity of Scheme:

The Scheme stands commenced from 1st October, 2020 and shall remain open for registration of eligible employers and new employees up to 30th June, 2021.

The benefit shall be available for a period of twenty-four months from date of registration of new employee, not later than 30/06/2023 in any case.

4. Definitions for the Scheme:

- (1) The definitions and other expressions used in this Scheme shall carry the same meaning as are assigned to them in the EPF & MP Act, 1952 or any of the Schemes framed there under.
- (2) For the purposes of this Scheme:
 - (a) "electronic-challan cum return" (ECR) means the monthly challan-cum-return submitted online by the employers/establishments under provisions of the EPF Scheme, 1952.

- (b) "new employee" means any employee drawing wages less than Rs 15000 per month—
- (i) who was not working in any establishment and did not have a Universal Account Number prior to 01st October, 2020 who joins employment in any establishment on or after 01.10.2020 up to 30.06.2021 and who is allotted Aadhaar validated UAN.
 - (ii) any EPF member, already allotted with UAN, who made exit from employment during the period from 01.03.2020 to 30.09.2020 from any establishment, such date of exit is recorded in UAN and who joins in any establishment on or after 01.10.2020 and up to 30.06.2021.
- (c) "establishment" means an establishment registered with EPFO and includes all its departments and branches whether located at same place or otherwise.
- (d) "ownership returns" means return in Form 5A prescribed under Para 36-A of EPF Scheme, 1952.
- (e) "Universal Account Number (UAN)" means Aadhaar validated unique account number allotted by EPFO.
- (f) "wages" means wages on which contribution is payable in terms of Section 6 of the EPF & MP, Act, 1952.
- (g) "wage month" means calendar month for which wages are payable to any employee.

5. Reference base of employees:

- (1) The number of employees for whom the employer has remitted contributions through ECR for the wage month of September, 2020 before commencement of this Scheme shall be taken as reference base number for determining the eligibility of an establishment.
- (2) In case the ECR for the wage month of September, 2020 is filed later than its due date but before 15th December, 2020 the reference base of employees will be the number of employees shown in the ECR for the wage month of September, 2020, or the number of employees as per the last ECR which was filed up to 11.11.2020, whichever is higher.
- (3) For new establishment getting registered with EPFO between 01.10.2020 to 30.06.2021, the reference base of workers shall be treated as zero.

6. Eligibility criteria for Establishments:

- (1) Establishments already registered before the commencement of this Scheme shall have to employ, over and above the reference base, minimum two new employees (if the reference base of employee is less than or equal to 50) and minimum five new employees (if the reference base of employees is more than 50)
- (2) Such already registered establishments must continue to employ minimum number of additional new employees as specified in sub-Para (1) above with respect to the reference base of employees as in Para 5 above for availing assistance under this Scheme for any wage month.
- (3) In addition to maintaining the minimum number of additional new employees, the already registered establishments must continue to retain the number of employees taken as reference base of employees for availing assistance under this Scheme for any wage month.
- (4) For new establishment getting registered with EPFO between 01.10.2020 to 30.06.2021, the reference base of employees shall be treated as zero. If any such establishment registers voluntarily with less than 20 employees and continues to maintain less than 20 employees during the validity period of this Scheme, such establishment will not be allowed to exit from statutory Schemes under EPF & MP Act, 1952 and beneficiaries who received benefit shall not be allowed to make final withdrawals until expiry of a period of two years after validity period of this Scheme.
- (5) Establishments working as contractors engaged in providing manpower to one or more principal employers shall not claim benefit of employers' share under this Scheme if the same is claimed or received from the principal employer. Any such amount of employer's share claimed under this shall be liable to be refunded to the Central Government.
- (6) If any establishment being a single legal entity is making compliance under various code numbers obtained from EPFO, then for the purpose of counting the number of 50/1000 employees, wherever applicable for eligibility criteria under this scheme, all employees in the establishment as a whole shall be included.

7. Eligibility criteria for Employees:

- (1) New employee has to be registered for this Scheme during the period from 01.10.2020 to 30.06.2021 by employer of eligible establishment.
- (2) The new employee should have Aadhaar seeded Universal Account Number.
- (3) The benefit under this scheme shall be paid for the wage months in which he continues to be in employment in any eligible establishment subject to a period of maximum 24 months from date of registration as new employee.
- (4) Any eligible new employee under this Scheme shall become ineligible if his/her monthly wage exceeds 14999/- at any point of time during this scheme period.
- (5) It is clarified that if any new employee is already a registered beneficiary and his/her employer is eligible to or is availing benefits of payment of employer's share by Central Government under PMRKY/PMPRY 2016, no such benefit in respect of such new employee shall be available under this Scheme.

8. Amount of benefit :

The Central Government will provide subsidy for twenty-four wage months in respect of eligible new employees at the following scale:

- (i) For Establishments employing up to and including One Thousand (1000) employees (contributing EPF members with UAN) in wage month September, 2020, the employer's and employee's share of contribution as per statutory rate applicable to establishment subject to maximum of 24% of wages.

These establishments will however continue to get subsidy of employer's share even if the number of contributing EPF members with UAN exceeds 1000 during the scheme period.

- (ii) For Establishments employing more than One Thousand (1000) employees (contributing EPF members with UAN) in wage month September, 2020, employees' share of contribution as per statutory rate applicable to establishment subject to maximum of 12% of wages.

9. Procedure and Instructions for availing benefits under this Scheme:

- (i) The employer in relation to any eligible establishment shall first register the establishment under this Scheme disclosing the reference base of employees through a link in the Employer's login on EPFO Unified Portal.
- (ii) Before registration of the establishment under this Scheme, the employer shall ensure that updated ownership return is already filed with EPFO.

- (iii) Before taking any employee in employment, the employer shall ensure to obtain a declaration as to previous membership of Employees Provident Fund Scheme, 1952 and Employees' Pension Scheme, 1995, EPF member a/c number/UAN in respect of such previous membership as required under Para 34 of the EPF Scheme, 1952 and Para 24 of the EPS, 1995 and retain such declaration.
- (iv) The employer of eligible establishment shall register new employees under this Scheme during the period from 01.10.2020 to 30.06.2021.
- (v) The employer in relation to any eligible establishment shall file one Electronic Challan cum Return (ECR) in respect of all employees for each wage month with respect to new employees in a way that leads to increase in benefits. Any revision/correction/modification in such ECR shall not be allowed for claiming any enhanced benefits at any future date.
- (vi) The ECR for any wage month for claiming the benefits under this Scheme has to be filed by eligible establishment not later than 60 days of the close of that wage month. In case such ECR for any wage month is filed beyond the due date specified in Para 38 of the EPF Scheme, 1952 but within 60 days of close of the wage month, the liability of interest due u/s 7Q of the EPF& MP Act, 1952 on such belated remittances shall be borne by the employer.
- (vii) Since the Central Government is paying the employee's share of EPF contributions for new employees eligible under this Scheme, the employer shall not make any deduction towards employee's share of EPF contribution from the monthly wages of any new employee and disburse the wages without such deduction to the new employee concerned and file declaration in regards to above with the ECR. Any violation of this condition will be treated as breach of trust and render the employer liable for appropriate legal action as per law apart from recovery of such amount.
- (viii) That the benefit received from Central Government under this Scheme shall not be liable to be booked as expenditure incurred by the establishment or employer for claiming or receiving any benefit / exemption / rebate/ concession / relief under any law
- (ix) Once ECR is uploaded by an employer eligible for benefits, then the challan will separately show the amount of employees' and employers' contribution in respect of new employees due from Central Government under this Scheme and the amount payable by the employer. The employer has to remit the payment due from him as reflected in Challan as noted above and complete the process of ECR filing.

- (x) The Central Government benefit due under this Scheme in respect of new eligible employees will be credited upfront in the Aadhaar seeded UAN of new employees by the EPFO from funds allocated by the Central Government.
- (xi) Wherever employer has filed ECR for wage month of October and November, 2020 prior to deployment of facility for registration under this scheme, benefits due under this scheme which is already remitted through ECR be reimbursed to employer for employers' share by way of future adjustments against employer's share of contribution. The employee's share of benefit of the respective new eligible employee will also be adjusted in their UANs.
- (xii) Employers and Establishments shall be responsible for the correctness of all particulars submitted for claiming any benefit under this scheme. Any amount claimed through incorrect or false declaration shall be recoverable besides other action under appropriate provisions of law for making such false declaration.
- (xiii) Along with ECR to claim subsidy for any wage month, the employer shall be required to electronically upload a certificate / declaration in format appended below:

A. CERTIFICATE/ DECLARATION OF EMPLOYER

1. *That I have read the Scheme Guidelines and declare that my establishment satisfies all the eligibility conditions for receiving benefit from the Central Government for creating new employment,*
 2. *I certify that no deductions towards either employees' EPF contributions or employers' EPF/EPS contributions have been made from wages of eligible new employees.*
 3. *That I have neither suppressed any material information nor omitted any particulars and submitted correct information in ECR filed with this declaration to avail the subsidy of employer's and or employees' share of contributions in respect of new eligible employees from the Central Government.*
 4. *I undertake that the subsidy received from Central Government under this Scheme shall not be booked as expenditure incurred by the establishment or employer for claiming or receiving any benefit / exemption / rebate/ concessions under any law.*
 5. *I understand that the employer is liable to refund the benefit amount and is also liable for any penal action for submitting any incorrect or false information/declaration to avail the Central Government assistance.*
-

**B. ADDITIONAL CERTIFICATE/ DECLARATION BY EMPLOYER IF
ESTABLISHMENT IS A CONTRACTOR PROVIDING MANPOWER**

1. I hereby declare that services of new employees were provided to Principal Employers as under:

Name of Principal Employer	EPF Code no. of Principal Employer, if any	Number of new employees provided

Note:- In case of Principal employer not registered with EPFO , Code number may be mentioned as NIL

2. I further certify that employer's share of EPF/EPS contributions of new employees being claimed by me through the ECR as assistance from the Central Government under this Scheme has neither been claimed nor received by me nor shall be claimed or received by me in future from any Principal employer under any contract or work order.

- (xiv) If it is found that employer or any person has filed a false information or statement or made a false declaration, the employer or such person shall be treated as defaulter and liable for penal consequences for such contravention as per the provisions of the EPF & MP Act, 1952 and EPF Scheme, 1952 and any other appropriate provision of law and further that the benefit paid by the Central Government shall be liable for recovery along with interest and penalty as per the provisions of EPF & MP Act, 1952 & Schemes there under.
- (xv) An employer claiming Employees' or employer's share of Provident fund contribution from the Central Government under this scheme shall not be eligible to claim the same from the employee or the principal employer, as the case may be. Any duplicate claim would invite appropriate action under the relevant provisions of law.

10. Modalities for implementation of the Scheme

- (i) EPFO shall develop software for implementing this Scheme and also develop a procedure which is transparent and accountable at their own end. The eligibility criteria for employers and employees must clearly be defined under the software.
- (ii) EPFO shall credit the funds in the Aadhaar seeded accounts of members of EPF in electronic manner.

11. Monitoring Mechanism

- (i) EPFO shall put in place a robust mechanism to monitor the implementation of this Scheme on a weekly basis.

(ii) EPFO shall provide monthly reports to the Ministry of Labour & Employment (Directorate General of Employment), Government of India for effective monitoring of this Scheme.

12. Third Party evaluation

- (i) EPFO shall undertake Third Party Evaluation of the Scheme within a period of three months from the closure of this Scheme and send a report to the DGE, Ministry of Labour & Employment, Government of India.
- (ii) The expenditure incurred towards evaluation of the Scheme shall be borne by the EPFO out of its own resources.

ILLUSTRATIONS ON ABRY SCHEME GUIDELINES

1. COUNTING PERIOD OF 24 MONTHS FOR RECEIPT OF SUBSIDY BENEFITS (Refer Para 3 and 7 of the Scheme Guidelines)

Example A

- Mr. A joins any EPFO covered establishment M/s XYZ for first time in October 2020
- M/s XYZ is eligible for benefits
- Eligibility month October, 2020
- the first wage month for receipt of benefit shall be October, 2020
- Mr. A continues to be employed in any eligible establishment on wages below Rs.15000/-.
- Mr. A will continue to get benefit for total 24 wage months up to September 2022

Example B

- Mr. A joins any EPFO covered establishment M/s XYZ for first time in January 2021
- M/s XYZ is eligible for benefits
- Eligibility month January, 2021
- the first wage month for receipt of benefit shall be January, 2021
- Mr. A continues to be employed in any eligible establishment on wages below Rs.15000/-.
- Mr. A will continue to get benefit for total 24 wage months up to December 2022

Note: If Mr. A leaves M/s XYZ and gets employed in any ineligible establishment say M/s PQR for any period say 3 months from November 2020 to January, 2021 than for November to January, 2021, Mr. A will not be eligible to get benefits

2. REFERENCE BASE OF EMPLOYEES

(i) Wage month for Count of Employees for Reference base level (Refer sub-Para (2) of Para 5 of Scheme Guidelines)

Example A

- Wage month of September, 2020
- Date of filing ECR is on or before 15.10.2020
- No of Employees in ECR for the wage month Sep 20 say 500
- Reference base of employee will be 500

Example B

- Wage month of September, 2020
- Date of filing ECR is on any date from 16.10.2020 to 15.12.2020
- Number of Employees in ECR for the wage month September, 2020 say 500
- ECR for Sep., 2020 will be compared with last ECR filed up to 11.11.2020
- If last ECR filed on or before 11.11.2020 is for wage month August, 2020
- Number of employees in ECR for wage month Aug 2020 say 510
- Reference base of employees will be 510

(ii) Count of employees for Reference base of employees
Refer sub-Para (6) of Para 6 and Para 8 of Scheme Guidelines

Example

- M/s XYZ is an establishment
- Three EPF Code numbers obtained say 1111, 2222 and 3333
- Employees in ECR for Reference wage month in code no. 1111 = 400, in 2222 = 40, in 3333 = 600
- Total employees of M/s XYZ = 1040
- The reference base of employees is 1040 for scale of benefits for M/s XYZ

3. COUNT OF NEW ADDITIONAL EMPLOYEES FOR ELIGIBILITY
(Refer Para 6 of Scheme Guidelines)

Example A-1

- M/s XYZ is an establishment
- Employees in ECR for Reference wage month = 50
- Total new employees in October, 2020 >= 2
- Total employees in October, 2020 >= 52
- Whether eligible for benefit= Yes

Example A-2

- M/s XYZ is an establishment
- Employees in ECR for Reference wage month = 50
- Total new employees in October, 2020 >= 2
- Total employees in October, 2020 <= 51
- Whether eligible for benefit= No

Example B-1

- M/s XYZ is an establishment
- Employees in ECR for Reference wage month = 51
- Total new employees in October, 2020 >= 5
- Total employees in October, 2020 >= 56
- Whether eligible for benefit= Yes

Example B-2

- M/s XYZ is an establishment
- Employees in ECR for Reference wage month = 51
- Total new employees in October, 2020 >= 5
- Total employees in October, 2020 <= 54
- Whether eligible for benefit= No

4. Amount of benefits (Refer Para -8 of Scheme Guidelines)

Example A

- M/s XYZ is an establishment
- Employees in ECR for Reference wage month = 1000
- Total new employees in October, 2020 >= 5
- Total employees in October, 2020 >= 1005
- Amount of benefit= 24% of wages

Example B

- M/s XYZ is an establishment
- Employees in ECR for Reference wage month = 1001
- Total new employees in October, 2020 ≥ 5
- Total employees in October, 2020 ≥ 1006
- Amount of benefit = 12% of wages

5. New Employees- Beneficiaries

(Refer clause (b) of sub-Para 2 of Para 4 of the Scheme Guidelines)

Example A-1

- Mr A (UAN 101234567890) made exit from employment of establishment- M/s XYZ on 30.12.2019
- Mr A joined in establishment- M/s PQR on 01.10.2020 with wages of Rs.14500/-
- Whether eligible- No

Example A-2

- Mr A (UAN 101234567890) made exit from employment of establishment- M/s XYZ on 31.08.2020
- Mr A joins in establishment- M/s PQR on 01.10.2020 with monthly wages of Rs.15000/-
- Whether eligible- No

Example B-1

- Mr A (UAN 101234567890) made exit from employment of establishment- M/s XYZ on 31.08.2020
- Mr A joins in establishment- M/s PQR on 01.10.2020 with monthly wage of Rs.12000/-
- Whether eligible- Yes

Example B-2

- Mr A (UAN 101234567890) made exit from employment of establishment- M/s XYZ on 30.12.2019
- Mr A joined in establishment- M/s RST on 01.02.2020 and made exit on 31.07.2020
- Mr A joins in establishment- M/s PQR on 01.10.2020 with monthly wage of Rs.14000/-
- Whether eligible- Yes

FORMAT FOR FIXED TERM EMPLOYMENT

BY ADV S K GUPTA

< COMPANY'S LETTER-HEAD>

<Date>
<Name>
< Father's Name>
Aadhar No.
<Address>
<Email >
<Mobile No.

Appointment Letter - Fixed Term Employment (FTE)

Dear <.....>

With reference to your application and subsequent interviews with us, we are pleased to appoint you as <designation> (<Dept.>) in our company as a Fixed Term Employee for a fixed period of

_<....> years/Months, effecting from <.....> to <.....> on the following terms and conditions. Please read this appointment letter /document carefully before indicating your acceptance to the same.

1. Date of Joining: Your employment commences not later than _____ 2020. Before joining the company, you will ensure that your joining in the company subject to medical fitness, and you will also be free from any contractual restrictions preventing you from accepting this offer or starting work on the joining date mentioned herewith.
2. Salary's Package : Your annual fixed cost to the company would be Rs. XXXXXX CTC Per Annum and its detailed break up in Annexure-I is attached for your reference.
3. Stipulations for Fixed-term Employment:-
 - 3.1 Be it understood and agreed that your appointment is being made for a fixed period as stated above.
 - 3.2 Your appointment is being made for a specified period, thus you will neither have any right nor a lien on the job held by you. Also, you will not claim regular employment even if there is such a vacancy for the post held by you or otherwise.
 - 3.3 Your hours of work, wages, allowances, and other benefits, will be similar to that of a permanent workman.
 - 3.4 You will be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by you, even if the period of your employment does not extend to the qualifying period of employment required in the statute.

- 3.5 You will become eligible for gratuity on rendering services under the contract for a minimum period of one year.
4. Increments: You are engaged in a Fixed-term employment and is offered a lump-sum salary package and as such you shall not be entitled to any increments as being given by the management to its regular employees.
 5. Job Responsibilities: You will be required to effectively carry out all duties and responsibilities assigned to you by your supervisor who is authorized by the management to assign such duties and responsibilities.
 6. Working Hours: You will be required to work a minimum of 48 hours a week and such other hours as may be reasonably required to complete your responsibilities. Your official working hours will be from 09.00 am till 6:00 pm, Monday through Saturday which is inclusive of a lunch break, which may vary as per location. Any changes made to your working hours shall be communicated to you by the management from time to time. Your remuneration is in payment for all hours, which may be required to complete your responsibilities. As per your job profile if required you will have to work late to complete your deadlines or targets.
 7. Place/Transfer: You may be transferred to any other unit under the same management in connection with the project for which you have been engaged.
 8. Work From Home : You may be directed to work from home subject to requirement to the company.
 9. Probation: You will be initially on a probation period for Three (3) months from the date of joining, which may be extended at the discretion of the management for a further period of 3 months at a time. Based on your performance and conduct, this period may be reduced, dispensed, or extended at the discretion of the management. During probation or extended period thereof your services may be terminated without any notice or payment in lieu of such notice.
 10. Absence without Notice: Your absence for a continuous period of 8 days beyond your sanctioned leave (including absence when leave though applied for but not granted) would make you lose your lien on the job and your services shall automatically come to an end without any notice or salary in lieu thereof from the Management unless you return to work within 10 days from the commencement of such absence and provide a satisfactory explanation to management regarding such absence.
 11. Leave: You will be entitled to earned leave on a pro-rate basis. The leave will be accrued and credited to your account on monthly basis after every 20 working days and can be utilized after the successful completion of your probation period. No paid leave will be given during the probation period. Besides , earned leave , you will also entitle to casual leave <....>. However , first three month , you will not be entitled to get casual leave.
 12. Notice Period: Your appointment will automatically come to an end on the expiry of the specified period and no notice or notice pay or retrenchment compensation will be payable to you by the Management. It is made clear that the company will not issue a relieving letter or certificate of employment if you leave or discontinue or abandon the employment without completing the specified period of your employment.
 13. Termination: The management may terminate this contract of fixed-term employment with immediate effect if your performance is found unsatisfactory, or guilty of any financial irregularity, or any act or omission prejudicial to the interest of the company or discipline or for any other misconduct.
 14. If any Letter of Authority or Power of Attorney is issued to you during the term of your employment with the Company, you shall return it on-demand or on termination of employment with the Company. Upon

separation/ termination of your employment, the letter of authority or power of attorney issued in your name shall stand cancelled.

15. The Company may set off any amounts owing and payable by you to the Company at the time of termination of your employment against any amount then payable to you by the Company.
16. Lay-off: In the case of natural calamity, fire, catastrophe, strike, epidemic, civil commotion, the management may lay you off. In such a scenario, you will be entitled to payment of lay-off compensation at a rate equivalent to 50% of your basic wages. However, you would not be entitled to payment of compensation if you refuse to accept the alternative employment offered in the same establishment or any other establishment belonging to the same management or if you do not present yourself for work at the establishment at the appointed time during normal working hours at least once a day or such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.
17. You will be governed by the Code of Conduct, service rules, and the model/certified standing orders of the industrial establishment with respect to the conditions of employment, conduct & discipline, and other matters contained therein.
18. You shall continue in employment subject to your being medically and mentally fit.
19. Official Communication: All communication will be done on your official whatsaap number, and email as enumerated above. You shall keep your handphone, mobile phone in running mode even after duty hours, and in case of any emergency, you will immediately reach the workplace.

MISCELLANEOUS:

You shall execute a confidential information and invention assignment agreement as annexed hereto.

< NB : As per requirement of the company , you may design your own terms and condition i.e. secrecy , data privacy etc.>

I welcome you to the <Name of Company> family and sincerely hope that your period of service with us will be long, pleasant, and of mutual benefit. We look forward to your valuable contributions and wish you all the very best for a rewarding career with the company.

This FTE is being issued to you in duplicate. You are requested to return a duly signed copy of this FTE along with its attachments, as a token of your acceptance of the terms and conditions of FTE.

Wishing you all the very best!

Sr. Manager HR

<Name of Company>

Adv. Ramesh L. Soni

M.B.A. (HR) , B.Sc. (Hons.), LL.B., D.L.L. & L.W. , D.P.M. & I.R., A.I.I.I; M.P.M. (H.R), DMS

Management Consultant and Advisor on Labour Laws

Cell No. 9867796988 / 9867797737 Email :- rlsconsulting.in / jigar@rlsconsulting.in

Website: www.rlsconsulting.in

Acceptance By Employee

I, <> hereby accept your above said "Letter of Fixed Term Employment" and confirm that I have read and understood the terms and conditions governing my services/employment with the company and undertake to abide by the same as amended and in force from time to time.

Place :

Date:

Read , Agreed, Accepted, and Confirmed

Signature of Employee

Date :

Annexure – I

(Strictly Confidential) Date:

<Name>

Aadhar No.

Type of engagement: Fixed Term Employment

COST TO COMPANY

{Compensation Package}

- i. Basic Salary
- ii. House Rent Allowances
- iii. Conveyance Allowance
- iv. Incentive / Commission
- v. PF
- vi. ESI
- vii. Bonus
- viii. Gratuity * (if FTE is more than one year)
- ix. Leave cost
- x.

TOTAL

Total Gross salary

1. You will be entitled to leaves /public holidays as per the company leave rules & Policy in force from time to time.
2. All statutory and other deductions as per Company rules, will be on your account.
3. Management reserves the right to make changes in the structure of the compensation package at any time at its sole discretion.
4. All provisions of the Model Standing Orders shall be applicable

For <Name of Company>

Authorized Signatory

(<Name>)

Read , Agreed, Accepted, and Confirmed

Annexure-II

UNDERTAKING

I _____ Son/Daughter of Shri _____ Age _____ years resident of _____ do hereby affirm and declare that the information given in my resume/biodata/CV dated _____ and in the documents submitted is true and correct to the best of my knowledge and belief and nothing material has been concealed therein.

If at any point in time, the information furnished therein is found false or incorrect, my appointment is liable to be cancelled/terminated automatically without any notice to me by the employer.

(Signature of the Employee)



कर्मचारी भविष्य निधि बोर्ड
EMPLOYEES' PROVIDENT FUND ORGANISATION
मन तर कल्पना विकास, जगत् विकास
MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA
दृष्टि विद्या/Head Office
भविष्य निधि भवन, 14, विकास पार्क, नई दिल्ली-110066
Website: www.epfindia.gov.in, www.epfindia.nic.in



No: EDLI/3(39)SOM/2020

Date: 17.07.2020

17 JUL 2020

To,

1. Addl. Central PF Commissioner (Zones)
2. Regional PF Commissioner (in-charge of Regions)

Subject: Settlement of death claims on priority basis in events of industrial accidents, etc.

Sir,

It is directed that in the events of any incidents of industrial accidents resulting in death of employees of a covered establishment, the concerned RPFC (in-charge of RO) is required to take immediate initiative to settle death claims of the concerned members.

2. Immediately upon learning of such an industrial incident, the concerned RPFC should depute an EO to ascertain the complete details of incident, death cases, etc. from the concerned establishment and ensure that due guidance is provided to the family members / legal beneficiaries of the deceased members for immediate filing of claims under the provisions of the schemes under EPF & MP Act, 1952.
3. A complete action taken report in respect of above should be sent to the Head Office through concerned ACC (Zones) within two days of any such industrial incident.

{ This issues with the approval of ACC (HQ) Pension. }

Yours sincerely,

(Kartikey Singh)
Regional P. F. Commissioner -I(Pension)

PROVIDENT FUND – ONLINE HEARING

Employees' Provident Fund Authorities are starting proceedings under section 7A of the Act by conducting online hearings as revealed in a press report. It is stated that no one from establishment will be required to visit Provident Fund office during Covid period

An EPFO official said that in the first phase, cases of section 7A will be taken up in which non-submission of employees' contribution and the defaulting establishments. Simultaneously, cases of sections 14B (damages for delayed deposit) and 7Q (interest) will be taken.

A member of EPFO Board of Trustees has stated that the officials will settle the cases through video conferencing instead of asking the parties to come to the office of Provident Fund.

EPFO launches multi location claims settlement facility

BY PTI | JUN 16, 2020, 11.19 AM IST

NEW DELHI: Retirement fund body Employees Provident Fund Organisation (EPFO) on Monday said it has launched a multi-location claim settlement facility to expedite member claims, moving away from the existing system of geographical jurisdiction for claim processing.

The facility will bring a paradigm shift by allowing EPFO offices to settle online claims from any of its regional office across the country, the labour ministry said in a statement.

All types of online claims, i.e., provident fund, pension, partial withdrawal and claims and transfer claims can be processed under this novel initiative, it added.

COVID-19 crisis has affected 135 regional offices of the EPFO with different levels of severity depending on their location.

The ministry said it was observed that though many offices in Mumbai, Thane, Haryana and Chennai zones operate with even less than skeletal staff on account of COVID-19 pandemic, there has been a disproportionate increase in claim receipt due to recently introduced COVID-19 advance.

Consequently, claim pendency in these offices rose to higher levels leading to delay in claim settlement cycle while other offices, working with 50 per cent workforce and with the help of recently introduced auto settlement mode could bring the claim settlement period down to three days for COVID-19 advances.

To reduce the delays by uniformly distributing the claim settlement related workload nationwide, EPFO has moved away from the existing system of geographical jurisdiction for claim processing by rolling out multi-location claim settlement facility, it said.

This will allow offices with lesser workload to share the burden of offices that have accumulated a higher level of pendency, due to COVID-19 restrictions.

It enables fast-tracking of settlement process through most appropriate engagement of EPFO's workforce in all its regional offices across the country.

The initiative aimed at enhancing ease of living experience for its members, has been achieved in record time.

The first batch of multi-location claims under this path-breaking project was settled for Gurugram Region on June 10, 2020.

The claims of employees pertaining to the regional office of Gurugram Region were settled by EPFO staff deployed in Chandigarh, Ludhiana and Jalandhar offices. After settlement the payment was made from the Gurugram office to the bank account of the individual member.

Since its launch, claims pertaining to offices that fall in containment zones are being distributed to offices in other locations for expeditious processing.

The ministry noted that despite its functioning being adversely impacted due to COVID-19 restrictions, EPFO's officers and staff have been settling more than 80,000 claims amounting to Rs 270 crore per working day since April 1, 2020.

With multi-location claim facility EPFO is set to achieve higher benchmarks in service delivery ensuring social security for its more than 6 crore subscribers during the time of crisis, it added.



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation
(अम एवं रोजगार मंत्रालय, भारत सरकार)
(MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA)
मुख्य कार्यालय/Head Office
भविष्य निधि भवन, 14, भीकाईजी कामा न्हेस, नडे दिल्ली-110066
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi-110066
वेबसाइट/Website: www.epfindia.gov.in, www.epfindia.nic.in



No.:Pen-I/Meeting/digitization/2019
18533

Dated: 14 MAY 2019

To

All ACC in-charge of Zones,
All RPFC in-charge of Regions

SUBJECT : Providing calculations to the pensioner with regard to the pension sanctioned – regarding.

Sir,

In order to bring more transparency in the settlement of pension claims and remove any confusion in the mind of pensioner about the quantum of pension, thereby reducing the grievances also, it has been decided to provide pension worksheet to the pensioners. Thus the Regional Offices would ensure that a copy of the pension worksheet is forwarded alongwith intimation of sanction of pension to the pensioner.

2. This will bring transparency and in turn would reduce the grievances.
3. The above arrangement should start with immediate effect.

Yours faithfully

14/05/2019
(RAJESH BANSAL)

Additional Central P.F. Commissioner(HQ)Pension

The Government vide notification no. G.S.R. 1065 (E) dated 11.11.2016 has amended paragraph 72(6) of the Employees' Provident Funds (EPF) Scheme, 1952 wherein changes have been made in the conditions leading to a Provident Fund (PF) account becoming an Inoperative Account. As per amended definition of Inoperative Account (w.e.f. 11.11.2016), an account becomes inoperative after the age of 58 years, i.e., 36 months after the retirement age of 55 years. The details of inoperative accounts and amounts involved therein, consequent upon implementation of the above notification, have not been ascertained by Employees' Provident Fund Organisation (EPFO) presently as the date of birth in respect of many employees is not available in the EPFO database presently.

As per paragraph 60(6) of EPF Scheme, 1952, interest shall not be credited to the account of a member from the date on which it has become an inoperative account under paragraph 72(6) of EPF Scheme, 1952. However, as per amended definition, an account shall be classified as Inoperative after the member attains the age of 58 years. Hence, interest shall be credited to the account of a member upto the age of 58 years.

This information was given by Shri Bandaru Dattatreya to the Minister of State (I/C) for Labour and Employment, in a written reply to a question in Lok Sabha, today.

Refer this clarification

RPFC Office	Region	Name & Designation of Head of Region	Jurisdictional Area	Place/ Location	Phone No.	Email-ID
Kandivali-I	West	Shri. P.B. Verma Regional P.F. Commissioner - I	Andheri (West) to Boisar (West)	Charkop Market	022-20896488	ro.kandivali@epfindia.gov.in
Kandivali-II	East	Shri. P.K. Tiwari Regional P.F. Commissioner - I	Andheri (East) to Boisar (East)	MTNL Exch. Bldg.	022-20894053	ro.kandivali2@epfindia.gov.in
Bandra	Bandra	Shri. Rajesh Kumar Sinha Regional P.F. Commissioner - I	Vile Parle to Mahim	Old Building Second Floor	022-26470707	ro.bandra@epfindia.gov.in
Bandra	Dadar	Smt. Pooja Singh Regional P.F. Commissioner - I	Matunga to Mahalaxmi & Wadala to Cottongreen	New Building First Floor	022-26470029	ro2.bandra@epfindia.gov.in
Bandra	Nariman Point	Shri. Aditya Sah Regional P.F. Commissioner - I	Mumbai Central to Nariman Point, Byculla to Colaba	New Building Second Floor	022-26470027	ro3.bandra@epfindia.gov.in
Bandra	Powai	Shri. Praveen Garhwal Regional P.F. Commissioner - I	Other than above but covered under RPFC Bandra	Old Building Third Floor	022-26477264	ro4.bandra@epfindia.gov.in
Vashi	Vashi	Shri. Ranjan Kumar Sahoo Regional P.F. Commissioner - I	-	Fifth Floor	022-27812022	ro.vashi@epfindia.gov.in
Thane	South	Shri. Ganesh Kumar Regional P.F. Commissioner - I	Towards South Mumbai till Mulund	Sixth Floor	022-68806611	ro.thanesouth@epfindia.gov.in
Thane	North	Shri. Sudhir N Ganvir Regional P.F. Commissioner - I	Thane and Beyond Thane	Sixth Floor	022-68806661	ro.thanenorh@epfindia.gov.in

PF Department – PAN India WhatsApp Helpline Numbers.

Name of Zonal Office	Name of Regional Office	WhatsApp Helpline Number
Andhra Pradesh (Vijaywada)	Guntur	0863-2344123
	Kadapa	9491138297
	Rajamundry	9494633563
	Vishakhapatnam	7382396602
Bihar & Jharkhand (Patna)	Bhagalpur	8987299190
	Jamshedpur	8986717019
	Muzaffarpur	6204358536
	Patna	7004042219
	Ranchi	8987790956
Bandra (Bandra)	Mumbai (Bandra)	022-26470030
	Mumbai (Dadar)	9321255315
	Mumbai (Narimanpoint)	9518588021
	Mumbai (Powai)	022-264 76044
Bengaluru (Bengaluru)	Bengaluru (Central)	6364264449
	Bengaluru (Malleswaram)	8022230188
	Bengaluru (Electronic City)	7204453662
	Bengaluru (Koramangala)	9449961465
	K.R. Puram (Whitefield)	080-2565 8001 080-2565 8005 080-2565 8006
	Peenya	8023571377
	Rajarajeshwari Nagar	8792028994
	Yelahanka	080-28460872 080-29720896
	Ambattur	6380131921
Chennai & Puducherry (Chennai)	Chennai (North)	9345750916
	Chennai (South)	6380366729
	Puducherry	6380023914
	Tambaram	6380153667
	Dehradun	8532889088
Delhi, Uttarkhand & Jammu (Delhi)	Delhi (Central)	8178457507
	Delhi (East)	7818022890

	Delhi (North)	9315075221
	Delhi (South)	9717547174
	Delhi (West)	7428595582
	Haldwani	9411530300
Gujarat (Ahmedabad)	Ahmedabad	7383146934
	Bharuch	02642-266702
	Naroda	9428694145
	Rajkot	0281-2576399 0281-2576499
	Surat	9484530500
	Vadodara	2652606247
	Vapi	9499703166
	Vatva	8733063428
Haryana (Faridabad)	Faridabad	8278378542
	Gurugram (East)	9717748636
	Gurugram (West)	9311354824
	Karnal	9996962805
	Rohtak	7082334526
Kerala & Lakshadweep (Thiruvananthapuram)	Kannur	8590323150
	Kochi	0484-2566509
	Kollam	9497152553
	Kottayam	0481-2303206
	Kozhikode	7012997744
	Thiruvananthapuram	8075348085
Karnataka (Other Than Bengaluru) & Goa (Hubli)	Chikmagalur	9482177426
	Goa	8830110399
	Gulbarga	8472273862
	Hubli	8762525754
	Mangalore	9113938518
	Mysore	8105645793
	Raichur	9482390073
	Shimoga	0818-2275103
	Tumkur	7204055256
	Udupi	0820-2531172
Madhya Pradesh & Chattisgarh (Bhopal)	Bhopal	6264800134
	Gwalior	9301903862

	Indore	8305411688
	Jabalpur	6267777416
	Raipur	7712583890
	Sagar	8989041007
	Ujjain	9424441512
Maharashtra (Other Than Mumbai) (Pune)	Akola	0724-2414050
	Aurangabad	9405355287
	Kolhapur	9309866697
	Nagpur	9555313189
	Nasik	0253-2360974
	Pune (Pune Cantt.)	8767108057
	Pune (Akurdi)	8766467490
	Solapur	9404912406
North-Eastern Region (Guwahati)	Agartala	9402180891
	Guwahati	8822142204
	Shillong	6033243231
	Tinsukia	9864860921
Odisha (Bhubaneswar)	Berhampur	8249068089
	Bhubaneshwar	7656849976
	Keonjhar	6370894727
	Rourkela	6372908815
Punjab & Himachal Pradesh (Chandigarh)	Amritsar	9530589771
	Bhatinda	6284364807
	Chandigarh	9463733422
	Jalandhar	6280718364
	Ludhiana	7719642517
	Shimla	7807929882
Rajasthan (Jaipur)	Jaipur	1412740742
	Jodhpur	9414138664
	Kota	7442425392
	Udaipur	7878817107
Telangana (Hyderabad)	Hyderabad (Barkatpura)	9100026170
	Hyderabad (Madhapur)	9100026146
	Karimnagar	9492429685
	Kukatpally	9392369549
	Nizamabad	8919090653

	Patancheru	9494182174
	Siddipet	9603262989
	Warangal	8702447772
Thane (Thane)	Kandivali (West)	7977298051
	Kandivali (East)	9321482815 9321466977
	Thane (North)	9321666951
	Thane (South)	8928977985
	Vashi	9969036136
Tamil Nadu (Other Than Chennai) (Coimbatore)	Coimbatore	9994255012
	Madurai	9489938487
	Nagercoil	6381122366
	Salem	9080433650
	Tirunelveli	7010156260
	Trichy	6380109286
	Vellore	7397593330
Uttar Pradesh (Kanpur)	Agra	8279696190
	Allahabad	9336677186
	Bareilly	0581-2510628
	Bellary	6363778135
	Gorakhpur	9044977792
	Kanpur	0512-2215644
	Lucknow	9044856097
	Meerut	8923247687
	Noida	8595668945
	Varanasi	0542-2585339
West Bengal, A&N Islands & Sikkim (Kolkata)	Barrackpore	033-25010481
	Darjeeling	8927703218
	Durgapur	9434085134
	Howrah	033-26768120
	Jalpaiguri	9531641924
	Jangipur	9434111646
	Kolkata	033-29521852
	Park Street	7439133837
	Port Blair	9434269504
	Siliguri	8001196411

PF Department – PAN India Email and Phone Numbers.

Name of Zonal Office	Name of Regional Office	Code	WhatsApp Helpline Number	Email	Phone No.
Andhra Pradesh (Vijaywada)	Guntur	GRGNT	0863-2344123	ro.guntur@epfindia.gov.in	0863-2344106
	Kadapa	GRCDP	9491138297	sro.cuddaph@epfindia.gov.in	08562-244902
	Rajamundry	GRRJY	9494633563	ro.rajamundry@epfindia.gov.in	0883-2442571
	Vishakhapatnam	GRVSP	7382396602	ro.vizag@epfindia.gov.in	0891-2729402
Bihar & Jharkhand (Patna)	Bhagalpur	BRBHA	8987299190	ro.bhagalpur@epfindia.gov.in	0641-2409875
	Jamshedpur	JHJAM	8986717019	ro.jamshedpur@epfindia.gov.in	0657-2230128
	Muzaffarpur	BRMUZ	6204358536	ro.muzaffarpur@epfindia.gov.in	0621-2263965
	Patna	BRPAT	7004042219	ro.patna@epfindia.gov.in	0612-2227410
	Ranchi	JHRAN	8987790956	ro.ranchi@epfindia.gov.in	0651-2360804
Bandra (Bandra)	Mumbai (Bandra)	MHBAN	022-26470030	ro.bandra@epfindia.gov.in	022-26475910
	Mumbai (Dadar)	MHBAN	9321255315	ro.bandra2@epfindia.gov.in	022-26475910
	Mumbai (Narimanpoint)	MHBAN	9518588021	ro.bandra3@epfindia.gov.in	022-26475910
	Mumbai (Powai)	MHBAN	022-26476044	ro.bandra4@epfindia.gov.in	022-26475910
Bengaluru (Bengaluru)	Bengaluru (Central)	BGBNG	6364264449	ro.bangalore1@epfindia.gov.in	18604251068
	Bengaluru (Malleswaram)		8022230188	ro.bangalore2@epfindia.gov.in	
	Bengaluru (Electronic City)		7204453662	ro.bms1@epfindia.gov.in	
	Bengaluru (Koramangala)		9449961465	ro.bms2@epfindia.gov.in	080-25732655
	K.R. Puram (Whitefield)	PYKRP	080-2565 8001 080-2565 8005 080-2565 8006	sro.krpuram@epfindia.gov.in	080-25658003
	Peenya	PYPNY	8023571377	ro.peenya@epfindia.gov.in	080-23571355
	Rajarajeshwari Nagar	BGMRD	8792028994	ro.rrnagar@epfindia.gov.in	080-28603108
	Yelahanka		080-28460872 080-29720896	sro.yelahanka@epfindia.gov.in	080-28460872
	Ambattur		6380131921	ro.ambattur@epfindia.gov.in	044-26246990
Chennai & Puducherry (Chennai)	Chennai (North)	TNMAS	9345750916	ro.chennai1@epfindia.gov.in	
	Chennai (South)	TNMAS	6380366729	ro.chennai2@epfindia.gov.in	
	Puducherry	TBDY	6380023914	ro.puducherry@epfindia.gov.in	0413-2353055
	Tambaran	TBTAM	6380153667	ro.tambaran@epfindia.gov.in	044-22262297
	Dehradun	UKDDN	8532889088	ro.dehradun@epfindia.gov.in	0135-2620106
Delhi, Uttarkhand & Jammu (Delhi)	Delhi (Central)		8178457507	ro.delhicentral@epfindia.gov.in	011-27371136
	Delhi (East)		7818022890	ro.delhieast@epfindia.gov.in	011-22126511
	Delhi (North)	DLCMP	9315075221	ro.delhi.north@epfindia.gov.in	011-27376775
	Delhi (South)		9717547174	ro.delhi.south@epfindia.gov.in	011-28093088

	Delhi (West)		7428595582	ro.delhi.west@epfindia.gov.in	011-28093110
	Haldwani	UKHLD	9411530300	sro.haldwani@epfindia.gov.in	05946-282208
Gujarat (Ahmedabad)	Ahmedabad	GJAHD	7383146934	ro.ahmedabad@epfindia.gov.in	079-27582700
	Bharuch	SRBRH	02642-266702	sro.bharuch@epfindia.gov.in	02642-268702
	Naroda	GJNRD	9428694145	ro.naroda@epfindia.gov.in	079-22800522
	Rajkot	GJRAJ	0281-2576399 0281-2576499	sro.rajkot@epfindia.gov.in	0281-2576399
	Surat	SRSRT	9484530500	ro.surat@epfindia.gov.in	
	Vadodara	VDBRD	2652606247	ro.vadodara@epfindia.gov.in	
	Vapi	SRVAP	9499703166	sro.vapi@epfindia.gov.in	0260-2400611
	Vatva	GJVAT	8733063428	ro.vatwa@epfindia.gov.in	079-25465280
Haryana (Faridabad)	Faridabad	HRFRD	8278378542	ro.faridabad@epfindia.gov.in	0129-2225162
	Gurugram (East)	GNGGN	9717748636	ro.gurgaon@epfindia.gov.in	0124-2578635
	Gurugram (West)	GNGGN	9311354824	ro.gurgaon2@epfindia.gov.in	
	Karnal	HRKNL	9996962805	ro.karnal@epfindia.gov.in	0184-2209825
	Rohtak	GNRTK	7082334526	ro.rohtak@epfindia.gov.in	
Kerala & Lakshadweep (Thiruvananthapuram)	Kannur	KRKNR	8590323150	ro.kannur@epfindia.gov.in	0497-2712388
	Kochi	KRKCH	0484-2566509	ro.kochi@epfindia.gov.in	0484-2566522
	Kollam	KRKLM	9497152553	ro.kollam@epfindia.gov.in	
	Kottayam	KRKRTM	0481-2303206	ro.kottayam@epfindia.gov.in	0481-2300937
	Kozhikode	KRKKD	7012997744	ro.kozhikode@epfindia.gov.in	0495-2766532
	Thiruvananthapuram	KRTVM	8075348085	ro.tvm@epfindia.gov.in	0471-2557378
Karnataka (Other Than Bengaluru) & Goa (Hubli)	Chikmagalur	KNCKR	9482177426	ro.chikmagalur@epfindia.gov.in	08262-234106
	Goa	GAGOA	8830110399	ro.goa@epfindia.gov.in	
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	Hubli	GBHBL	8762525754	ro.hubli@epfindia.gov.in	0836-2324806
	Mangalore	KNMLR	9113938518	ro.mangalore@epfindia.gov.in	0824-2435888
	Mysore	KNMYS	8105645793	ro.mysore@epfindia.gov.in	0821-2599222
	Raichur	GBRCH	9482390073	sro.raichur@epfindia.gov.in	08532-220050
	Shimoga	KNSHG	0818-2275103	ro.shimoga@epfindia.gov.in	08182-275105
	Tumkur		7204055256	sro.tumkur@epfindia.gov.in	0816-2257455
Madhya Pradesh & Chattisgarh (Bhopal)	Udupi	KNUDP	0820-2531172	sro.udipi@epfindia.gov.in	0820-2531174
	Bhopal	MPBPL	6264800134	ro.bhopal@epfindia.gov.in	0755-2557670
	Gwalior	MPGWL	9301903862	ro.gwalior@epfindia.gov.in	
	Indore	MPIND	8305411688	ro.indore@epfindia.gov.in	0731-2540057
	Jabalpur	MPJBP	6267777416	ro.jabalpur@epfindia.gov.in	0761-2640680
	Raipur	CGRAI	7712583890	ro.raipur@epfindia.gov.in	
	Sagar	MPSGR	8989041007	ro.sagar@epfindia.gov.in	07582-227173
Maharashtra (Other Than Mumbai) (Pune)	Ujjain	MPUJJ	9424441512	ro.ujjain@epfindia.gov.in	0734-2518588
	Akola	NGAKL	0724-2414050	ro.akola@epfindia.gov.in	0724-2415672
	Aurangabad	NGAUR	9405355287	ro.aurangabad@epfindia.gov.in	020-2485606

	Kolhapur	PUKOL	9309866697	ro.kolhapur@epfindia.gov.in	0231-2661570
	Nagpur	NGNAG	9555313189	ro.nagpur@epfindia.gov.in	0712-2742012
	Nasik	KDNSK	0253-2360974	ro.nasik@epfindia.gov.in	0253-2360974
	Pune (Pune Cantt.)	PUPUN	8767108057	ro.pune@epfindia.gov.in	020-26402151
	Pune (Akurdi)	PUPUN	8766467490	ro.pune2@epfindia.gov.in	020-2640760
	Solapur	PUSLP	9404912406	ro.solapur@epfindia.gov.in	
North-Eastern Region (Guwahati)	Agartala	NEAGT	9402180891	ro.agartala@epfindia.gov.in	
	Guwahati	NEGHY	8822142204	ro.guwahati@epfindia.gov.in	
	Shillong	NESHG	6033243231	ro.shillong@epfindia.gov.in	0364-2507212
	Tinsukia	NETSK	9864860921	ro.tinsukia@epfindia.gov.in	0374-2351781
Odisha (Bhubaneswar)	Berhampur	ORBAM	8249068089	ro.berhampur@epfindia.gov.in	
	Bhubaneshwar	ORBBS	7656849976	ro.bhubaneshwar@epfindia.gov.in	
	Keonjhar	ORKJR	6370894727	ro.keonjhar@epfindia.gov.in	
	Rourkela	ORRKL	6372908815	ro.rourkela@epfindia.gov.in	
Punjab & Himachal Pradesh (Chandigarh)	Amritsar	LDASR	9530589771	ro.amritsar@epfindia.gov.in	0183-2402004
	Bhatinda	PBBTI	6284364807	ro.bhatinda@epfindia.gov.in	0164-2215892
	Chandigarh	PBCHD	9463733422	ro.chandigarh@epfindia.gov.in	0172-2701300
	Jalandhar	LDJAL	6280718364	sro.jalandhar@epfindia.gov.in	0181-4156686
	Ludhiana	LDLDH	7719642517	ro.ludhiana@epfindia.gov.in	0161-2447243
	Shimla	HPSML	7807929882	ro.shimla@epfindia.gov.in	0177-2623023
Rajasthan (Jaipur)	Jaipur	RJRAJ	1412740742	ro.jaipur@epfindia.gov.in	0141-2740742
	Jodhpur	RJJOD	9414138664	ro.jodhpur@epfindia.gov.in	
	Kota	RJKOT	7442425392	sro.kota@epfindia.gov.in	0744-2422449
	Udaipur	RJUDR	7878817107	ro.udaipur@epfindia.gov.in	0294-2980356
Telangana (Hyderabad)	Hyderabad (Barkatpura)	APHYD	9100026170	ro.hyderabad@epfindia.gov.in	040-27564576
	Hyderabad (Madhapur)	APHYD	9100026146	ro.hyderabad2@epfindia.gov.in	18005999911
	Karimnagar	NZKRN	9492429685	ro.karimnagar@epfindia.gov.in	0878-2231090
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Thane (Thane)	Kandivali (West)	KDMAL	7977298051	ro.kandivali@epfindia.gov.in	022-28692604
	Kandivali (East)	KDMAL	93 21482815 9321466977	ro.kandivali2@epfindia.gov.in	
	Thane (North)	THTHA	9321666951	ro.thanenorth@epfindia.gov.in	022-68806691
	Thane (South)	THTHA	8928977985	ro.thanesouth@epfindia.gov.in	022-25838449
	Vashi	THVSH	9969036136	ro.vashi@epfindia.gov.in	022-27814315
Tamil Nadu (Other Than Chennai) (Coimbatore)	Coimbatore	CBCBE	9994255012	ro.coimbatore@epfindia.gov.in	9994235012
	Madurai	MDMDU	9489938487	ro.madurai@epfindia.gov.in	0452-2545703
	Nagercoil	MDNKL	6381122366	ro.nagercoil@epfindia.gov.in	6381122366
	Salem	CBSLM	9080433650	ro.salem@epfindia.gov.in	0427-2900388
	Tirunelveli	MDTNY	7010156260	ro.tirunelveli@epfindia.gov.in	0462-2554608

	Trichy	CBTRY	6380109286	ro.trichy@epfindia.gov.in	6380109286
	Vellore	TBVLR	7397593330	ro.vellore@epfindia.gov.in	0416-2256157
Uttar Pradesh (Kanpur)	Agra	MRAGR	8279696190	ro.agra@epfindia.gov.in	0562-2855273
	Allahabad	UPALD	9336677186	ro.allahabad@epfindia.gov.in	0532-2401619
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	Bellary	GBBLR	6363778135	ro.bellary@epfindia.gov.in	08392-268943
	Gorakhpur	UPGKP	9044977792	ro.gorakhpur@epfindia.gov.in	0551-2200603
	Kanpur	UPKNP	0512-2215644	ro.kanpur@epfindia.gov.in	0512-2215644
	Lucknow	UPLKO	9044856097	ro.lucknow@epfindia.gov.in	0522-2304998
	Meerut	MRMRT	8923247687	ro.meerut@epfindia.gov.in	0121-2603034
	Noida	UPNOI	8595668945	ro.noida@epfindia.gov.in	18001807953
	Varanasi	UPVNS	0542-2585339	ro.varanasi@epfindia.gov.in	0542-2585339
West Bengal, A&N Islands & Sikkim (Kolkata)	Barrackpore	WBTLO	033-25010481	sro.barrackpore@epfindia.gov.in	033-25010399
	Darjeeling	JLDRJ	8927703218	ro.darjeeling@epfindia.gov.in	0354-2255902
	Durgapur	WBDGP	9434085134	ro.durgapur@epfindia.gov.in	0343-2544378
	Howrah	WBHLO	033-26768120	ro.howrah@epfindia.gov.in	033-26669220
	Jalpaiguri	JLJLP	9531641924	ro.jalpaiguri@epfindia.gov.in	03561-230731
	Jangipur	JLNNG	9434111646	sro.jangipur@epfindia.gov.in	03482-260071
	Kolkata	WBCAL	033-29521852	ro.kolkata@epfindia.gov.in	033-23586931
	Park Street	WBPRB	7439133837	ro.parkstreet@epfindia.gov.in	033-22801244
	Port Blair	WBAND	9434269504	ro.portblair@epfindia.gov.in	
	Siliguri	JLSLG	8001196411	ro.siliguri@epfindia.gov.in	0353-2512523

Employees Provident Fund Withdrawals Cross Rs39,000 Crore Since March: Govt

Employees in as many as 24 states and union territories have withdrawn over Rs39,000 crore from the employees' provident fund (EPF) during the past five months alone, shows data shared by the union government in the Lok Sabha. This data pertains to a period from 25th March to 31 August 2020, which can be referred as lockdown period due to corona virus (COVID19) pandemic.

This information was shared in response to a question asked by members of Parliament (MPs) Sudheer Gupta, Benny Behanan, Shrirang Barne, Bidyut Baran Mahato and Sanjay Mandlik on withdrawals from the PF. They had asked for information on total quantum of amount withdrawn state-wise from employees' provident fund or EPF account during lockdown period of Covid19 pandemic.

The written reply given by Santosh Kumar Gangwar, minister of state for labour and employment shows, Maharashtra employees top the list of EPF withdrawals at over of Rs7,837.85 crore. It is followed by Karnataka and Tamil Nadu (including Puducherry) at Rs5,743.96 crore and Rs4,984.51 crore, respectively. Jammu & Kashmir and Ladakh have seen withdrawl of just Rs44 lakh by members from the PF account, the data shows.

In total, 24 states and UTs have seen their members withdrawn Rs39,402.94 crores

Employees' Deposit Linked Insurance benefits hiked to 7 lakh

Employees' Provident Fund Organisation (EPFO) on Wednesday increased the maximum assurance benefit under the Employees' Deposit Linked Insurance (EDLI) scheme to Rs. 7 lakh from the existing cover of Rs. 6 lakh. "Central Board of Trustees, Employees' Provident Fund (EPF) accorded approval for amendment of paragraph 22(3) of Employees' Deposit Linked Insurance Scheme, 1976 to enhance the maximum assurance benefit to Rs. 7 lakhs from the present maximum assurance benefit of Rs. 6 lakhs."

A nominee gets a lump sum payment of up to Rs.7 lakh in the event of death due to natural causes, illness or accident. All organisations covered under EPF and Miscellaneous Provisions Act, 1952 get enrolled for EDLI automatically.

The insurance cover depends on the salary drawn in the last 12 months of the employment before death. The employer and central government contribute to EDLI scheme. The employee does not need to contribute to deposit linked insurance scheme. The claim amount under this scheme is 30 times the average monthly salary in the past 12 months subject to a maximum of 7 lakh.

STATEMENT REFERRED TO IN REPLY TO PART (c) OF LOK SABHA UNSTARRED QUESTION NO. 190 FOR REPLY ON 14.09.2020 BY SHRI SUDHEER GUPTA, SHRI BENNY BEHANAN, SHRI SHRIRANG APPA BARNE, SHRI BIDYUT BARAN MAHATO AND SHRI SANJAY SADASHIVRAO MANDLIK REGARDING TOTAL AMOUNT WITHDRAWN FROM PROVIDENT FUND.

SI. No.	STATE/UT NAME	Amount withdrawn from 25.03.2020 to 31.08.2020 (Rupees in CRORE)
1	ANDHRA PRADESH	1,232.48
2	ASSAM & OTHER NORTH EAST STATES	227.15
3	BIHAR	309.95
4	CHANDIGARH	506.73
5	CHHATTISGARH	402.59
6	DELHI	2,940.97
7	GOA	184.27
8	GUJARAT (INCLUDING DADRA& NAGAR HAVELI AND DAMAN & DIU)	2,115.17
9	HARYANA	2,220.82
10	HIMACHAL PRADESH	267.55
11	JAMMU & KASHMIR AND LADAKH	0.44
12	JHARKHAND	294.03
13	KARNATAKA	5,743.96
14	KERALA (INCLUDING LAKSHADWEEP)	1,288.09
15	MADHYA PRADESH	941.30
16	MAHARASHTRA	7,837.85
17	ODISHA	512.64
18	PUNJAB	642.93
19	RAJASTHAN	868.40
20	TAMIL NADU (INCLUDING PUDUCHERRY)	4,984.51
21	TELANGANA	2,619.39
22	UTTAR PRADESH	1,613.03
23	UTTARAKHAND	398.79
24	WEST BENGAL (INCLUDING ANDAMAN AND NICOBAR ISLANDS	1,249.90
TOTAL		39,402.94



कर्मचारी भविष्य निधि संगठन

(मन एवं रोजगार पक्षलय भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

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

मुख्य कार्यालय / Head Office

भविष्य निधि पक्षलय, 14-भीकाजी कला परिव, नई दिल्ली-110 066

Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi – 110 066.

File No: LC 4(42) 2020/ E- 26035

Dated: 14.09.2020

14 SEP 2020

To,

2/94

All Addl CPFCs (Zones),
All RPFCs-In Charge of Regions

Subject: - Attachment of bank accounts for enforcing appearance.

Sir,

Instances have been noticed in which the officers conducting inquiries u/s 7A have issued orders to attach/freeze bank accounts of the establishments/ personal accounts of the employers for alleged non-appearance in such inquiries. Such practices have attracted a lot of adverse observations from Constitutional Courts and other quarters.

In so far as the power to impose fines for non-appearance, by invocation of section 32 CPC is concerned, it may be noted that the power of a Civil Court, and consequently an officer exercising jurisdiction under section 7A, in imposing a pecuniary fine for willful absence of a party summoned, is restricted to the amount of Rupees Five thousand only by virtue of section 32, ibid.

The power to attach and sell property for non-appearance is also subject to limitations prescribed in rule 10 of Order XVI of the CPC which circumscribes the

power so available to the limit of fine imposable under rule 12. Alternatively stated, when the power to attach and sell property of the employer is sought to be exercised for non-appearance, the value of property so attached has to be within the quantum of fine that could be levied under the relevant provision.

It has been observed, in a number of cases, that the officers issue attachment orders without specifying any amount to the extent of which the attachment is intended to be made. It is important to note that the power to make attachments of unlimited value or to freeze operation of bank accounts is not relatable to any provision of the Act or Code of Civil Procedure. Such actions are evidently illegal and amount to blatant misuse of authority besides causing unwarranted harassment to the employers concerned.

All adjudicating officers are, therefore, advised to take note of the legal provisions. Any violation will invite strict disciplinary action.

(This issues with the approval of CPFC)

Yours faithfully,


Amit Vashist
14.09.2020
Regional PF Commissioner-I[Legal]

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1. RPFC (NDC) for web-upload.



कर्मचारी भविष्य निधि संगठन
EMPLOYEES' PROVIDENT FUND ORGANISATION
(अम. एवं रोजगार मंत्रालय, भारत सरकार)
(MINISTRY OF LABOUR & EMPLOYMENT, GOVT. OF INDIA)

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पहली मंजिल, ई.पी.एफ.ओ. जॉमपलेक्स, लाट नं. 23, सेक्टर-23, द्वारका, नई दिल्ली - 110075
1ST Floor, Bhavishya Nidhi Bhawan, Plot No.23, Sector-23, Dwarka, New Delhi-110075
www.epfindia.gov.in



No. NDC/IS/SW/69/Unified Portal/2020/361

Date:- 18.11.2020

All Regional Provident Fund Commissioners
In-charge, Regional Offices

Subject: Online facility for editing Establishment Details - regarding

Sir,

The changes in Establishment Profile were effected till date through the functionality "Coverage Performa" in the EPFO Application, generally based on request of employer through a Form 5A sent through post.

Now a facility has been provided to the employers to make online request for such change through their login at Employer Interface. Along with request, employer will also upload the supporting documents and digitally sign the request. Digitally signed request will appear in the login of "DA Coverage" at FOINTERFACE. "DA Coverage" will forward this request with his recommendation to "SS Coverage" and "SS Coverage" will forward it to "APFC Coverage" for final approval. After approval, information will be updated at Unified Portal and Field Office Application simultaneously in real time.

Any requirement for modification in details of establishment without request of employer can also be done through FOINTERFACE.

At FOINTERFACE, as a prerequisite it is necessary that all the establishments should be mapped with "Enforcement Groups" and "DA Coverage", "SS Coverage" and "APFC Coverage". Provision for that is also available at FOINTERFACE. All the Regional Offices are requested to do this activity urgently.

A User Manual is attached herewith for your reference. Once this functionality is stabilized, establishment updation functionality already available at "Field Office Application" will be removed.

Yours faithfully,

(Sanjay Kesari)

Regional Provident Fund Commissioner-I (IS)

PROVIDENT FUND AUTHORITIES

CANNOT ATTACH **BANK ACCOUNTS** TO COMPEL APPEARANCE

by H.L. Kumar

If a public servant knowingly disobeys, to the prejudice of any person, any direction of the law shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

Pandemic Corona has compelled the entrepreneurs and the governments to drastically change their workings so as to meet the extreme challenges posed by the disease. On the other hand, in India, it is seen that the minions of the government remain oblivious of the problems and brazenly continue to move on the same old hackneyed path of harassing employers. That is why it comes as a whiff of fresh air to find some conscientious and scrupulous officers, who insist on doing as per the law.

There have been innumerable instances when officials of the Provident Fund department use every tool to badger and pester the employers, on whose money they get their salary. Under section 7 A of the Employees' Provident Funds & MP Act, 1952, the Regional Provident Fund Commissioners are vested with the powers of the Civil Court under section 32 of the CPC to ask for the appearance of the person concerned for conducting the enquiries. In case the Party has not appeared, a penalty of Rs five thousand can be imposed on him or her. Before the year 2002, it was only Five hundred.

It is generally seen that the Authorities go beyond the powers given to them and order for the attachment or freezing of the bank accounts, which is totally illegal. Therefore, the recent circular issued by the RPFC (Legal) is to be appreciated in which he has asked the Authorities not to violate the provisions of the law otherwise, it will invite action against the erring officers. Sections 10 and 12 of the Order XVI of the CPC have further made it clear that even if the property of defaulting Party is to be attached or sold it will not be more than the amount of fine imposed. It may not be out of place to mention that criminal punishment can also be meted out to the public servants for going beyond the legal ambit. If a public servant knowingly disobeys, to the prejudice of any person, any direction of the law shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

Hopefully, this circular will go a long way in addressing the problems of the Parties and the Authorities will desist from taking to any illegal recourse. The Circular will serve as a reminder to Authorities, who have been reckless in their conduct and understanding. The minimum that is expected from them is to work within the parameters of the law, which they have been throwing to the winds with gay abandon. They must understand that they are bound by the law, in fact, more than the common man and hence it is required from them to lead by examples rather than by the gross misuse of the powers.

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EPFO launches virtual hearing facility in quasi-judicial cases

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- Case status & orders can be accessed on Compliance e-proceeding portal
- Transparency & Accountability in quasi-judicial process

Extending **NIRBADH** i.e. seamless services to stakeholders during **Covid-19** pandemic.



virtual hearing is integrated with EPFO's e-Court process on Compliance e-Proceedings Portal
<https://eproceedings.epfindia.gov.in>



epfindia.gov.in



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Employees' Provident Fund Organisation

Maximum Assurance Benefit Increased to Rs. 7 lakh under EDLI Scheme 1976



Enhanced financial support to family and dependents of EDLI members, in case of death while in service, under para 22(3) of EDLI Scheme, 1976.

Continuation of minimum assurance benefit of Rs 2.5 Lakh beyond 14.02.2020.

Extension of minimum assurance benefit of Rs 2.5 Lakh to family of deceased members who were employed in multiple establishments during 12 months preceding the month in which they died.

For more details, visit: www.epfindia.gov.in

Notification on Above is Awaited.



India Post
Payments Bank
अपला बँक, अपला द्वारा
Apala Bank, Apala Dwara

Jeevan Pramaan

an Aadhaar based Biometric enabled
Digital Life Certificate for Pensioners



- **Completely paperless** issuance of Digital Life Certificate with Aadhaar authentication.
- **Instant issuance of Certificate** at your doorstep through Postmen or at Post Office near you.
- **No need for travel** to Pension Department/Banks, Digital Life Certificate details are **directly updated** with the department.
- Services available at **a nominal fee of Rs. 70** (inclusive of taxes)

How to get Jeevan Pramaan Certificate?

- ✓ Visit any Post Office near you or avail the services through Postman
- ✓ Provide basic details related to your pension account:
 - Pension ID
 - Pension Disbursing Department
 - Mobile Number
 - Pension Payment Order
 - Bank Account details
 - Aadhaar Number
- ✓ Authorize your request with biometric fingerprint scan
- ✓ Digital life certificate will be instantly generated with Pramaan ID sent to you on your mobile. Your Certificate details will be automatically updated with Pension Department



**Jeevan Pramaan/ Digital Life Certificate now available
at your nearest post office or at doorstep**

*India Post Payments Bank shall be responsible for Generation of Digital Life Certificate only.
Any queries related to pension disbursement should be taken up with respective Pension Disbursing Agency.
Pensioner should check for correctness of details submitted to avoid any rejection from Pension Disbursing Agency.

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EPF INDIA @socialepfo · 5

Members registered on the UAN portal can get their details available with EPFO by giving a missed call to 011-22901406 from their registered Mobile number.

#EPFO #HumHainNa

Check PF balance by Missed Call:

अपने रजिस्टर्ड मोबाइल से 011-22901406 पर मिस कॉल दें और पीएफ बैलेंस की जानकारी पाएं।



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EMPLOYEE'S PROVIDENT FUND ORGANISATION

Central P. F. Commissioner, EPF Organisation, HUDCO Vishala, 14, Bhikaiji Cammo Place, New Delhi - 110 066, Ph:- 011-26172671, 26685968, Fax. 26189910 , Email.: cpfc@epfindia.gov.in

Employee's Provident Fund Organisation for Maharashtra State:-

Web Site:- www.epfindia.gov.in;

www.epfindia.nic.in

Latest Update on Provident Fund

New PF Rules 2021: No impact for those contributing up to Rs 20,833 pm – Calculator

Employees having a basic salary up to approximately Rs 1,73,611 per month would not attract tax on their interest earnings in PF.

The proposal to tax interest earned on provident fund (PF) contributions has left many employees perturbed. In her budget 2021 announcements, the FM has proposed that the interest earned on employee's contribution above Rs 2.5 lakh in a year will become taxable in the hands of the employee. As of today, the entire PF contribution earns tax-free return and the PF amount enjoys EEE status. But, from April 1, 2021, the taxation of PF contributions will see a change. The interest earned on contributions above Rs 2.5 lakh per annum will be taxable as per one's tax slab similar to how interest income from bank fixed deposit is taxed.

Should it leave you worried? Yes, if your contribution exceeds Rs 2.5 lakh in a year, the advantage of earning a tax-free return on the entire PF balance will be lost now. "Employees having basic salary up to approximately Rs 1,73,611 per month would not attract tax on their interest earnings on PF. Those who earn more than this amount as basic salary per month would get impacted. Also, those who contribute additional in VPF and their total contribution exceeds Rs 2.5 lakh, the interest earnings would also get taxed," says Prashant Singh, Business Head – Compliance and Payroll Outsourcing, Team Lease Services.

The tax will be on the interest earned on PF amount exceeding Rs 2.5 lakh in a year. The Finance Bill states – "The interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of the contribution made by the person exceeding two lakh and fifty thousand rupees in a previous year in that fund, on or after 1st April 2021."

There could be two ways in which your contribution will exceed the cut-off limit of Rs 2.5 lakh. The PF tax calculation will be as follows:

1. Based on Basic Salary
2. Based on your voluntary contribution in voluntary provident fund

Based on Basic salary: Generally, 12 per cent of Basic Salary goes into the PF account each month. So, if your monthly Basic Salary is nearly Rs. 1,73,611 (just the basic salary and not your total monthly income), your monthly contribution is nearly Rs 20833, which is Rs 2.5 lakh in a year. Nothing changes for you and interest earned on entire PF balance remain tax-exempt. The new PF contribution rules will not impact an employee whose monthly contribution is below Rs 20,833. However, if your Basic Salary is above Rs. 1,73,611, there's no escaping tax on interest earned. The only way out is if your employer provides you with an option to divert contribution to NPS.

Based on your voluntary contribution: Some employees contribute more than the mandatory 12 per cent towards PF. The PF rules allow that but it is not mandatory for the employer to match that additional contribution. They do so to earn a safe and tax-free return on their additional contributions. For example, for someone with a Basic Salary of Rs 1 lakh, the monthly contribution is Rs 12,000 which is about Rs 1.44 lakh in a year. The employee contributes an additional 12 per cent into VPF taking the total contribution to Rs 2.88 lakh in the year. In such a case, the interest earned on Rs 38,000 (Rs 2.88 lakh less Rs 2.50 lakh) will now get taxed.

FINANCIAL EXPRESS
By: Sunil Dhawan
February 4, 2021

Case Study

BASIC PAY PER MONTH	50,000	1,00,000	1,50,000	2,00,000	2,50,000
12% OF BASIC PER MONTH	6000	12000	18000	24000	30000
PER YEAR	72000	144000	216000	288000	360000
TAX FREE VPF PER YEAR	1,78,000	1,06,000	34,000	38,000	-1,10,000
TAX FREE VPF PER MONTH	14833.33333	88333.33333	28333.33333	31666.66667	Activate Windows Go to Settings > Update & Security > Windows Update



Notice for absent from duty after completion of sanction leave or remaining absent from work without any permission / sanction from the employer.

FIRST NOTICE

To:

BY REGD. A.D.

Date: _____

It is reported that you are absenting yourself with effect from _____ without obtaining prior sanction of leave. You are directed to report for duty alongwith an explanation for your absence within three days on receipt of the notice, failing which we will draw a presumption that you are no longer interested in the employment.

Signature & stamp of Employer

SECOND NOTICE

To:

BY REGD. A.D.

Date: _____

This is in continuation to our notice-dated 29/11/2001, where in you were called upon to report for duty along with an explanation within three days. However, deposited receipt of the notice, you have failed to make compliance. It is therefore obvious that you are not interested in the employment. Before we draw a presumption to this effect, we give you this final resumption of duty within three days, failing which we will be within our rights to draw an irresistible presumption that you are no longer interested in the employment.

The above notice is without prejudice to our rights for taking disciplinary action for your willful absence & when you report to us.

Signature & Stamp of Employer

THIRD NOTICE

To:

BY REGD. A.D.

Date: _____

This is in continuation of our notice dated 29/11/2001 & 24/12/2001. We regretted to point out that you have failed to make the compliance i.e. neither you have reported for duty nor submitted any explanation. We have clearly notified to you that in case you will not make the compliance, we will draw a presumption that you are no longer interested in the employment. Accordingly, you are deemed to have abandoned the employment of your own accord W.E.F. _____ & you are advised to settle your account & handover the charge on any working day.

Signature & Stamp of Employer

High - Income PF Lovers not to Get 8.5% Gains

(Effective interest earned will fall sharply, particularly for those in topmost income slabs)

How New Tax will Impact Returns from Provident Fund.
The Higher the contribution, lower will be the return.

<u>Individual's Annual Contribution to PF</u>	<u>PF Returns (%)</u>
Up to Rs. 2.5 Lakh	8.5
Rs. 3 Lakh	8.0
Rs. 6 Lakh	6.9
Rs. 12 Lakh	6.4
Rs. 24 Lakh	6.1
Rs. 36 Lakh	5.7
Rs. 48 Lakh	5.7
Rs. 60 Lakh	5.5
Rs. 1.2 Crore	5.2
Rs. 2.5 Crore	4.9

Note -

- 1) Calculation assumes 8.5% rate for PF and 7.1% for PPF.
- 2) Those Contributing Rs. 36 – 48 Lakh assumed to earn more than Rs. 50 Lakh & subject to 10% surcharge on tax.
- 3) Those Contributing Rs. 60 Lakh assumed to earn more than Rs. 1 Crore & subject to 15% surcharge on tax.
- 4) Those Contributing Rs. 1.2 Crore assumed to earn more than Rs. 2 Crore & subject to 25% surcharge on tax.
- 5) Those Contributing Rs. 2.5 Crore assumed to earn more than Rs. 5 Crore & subject to 37% surcharge on tax.



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

No. C-I/011(16)2020-21/ABRY/1179

Date: 01.02.2021

To,

All Addl. CPFCs in charge of Zones
All RPCFs in charge of Regional Offices
All OICs in charge of District Offices

Sub: Deployment of electronic facility at Employer Interface of EPFO's Unified Portal for Principal Employers to view EPF compliances of their Contractors & contract workers.

Sir,

The EPF & MP Act, 1952 defines employee u/s 2 (f) as any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment, and who gets his wages directly or indirectly from the employer and includes any person employed by or through a contractor in or in connection with the work of the establishment.

Many employers outsource business processes of their establishment to contractors and also engage workers in or in connection with the work of the establishment by or through contractors and in such cases employer's liability under EPF & MP Act, 1952 is payable by the Principal employers. The contractors are registered independently as establishment with EPFO and they are required to report EPF compliance in r/o workers provided to their Principal Employers through ECRs. The UANs of the workers and the attendance / wage payment records are verified by the Principal employers to settle the claims.

Now with deployment of aforesaid facility,

1. EPFO registered employers engaging employees by or through contractor(s) can add the details of contractor(s), contract amount, tenure & UANs of contract employees at Employer Interface of EPFO's Unified Portal: <https://unifiedportal-emp.epfindia.gov.in/epfo/>

Principal Employers not registered with EPFO can register on above Portal with Income Tax TAN to receive Login/password for adding details of their contractors & contract workers.

2. On adding contractor's & employees details, principal employer can view through their login the employee wise remittance made by contractors through ECR for any wage month during tenure of contract.
3. Principal employer can view whether the employer's share of EPF contributions (13% of contract worker's wages) paid by the principal employer has been remitted by the contractor in r/o all contract workers or not.

Pg. 2

The facility ensures ease of compliance with provisions of Sec 8A of the Act read with Para 30 and 32 of the EPF Scheme, 1952 by Principal employers and compliance to provisions of Para 36-B of the EPF Scheme, 1952 by the contractor establishments and extension of membership of Scheme and remittance of contributions in respect of all contract workers.

A write up on the procedure of registration as principal employer, adding contractor and employee details, compliance dash board for employers is attached for clarity and guidance of the Principal employers and contractor establishments.

The Zonal Offices and Regional Offices shall conduct webinars with major establishments engaging services of contract employees and major manpower suppliers to disseminate information for ease of compliance and enrollment of all contract workers as members of Schemes and timely remittance of their contributions. A Power point presentation on the facility is attached for use in the webinars.

Any doubts or queries regarding the facility may be addressed to the DD (IS) at NDC through email on harsh.kaushik@epfindia.gov.in.

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

Yours faithfully

Encl: As above


(Pankaj Raman)
Addl. CPFC (Compliance)



भारत सरकार / GOVERNMENT OF INDIA
श्रम एवं योजनार क्षेत्रालय / MINISTRY OF LABOUR & EMPLOYMENT
कार्यालय: उप मुख्य श्रम आयुक्त (केन्द्रीय)

OFFICE OF DEPUTY CHIEF LABOUR COMMISSIONER (CENTRAL)
पा"म रक्षा भवन, शिव शृष्टि मार्ग, पुर्णे एक्सप्रेस राजमार्ग,
शायल - पुर्णे, मुम्बई - 400 022 / SION (EAST), MUMBAI - 400 022.

No.B-27(1)/2020

Date: **14 JUL 2020**

Sub:- Revised rates of minimum wages for various scheduled employment in Central Sphere estt.

- (i) Minimum rates of wages including the basic rates and variable dearness allowances payable w.e.f. **01.04.2020 to 31.10.2020** to the employees working in Agriculture will be as under: **(Notification No.186 (E) dated 19th January, 2017)**

Category of workers	Rates of wages including VDA Area wise		
	A	B	C
Unskilled	333.00+67.00=400.00	303.00+62.00=365.00	300.00+62.00=362.00
Semi skilled/unskilled-supervisory	364.00+74.00=438.00	335.00+67.00=402.00	307.00+62.00=369.00
Skilled/Clerical	395.00+80.00=475.00	364.00+74.00=438.00	334.00+67.00=401.00
Highly skilled	438.00+88.00=526.00	407.00+82.00=489.00	364.00+74.00=438.00

- (ii) The minimum rates of wages per day for employees employed in various mines for the Period from **01.04.2020 to 31.10.2020** **[Notification no.5.O.2413 (E) dated 28th July, 2017]**

Category of workers	Rates of wages including V.d.A.(in Rs.) per day	
	For work above ground	For work below ground
Unskilled	350.00 + 70.00=420.00	437.00 + 48.00=525.00
Semi skilled/unskilled/Supervisory	437.00 + 88.00=525.00	523.00 + 106.00=629.00
Skilled/clerical	523.00 + 106.00=629.00	610.00 + 123.00=733.00
Highly skilled	610.00 + 123.00=733.00	683.00 + 136.00=819.00

- (iii) Minimum rates of wages per day for the construction or maintenance of roads, runways or in building operations including laying down underground electric wireless, radio, televisions, telephone, telegraph and overseas communication cables and similar other underground cabling work, electric lines, water supply lines and sewerage pipe lines from **01.04.2020 to 31.10.2020** **(Notfn.No.188(E) dated January, 2017)**

(iii)(a) –CENTRAL GOVERNMENT RATES PER DAY W.E.F. 01.04.2020 to 31.10.2020 ()**

Category of workers	Rates of wages including V.D.A. per day (in rupees)		
	Zone A	Zone B	Zone C
Unskilled	523.00+106.00=629.00	437.00+88.00=525.00	350.00+70.00=420.00
Semi skilled/unskilled/supervisory	579.00+116.00=695.00	494.00+99.00=593.00	410.00+82.00=492.00
Skilled/clerical	637.00+127.00=764.00	579.00+716.00=695.00	494.00+99.00=593.00
Highly skilled	693.00+138.00=831.00	637.00+127.00=764.00	579.00+116.00=695.00

Category of workers	Rates of wages including V.D.A. per day		
	Zone A	Zone B	Zone C
Skilled (Basic + Spl. allow.)	Rs.10100.00 + Rs. 5751.00 = Total - Rs.15851.00	Rs.9700.00 + Rs. 5751.00 = Total - Rs.15451.00	Rs.9300.00 + Rs. 5751.00 = Total - Rs.15051.00
Semi skilled (Basic + Spl. allow.)	Rs.9400.00 + Rs. 5751.00 = Total - Rs.15151.00	Rs.9000.00 + Rs. 5751.00 = Total - Rs.14751.00	Rs.8600.00 + Rs. 5751.00 = Total - Rs.14351.00
Un-skilled (Basic + Spl. allow.)	Rs.8900.00 + Rs. 5751.00 = Total - Rs.14651.00	Rs.8500.00 + Rs. 5751.00 = Total - Rs.14251.00	Rs.8100.00 + Rs. 5751.00 = Total - Rs.13851.00

Note- Where both Central and State Govt. has fixed the minimum rates of wages, the rates of wages whichever is higher will be applicable.

- (iv) Minimum rates of wages including the basic pay and dearness allowances payable with effect from 01.04.2020 to 31.10.2020 for the workers engaged in stone breaking and stone crushing. (Notification no.S.O.189(E) dated 19thJanuary,2017)

Category	Rates of wages + VDA = Total
(I) Excavation & removal of over burden with 50 meters lead/1.5 meters lift	
(i) Soft soil	351.00 + 73.00 = 424.00
(ii) Soft soil with rock	531.00 + 106.00 = 637.00
(iii) Rock	703.00 + 141.00 = 844.00
2. Removal and stacking of rejected stones with 50 meters lead 1.5. meters lift	283.00 + 57.00 = 340.00
3. Stone breaking and stone crushing for the stone size of:	
(i) 1.0 inch to 1.5 inches	2171.00 + 429.00 = 2600.00
(ii) Above 1.5 inches to 3.0 inches	1857.00 + 367.00 = 2224.00
(iii) Above 3.0 inches to 5.0 inches	1088.00 + 217.00 = 1305.00
(iv) Above 5.0	893.00 + 178.00 = 1071.00

- (4) The workers employed on minimum guaranteed time rate of wages per day would be entitled to time rate of minimum wages plus special allowance, if any, for unskilled category of above ground workers revised from time to time by the central Government in respect of scheduled employment in stone mines.
- (v) Minimum rates of wages showing the basic rates and variable dearness allowances payable w.e.f. 01.04.2020 to 31.10.2020 to the employees "EMPLOYMENT OF SWEEPING AND CLEANING EXCLUDING ACTIVITIES PROHIBITED UNDER THE EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION)ACT, 1933" would be as under: (Notification No.S.O.190(E) dated 19thJanuary,2017)

Area	Rates of wages plus VDA per day		
	Basic wages (Rs)	+ VDA (Rs)	= Total (Rs)
'A'	523.00	+ 106.00	= 629.00
'B'	437.00	+ 88.00	= 525.00
'C'	350.00	+ 70.00	= 420.00

- (vi) Minimum rates of wages showing the basic rates and variable dearness allowance payable w.e.f. 01.04.2020 to 31.10.2020 to the workers engaged in WATCH AND WARD (without arm) would be as under: [Notification No.S.O.191(E) dated 19thJanuary,2017]

Area	Rates of wages plus VDA per day		
	Basic wages (Rs)	+ VDA (Rs)	= Total (Rs)
'A'	637.00	+ 127.00	= 764.00
'B'	579.00	+ 116.00	= 695.00
'C'	494.00	+ 99.00	= 593.00

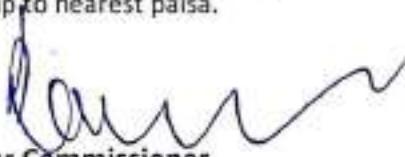
- (vii) Minimum rate of wages showing the basic rates and variable dearness allowance payable w.e.f. 01.04.2020 to 31.10.2020 to the workers engaged in WATCH AND WARD (with arm) would be as under:

Area	Rates of wages plus VDA per day		
	Basic wages (Rs)	+ VDA (Rs)	= Total (Rs)
'A'	693.00	+ 138.00	= 831.00
'B'	637.00	+ 127.00	= 764.00
'C'	579.00	+ 116.00	= 695.00

- (viii) Minimum rates of wages per day for employees employed in loading and unloading in (i)Good-sheds, parcel offices of Railways (ii) Other Goodsheds, Godowns, Warehouse etc. and (iii) Docks and ports would be as under w. e. f. 01.04.2020 to 31.10.2020.[Notification No.S.O.192(E) dated 19thJanuary,2017]

Area	Rates of wages plus VDA per day		
	Basic wages (Rs)	+ VDA (Rs)	= Total (Rs)
'A'	523.00	+ 106.00	= 629.00
'B'	437.00	+ 88.00	= 525.00
'C'	350.00	+ 70.00	= 420.00

(**) Explanation- The minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by the number of 26 days, the quotient being stepped up to nearest paisa.



Dy. Chief Labour Commissioner
(Central), Mumbai.

To
The all Employers & Trade Unions.
& All field officers in Mumbai Region
Copy to Notice Board for all concerned.

Notification
Labour and Employment Department
Sachivalaya, Gandhinagar
Date: 20th July, 2020.

**Factories
Act,1948.** No. GHR/2020/92/FAC/142020/346/M3 : WHEREAS the Government of Gujarat has exempted all the factories registered under the Factories Act, 1948 from various provisions relating to weekly hours, daily hours, intervals for rest, etc of adult workers from 20th April, 2020 till 19th July, 2020 vide Government Notification, Labour and Employment Department No. GHR/2020/56/FAC/142020/346/M3 dated 17th April, 2020 due to the outbreak of "Coronavirus" pandemic ;

AND WHEREAS the State of Gujarat is still battling an outbreak of "Coronavirus" pandemic, the Government of Gujarat has decided to extend the said time limit for providing certain relaxations for industrial and commercial activities till 19th October, 2020;

NOW, THEREFORE, in exercise of the powers conferred by Section 5 of the Factories Act, 1948 (LXIII of 1948), the Government of Gujarat hereby directs that all the factories registered under the Factories Act, 1948 shall be exempted from various provisions relating to weekly hours, daily hours, intervals for rest etc. of adult workers under section 51, section 54, section 55 and section 56 with the following conditions from 20th July till 19th October, 2020,-

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and Seventy -two hours in any week.
- (2) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he has had an interval for rest of at least half an hour.
- (3) No Female workers shall be allowed or required to work in a factory between 7:00 PM to 6:00 AM.
- (4) Wages shall be in a proportion of the existing wages. (e.g. If wages for eight hours are 100 Rupees, then proportionate wages for twelve hours will be 150 Rupees).

By order and in the name of the Governor of Gujarat,


(Jyotsna Chauhan)
Deputy Secretary to Government.

To,
The Manager,
Government Central Press,

Gandhinagar.

With a request to publish, the notification in the Extra-Ordinary Gujarat Government Gazette Part IV-B and the copies of printed notification may please be distributed as under:

- | | |
|--|-----------------|
| (i) The Labour and Employment Department, | 05 Copies |
| Sachivalaya, Gandhinagar | |
| (ii) The Commissioner of Labour, | 05 Copies |
| Gujarat State, Gandhinagar | |
| (iii) The Director Industrial Safety and Health, | 05 Copies |
| Gujarat State, Ahmedabad. | |

Copy Forwarded With Compliments To:-

1. The Commissioner of Labour, Gujarat State, Block No.14, 2nd Floor, Udyog Bhavan, Sector-11, Gandhinagar.
2. The Director Industrial Safety and Health, Gujarat State 3rd & 5th Floor, Shram Bhavan, Khanpur, near gun house, Ahmedabad, Gujarat 380001
3. The Under Secretary, Legislative and Parliamentary Affairs Department, Sachivalaya, Gandhinagar. (The Gujarati Version of the notification may please be published in the Extra-Ordinary Gujarat Government Gazette Part - IV - B.)
4. Technical Officer, Labour and Employment Department to publish this notification on department website.
5. The Branch Select File /M-3.
6. The Dy. S.O. Select File.

Provision of CL, SL, PL & National Holiday under Various States of India

Sr No	State	CL	SL	PL	National Holiday	Total Leave	Leave/26/12%
1	Andhra Pradesh	12	12	15	4	43	13.78
2	Assam	12	12	16	4	44	14.10
3	Bihar	12	12	15	4	43	13.78
4	Chandigarh	7	7	15	4	33	10.58
5	Delhi	12	0	15	4	31	9.94
6	Goa	6	9	15	4	34	10.90
7	Gujrat	7	7	21	4	39	12.50
8	Haryana	7	7	15	4	33	10.58
9	Jharkhand	12	12	15	4	43	13.78
10	Karnataka	0	12	15	4	31	9.94
11	Kerala	12	12	12	4	40	12.82
12	Maharashtra	8	0	15	4	27	8.65
13	Madhya Pradesh	14	0	30	4	48	15.38
14	Orissa	0	15	15	4	34	10.90
15	Punjab	7	7	15	4	33	10.58
16	Rajasthan	0	0	15	4	19	6.09
17	Tamilnadu	12	12	12	4	40	12.82
18	Uttar Pradesh	10	15	15	4	44	14.10
19	Uttarakhand	10	15	15	4	44	14.10
20	West Bengal	10	7	14	4	35	11.22
21	Chattisgrah	14	0	30	4	48	15.38
22	Dadra Nagar Haweli	6	9	15	4	34	10.90
23	Daman & Diu	6	9	15	4	34	10.90
24	Himachal Pradesh	7	7	15	4	33	10.58
25	J&K	14	0	30	4	48	15.38
26	Manipur	12	0	30	4	46	14.74
27	Meghalaya	12	12	16	4	44	14.10
28	Nagaland	12	12	16	4	44	14.10
29	Pondicherry	12	12	12	4	40	12.82
30	Sikkim	12	12	20	4	48	15.38
31	Telangana	12	12	15	4	43	13.78
32	Tripura	12	7	15	4	38	12.18



कर्मचारी अविष्य निधि संगठन

Employees' Provident Fund Organisation

(तम एवं रोजगार मंत्रालय, भारत सरकार)

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

मुख्य कार्यालय / Head Office

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No. WSU/9(1)2013/Settlement

Date:

To

35031
09.01.2016

All ACCs (Zones)
All RPFC/OICs of
ROs/SROs.

**Sub: Payment of contribution by the employers by 15th of the following month –
Removing of grace period of 5 days.**

Sir/Madam,

As per paragraph 38(1) of the EPF Scheme, 1952, paragraph 3 of EPS, 1995 and paragraph 8(1) of EDLI Scheme, 1976, the employers are required to pay the contributions and administrative charges within fifteen days of close of every month. The employer, as per para 5.1.3 of Manual of Accounting Procedure (Part-I General), is also allowed a grace period of 5 days to remit the contribution.

2. The grace period of five days have been allowed for the employers to remit the contributions as the system of calculation of wages of the employees and their corresponding dues under the three schemes (Employees' Provident Fund Scheme 1952, Employees' Pension Scheme 1995 & Employees' Deposit Linked Insurance Scheme 1976) were done manually and its remittances in the bank required additional time in the earlier manual setup.

3. In the present era, employers compute the wages and EPF liabilities electronically (in most of the cases on real time basis) and file Electronic Challan-cum-Return (ECR). The remittances are also being deposited through Internet Banking. This has reduced the process and time taken in calculation of PF dues and its remittances in the bank. Accordingly, it has been decided that concession of grace period of 5 days available to the employers for depositing the contribution & other dues is withdrawn herewith. This decision shall apply from February, 2016 (contributions for month of January, 2016 and payable in the month of February, 2016).

4. The employers shall pay the contribution and other dues as envisaged under EPF & MP Act, 1952 and Schemes framed thereunder within fifteen days of close of every month

5. This has approval of Central P.F. Commissioner.

Yours faithfully,

(Dr. V.P. Singh)
ACC (F&A)

Useful Website:-

Area	Description	website
income Tax	Official Web Site e-Filing Tax Information NetWork ITAT	http://www.incometaxindia.gov.in/ https://incometaxindiaeefiling.gov.in/ http://www.tin-nsdl.com/ http://itat.nic.in/
Goods and Service Tax (GST)	Official Web Site	https://www.gst.gov.in/
Corporate Law	MCA LLP	http://www.mca.gov.in/ http://www.llp.gov.in/
Supreme Court	Official Web Site	http://www.supremecourtofindia.nic.in/
RBI	Official Web Site	http://www.rbi.org.in/home.aspx
Ministry of Finance	Official Web Site	http://www.finmin.nic.in/
Provident Fund	Official Web Site	http://www.epfindia.nic.in/
ESIC	Official Web Site	http://www.esic.nic.in/
Central Board of Customs	Official Web Site	http://www.cbec.gov.in/
Directorate General of Foreign Trade	Official Web Site	http://www.dgft.gov.in/
Right to information	Official Web Site	http://www.rti.gov.in
Central Vigilance Commission	Official Web Site	http://www.cvc.nic.in

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List of Private Hospitals that can give COVID-19 vaccine in Mumbai:

These 29 hospitals in Mumbai have been given the green signal to give the COVID-19 vaccine.

The Central government on Tuesday has permitted private hospitals to give the COVID-19 vaccine if they adhere to the laid down norms. In Mumbai, 29 hospitals have received permission to give COVID-19 jab in addition to the BMC centres.

The Brihanmumbai Municipal Corporation (BMC) took to its official handle and wrote, "Gearing Up the Drive! In addition to BMC centres, 29 Pvt.hosp. in Mumbai have been given permissions to carry out COVID Vaccination Drive. These 29 hospitals fulfil all criteria prescribed by GoI to be designated as COVID Vaccination Centre (CVC)."

The hospitals that are permitted to give COVID-19 vaccination are:

- 1) Sushrusha Hospital & Research Centre, Vikhroli
- 2) KJ Somaia Hospital & Research Centre
- 3) Dr Balabhai Nanavati Hospital
- 4) Wockhardt Hospital
- 5) Sir HN Reliance Foundation Hospital
- 6) Saifee Hospital
- 7) PD Hinduja Hospital & MRC
- 8) Dr LH Hiranandani Hospital
- 9) Kaushalya Medical Foundation Trust
- 10) Masina Hospital
- 11) Holy Family Hospital
- 12) SL Raheja Hospital
- 13) Lilavati Hospitals & Medical Research Centre
- 14) Guru Nanak Hospital
- 15) Bombay Hospital
- 16) Breach Candy Hospital
- 17) Fortis, Mulund
- 18) The Bhatia General Hospital
- 19) Global Hospital
- 20) Sarvodaya Hospital
- 21) Jaslok Hospital
- 22) Karuna Hospital
- 23) HJ Doshi Ghatkopar Hindu Sabha Hospital
- 24) SRCC Children's Hospital
- 25) Kokilaben Dhirubhai Ambani Hospital
- 26) Conwest & Manjula S Badani Jain Hospital
- 27) Surana Sethia Hospital
- 28) Holy Spirit Hospital
- 29) Tata Hospital

In a letter, an official of the Health Department stated that after examining by the Health Ministry, these 29 hospitals can be allowed to give Covidvaccination. "I would like to inform that the matter has been examined by the Ministry of Health & Family Welfare. You may proceed with these 29 listed hospitals, which are not empanelled in PMJAY, CGHS or State Health Insurance Scheme (MJPJAY) and have shown willingness to be part of COVIDvaccination drive as CVCs after due assessment by the State."

Source: Mumbai Mirror
March 02, 2021.

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