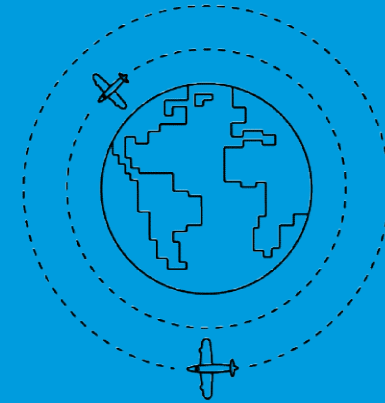


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## Presentation on Recent Labour Law Updates & PF/ESIC Amnesty Schemes

- By Nirav Jogani

# Contents

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- Overview of Important Labour Laws
- ESIC & PF Amnesty Scheme
- PF Incentive Scheme(PMRPY)
- Wages Definition Under Various Laws
- Recent Updates in Various Labour Laws
- FAQ



# OVERVIEW OF IMPORTANT LABOUR LAWS

EMPLOYEES STATE INSURANCE  
(ESIC)

# Brief Intro of ESIC

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- **Applicability:** The Act applies to every commercial establishment employing **10** or more employees. The Act covers those employees whose wages do not exceed 21,000 p.m. (w.e.f. 01/01/2017) or 25000 p.m, in case of disabled employees. The limit till 31 December 2016 was Rs. 15,000.
- **Exemption:** Seasonal establishments, Government factories and establishments with similar superior benefits are exempted from ESIC.
- **Contribution:** Employer to pay contribution 4.75% and Employee to pay 1.75% of the earned wages as ESIC contribution.
- **Monthly Challan :** Monthly Challan to be submitted on or before 21<sup>st</sup> of subsequent month.

# Interest & Damages on delayed payments of contribution-ESIC

**Simple Interest Rate @ 12% p.a. is charged separately**

+ Damages as under:-

A	Below 2 months	@ 5% p.a.
B	Above 2 months to up to 4 month	@10% p.a.
C	Above 4 months to up to 6 month	@15% p.a.
D	Above 6 months ( Subject to Max 100%)	@25% p.a.

## Benefits of ESIC

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- Free Medical Treatment is offered to covered employees as well as his/her family members u/s 2(11) of the Act.
- Maternity Benefit for 12 weeks.
- Dependent's Benefit.
- About 70% of employees normal wage will be payable during sickness.
- Regular payment of lost wages in the case of Injury during/in course of employment resulting in temporary/ permanent disablement.
- Regular payment to dependents if Death during the course of employment
- One time payment to help meet Funeral Expenses.
- Insured person can avail cash less treatment in the hospitals referred by ESI Hospital.

## FAQ -ESIC

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**Q. 1 If the wages of an employee exceeds Rs. 15,000 in a month, can he be treated as not covered and deduction of contribution is stopped?**

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 (6 months) and hence contribution is to be deducted and paid on the total wages earned by him.

**Q. 2 What is the effect of increase in wages from a retrospective date?**

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.

# FAQ -ESIC

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## Q. 3 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?

An employee who crosses the prescribed ceiling limit in any month at any time after commencement of the contribution period, he/she would continue to be an employee till the end of that contribution period.

Though there is a ceiling limit of wages 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

[File in link\ESIC FAQ.pdf](#)





# OVERVIEW OF IMPORTANT LABOUR LAWS

PROVIDENT FUND

# Brief Intro of EPF

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## Applicability:

- EPFA applies to every establishments which is a factory engaged in any industry specified in **Schedule I** and in which **20** or more persons are employed, and
- to any other establishment employing 20 or more persons or class of such establishment which the Central Government may by notification in the official Gazette decide.

## Exemption:

- Any Co-op. Soc. registered under the Co- op. Societies Act, employing less than 50 employees and working without the aid of power.
- Central and State Govts. or their under takings having their own schemes.

## Brief Intro of EPF

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- Employee drawing salary (Basic + DA) up to Rs.15,000/- per month to be covered under the provident fund scheme.
- Covered employee drawing salary more than 15,000/- p.m. can be covered voluntarily under the scheme but payments are restricted only on 15,000/- p.m. salary.
- Once employee is covered, he/she cannot opt for exit from scheme even though monthly wages exceed threshold limit.
- Govt to bear employer's share in case of any Person who is classified as disabled employee under the act and is drawing monthly wages up to 25000/-, for first 3 years
- Contribution - 12% is to be contributed by both the employee and the employer plus administration charge of 0.85 %, 0.50% as insurance premium. Minimum charge is 700/- (Rs. 100/- for inactive company).
- Pension/Superannuation fund scheme- a part of the above contribution to the provident fund (8.33%) is diverted to this scheme.

## Brief Intro of EPF

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- The Employee Deposit Linked Insurance Fund Scheme is for providing Life Insurance benefits. The employer contributes for EDLI is 0.5% on wages (Basic + D.A.) salary as mentioned in earlier slide.
- Calculation for EDLI benefits (in the case of death of employee during employment services) is 20 times the last drawn salary + 20% bonus. For eg. If last drawn salary is 15,000, than benefit will be  $15000 * 20 + 20\% = 3,60,000/-$  & PF department is thinking to increase it to 6,00,000/- but yet not finalized.
- Under section 12 of the EPFA, Employer can not reduce wages eligible for PF contribution as well as Employer can not deduct Employer Contribution from members wages or recover otherwise.

# Interest & Damages on delayed payments of contribution-EPF

Simple Interest Rate @ 12% p.a. charged separately		
+ Damages -		
A	Up to 2 months	@5% p.a.
B	Above 2 months to up to 4 month	@10% p.a.
C	Above 4 months to up to 6 month	@15% p.a.
D	Above 6 months	@25% p.a.

- Employer Liable to pay 12% p.a. simple Interest or higher rate on amount due from due date till payment & Damages as above (5%-25% p.a.) for default in paying contribution as per specified time line.

## FAQ -EPF

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**Q. 1 Is it beneficial for employees who draw salary above Rs 15001/- to become member of Provident Fund?**

Yes because provident fund contribution by the employer & employee is not a taxable income for Income Tax purpose.

**Q. 2 What if an employee while joining establishment has a basic salary of Rs 11200 and after some period of time his basic salary increases above Rs. 15001/-, does he have an option to terminate his membership from the Provident fund act?**

Employee who while joining the organisation has a basic salary above Rs 15001/- has an option to either become or avoid becoming member of Provident fund but employees whose basic salary while joining the organisation is less than Rs 15001/- but after some period of time their basic increases above Rs 15001/- has to compulsorily continue to be member of Provident Fund.

# FAQ -EPF

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## **Q.3 What is the contribution percentage to the Provident fund and Pension Scheme?**

Employers contribution of 12% of basic salary is totally deposited in provident fund account Whereas out of Employees contribution of 12%, 3.67% is contributed to Provident fund and 8.33% is deposited in Pension scheme.

## **Q. 4 When is an employee eligible to enjoy pension scheme ?**

For an employee to become eligible for Pension fund, he has to complete membership of the Fund for 10 Years.

## **Q. 5 What does it mean by continuous service of ten years ?**

Continuous service of 10 years in Employee Pension Fund, means if an employee who has worked with X company for say 3 years, then he resigned from that organisation and joined Y company, wherein he worked for 2 years, then resigned from there to join establishment for 5 years but during these 10 years of service he has not withdrawn his fund but has transferred his Employee pension fund, then we say continuous service of ten years.

## FAQ -EPF

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- Q. 6 When can an employee avail the benefit of Employee pension fund scheme which he has contributed during the 10 years of continues service /**  
An employee can avail the benefit after completion of 58 years of service.
- Q. 7 In case after registering the establishment at any point in time, the number of employees working in it becomes less than 20 then will the Act apply ?**  
Any establishment which has been covered under the Act once shall continue to be governed by the Act even if the number of persons employed therein at any time falls below 20.
- Q. 8 Is the Act applicable to a factory which is closed down but is employing a few employees to look after the assets of the establishment ?**  
No, Where the establishment is closed down and only four security men are employed for keeping a watch over the assets and properties of the establishments, the Act would not be applicable.



## FAQ -EPF

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### **Q. 9 Is a trainee an employee under the Act ?**

Yes, a trainee would be considered as an employee as per the Act but in case the trainee is an apprentice under the Apprentice's Act then he/ she will not be considered as an employee under this Act.

### **Q. 10 What in case there are workers involved as Contract labour ?**

It is the responsibility of the Contractor to deduct the PF and submit a statement to the Principal Employer in the prescribed format by 7th of every month. The Company becomes the Principal Employer would be responsible for the PF deduction of the workers employed on contract basis.

### **Q.11 Are the persons employed by or through a contractor covered under the Scheme ?**

Persons employed by or through a contractor are included in the definition of "employee " under the Employee's Provident Funds Act, 1952, and as such, they are covered under the Scheme.

## FAQ -EPF

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**Q. 12 In case the Contractor fails to deduct and submit the PF amount from the contract workers then what is to be done ?**

The Company being the Principal employer is responsible for the PF to be deducted from the Contract workers as well. In case the Contractors fails to deduct and submit the PF dues then the Company has to pay the amount and can lateron recover the amount from the Contractor.

**Q. 13 What happens in case there is a salary revision and a raise in the basic salary of the employee and arrears need to be paid, Do we need to deduct PF from the arrears as well ?**

Arrears are considered to be emoluments earned by the employee and PF is to be deducted from such arrears.



# OVERVIEW OF IMPORTANT LABOUR LAWS

MINIMUM WAGES &  
PAYMENT OF WAGES

# The Minimum Wage Act, 1948

- **Applicability:** Minimum Wage are the Minimum rates of wages fixed by the Appropriate Govt. for different classes of workers employed in an employment specified in Part I & part II of the schedule. The wages paid by an employer cannot be lower than the minimum wages so notified.
- The Minimum Wages are to be paid as under:

1	In an employment which employs less than 1000 persons	Before expiry of 7 <sup>th</sup> Day.
2	In any other case	Before the expiry of tenth day after the last day of the wage period.
3	On case of Termination of Employment	Before the Expiry of the Second day after his termination

# The Minimum Wage Act, 1948

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## Classification of Skill Category:

- Skilled: Employee is capable of working independently and efficiently and turning out accurate working. He must be capable of reading and working on simple drawing circuits and process, if necessary.
- Semi Skilled: Employee is having sufficient knowledge of the particular trade or above to do respective work and simple job with the help of simple tools and machines.
- Unskilled: Employee does not possess special training/skills and whose work involves the performance of simple duties which require the exercise of little or no independent judgment or previous experience although a familiarity with the occupational environment is necessary.

# The Minimum Wage Act, 1948

## Current minimum wages applicable (Gujarat) from 01-10-2016 to 31-03-2017:-

- Zone - I

Name of the Establishment	Basic Pay	S.A. (Special Allowance)	Per Day	Total Amt/ Per month with 26 days
	Gujarat			
Skilled	293	20.80	313.80	8158.80
Semi-skilled	284	20.80	304.80	7924.80
Un-skilled	276	20.80	296.80	7716.80

# FAQ –Minimum Wage Act

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## **Q. 1 What is the minimum wages for part time employee/worker?**

An employee employed on part-time basis shall be paid atleast 50% of the minimum rate of wages and special allowance, if he works up to 4 hours and if he works more than 4 hours, he shall be paid full minimum rate of wages plus special allowance.

# The Payment Of Wages Act, 1936

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- **Applicable** to factory/shops & establishments and all industrial establishment.
- **Exemption:** Does not apply to employees whose wage exceeds Rs. 10,000.
- **Deduction of Wages:**
  - Total amount of deduction should not exceed 50% of the wages of any employee.
  - Restriction on reduction of wages to a lower post or time scale.



# The Payment Of Wages Act, 1936

Provisions	Sections	Requirements
Time of wages	Sec. 5 Sec. 13 – A	Less than 1000 before 7 <sup>th</sup> day of following month More than 1000 before 10 <sup>th</sup> day of following month
Fines	Sec. 8	Fine to be deducted with authority approval should not exceed 3% of wages. It should not be recovered in installment but are to be recovered within in 90 days.
Allowable deduction Rule 2(g)	Sec. 7(2)	(a) to (q) amenities, loans, income tax etc.. Loss of wages not to be considered as deductions. Penalties like withholding of increment, reduction to lower scale etc, suspension.
Deduction not to exceed	Sec. 3	Co- op. Societies – 75% Other cases- 50% of wages
Recovery of Advances	Sec. 12	Within 18 months in installments, each not exceeding ¼ of wages. Rule 18 Form IV.



# OVERVIEW OF IMPORTANT LABOUR LAWS

## BONUS & GRATUITY

# The Payment of Bonus Act, 1965

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- Applicable to every factory & other establishment in which 20 or more persons are employed on any day during an accounting year.
- Every Employee who has worked for not less than 30 days in the year are covered .
- Employees earning Salaries/Wages of upto 21000/- per month are covered but bonus to be calculated on 7000/- or minimum wages whichever is higher w.e.f. April 2014.
- Minimum Bonus @ 8.33% of Salary or wages earned by the Employees during the accounting year or 100/- which ever is higher. & Maximum 20% of the Allocable Surplus.

# The Payment of Bonus Act, 1965

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- Wages for Entitlement of Bonus- Basic + DA.
- Time limit of Payment of Bonus - within 8 months from the close of the accounting year.
- Disqualification of employee from Bonus - if dismissed from service for fraud, riotous or violent behavior while on Premises of Establishment or theft, Misappropriation etc.

## **Forms to be Maintained :**

- Form A- Computation of Allocable Surplus under Sec.2(4),
- Form B- Set on and set off of allocable surplus under Sec. 15
- Form C- Bonus Paid to employees for the accounting year
- Form D- Annual return- Submission of Annual return within 30 days

# The Payment of Gratuity Act, 1972

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- **Applies to** every factory, shop or establishment in which 10 or more persons are employed on any day of the preceding 12 months.
- Benefits for employees in continuous service over 5 years
- Continuous service means uninterrupted service but includes service interrupted on account of sickness, accident, lay-off, strike, lock out etc.
- **Exemption:** An Establishment which has obtained Group Gratuity Scheme & Government Departments.
- **Taxability:**  
Exempt in the hands of employee upto maximum ceiling of Rs. 10,00,000/-

# The Payment of Gratuity Act, 1972

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- **Gratuity Calculation :**

- 15 days of last drawn wages for every completed year of service
- Monthly Rate of wages/26 \*15\* No. of year service.
- Piece rated employee- Avg. of total in 3 month/15\* No. Of years service.
- Seasonal employee-Based on 7 days wages of each season.



## ESIC AMNESTY SCHEME

## Scheme to Promote Registration of Employers/ Employees (SPREE)

Govt. has introduced a new Scheme to promote Registration of Employers/Employees as one-time opportunity to

- (a) Encourage the employers to register themselves;
- (b) Encourage the employers to register employees, if any, who have been left out of coverage including contractual, casual, temporary etc.

The Scheme will remain open for the period w.e.f. 20<sup>th</sup> December 2016 to 31<sup>st</sup> March 2017 .

[File in link\esic\\_circular-127-2016\\_spree\\_scheme.pdf](#)



# Features of SPREE

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- The employers registering during the period will be treated as covered from the date of registration or as declared by them.
- The newly registered employees shall be treated as covered from the date of their registration.
- This will not have any bearing on actions taken/required under ESI Act, if any, prior to 20<sup>th</sup> December 2016.

# ESIC Amnesty Scheme

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## Benefits of SPREE (Scheme to Promote Registration of Employers/ Employees)

- Opportunity for defaulting firms to declare correct employment figures.
- To provide contribution in national growth, by giving social Security to more Employees.
- Opportunity for the employees and employers to start on a clean Slate.
- No Enquiry for the ESIC Liability prior to 20<sup>th</sup> December 2016.



## PF AMNESTY SCHEME

# EPF(Seventh Amendment) Scheme, 2016

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## Enrolment and Establishment coverage campaign 2017.

- ❑ EFPO has launched an Enrolment and Establishment coverage campaign 2017. This is a Campaign to provide opportunity to the employers to voluntarily come forward and declare details of all such employees who were entitled for PF membership between 01.04.2009 to 31.12.2016 but could not be enrolled for any reason. The Campaign aims to extend PF benefits to employees hitherto deprived of PF benefits.
- ❑ Window open from 01.01.2017 to 31.03.2017 for the employer.
- ❑ Procedure :

## Procedure For Availing Benefit of PF Amnesty Scheme

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1. Any employer during the campaign period, may send declaration for membership of the employees who were required or entitled to become members of the fund on or after the 1st day of April, 2009 but before the 1st day of January, 2017 who could not be enrolled for any reason.
2. The employer shall, within 15 days from the date of furnishing the declaration, remit the employer's contribution payable in accordance with the provisions of this Scheme and the employee's contribution deducted from the employee's wages along with interest payable in accordance with section 7Q of the Act and damages.  
Provided that employer shall not be required to pay the employee's contribution if the same has not been deducted from the wages of the employee.
3. File a return in such form as may be specified by the Central Provident Fund Commissioner, to the Regional Provident Fund Commissioner.

[File in link\PF scheme notification.pdf](#)

## Benefits of Enrolment and Establishment coverage campaign 2017.

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- The member's contribution is waived under this scheme for the period beginning the 1st day of April, 2009 and ending the 31st day of December, 2016, if the same is not recovered/ deducted from the members wages.
- No administrative charges for EPF & EDLI will be leviable for the past period in respect of the employees enrolled during the campaign.
- Nominal rate of levy of damages from the establishment for payment of contribution for the past period during the campaign for enrolment shall be fixed at Rs 1 per annum.

## FAQ –Enrolment and Establishment coverage campaign 2017

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### **Q. 1 Who can make a declaration?**

Any employer, whether already covered or yet to be covered, can make a declaration.

### **Q. 2 Who can be declared a member by the employer?**

Under the Campaign only such employee can be declared for membership-

(i) who is alive and

(ii) who furnishes Form 11 to the employer and

(iii) who was required or entitled to become member of Employees' Provident Fund on or after the 1st day of April, 2009 but before the 1st day of January, 2017 but could not be enrolled as member for any reason.

### **Q. 3 Is there any restriction on the number of declarations that can be filed by an employer?**

No. There is no restriction on the number of declarations that can be filed by an employer.

## FAQ –Enrolment and Establishment coverage campaign 2017

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### **Q.4 Is there any restriction on the number of employees that can be enrolled under a single declaration?**

No. There is no restriction on the number of employees that can be enrolled under a single declaration.

### **Q. 5 Whether online facility is available for making the declaration?**

Yes. Facility for making the declaration online is available. However, documentary declaration can also be filed with the concerned RO/SRO.

### **Q. 6 How is the amount of contribution, interest and damages to be paid after making the declaration?**

Contribution is to be remitted as a supplementary ECRs for every month of the past period enrolment till December, 2016. Simple interest at the rate of 12% per annum and damages at the rate of Rupee one per annum are also to be paid through a separate ECR.



## FAQ –Enrolment and Establishment coverage campaign 2017

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### **Q. 7 Whether it is necessary for the employer to take Form 11 from all the employees?**

Yes. Duly filled in Form 11 should be obtained by the employer from all the employees being declared under the Campaign. A declaration to this effect is included in the Declaration Form to be signed by the employer. The declaration given in the Declaration Form may be accepted if it is duly filled in and signed by the employer.

### **Q. 8 An inquiry under section 7A of the Act has been initiated against the employer for the period from April, 2011 to March, 2014. Can such an employer make a declaration under the Campaign?**

A declaration can be made under the Campaign for the period for which no inquiry under section 7A has been initiated. Therefore, the employer can make a declaration for employees whose date of joining (the date on which the employee

## FAQ –Enrolment and Establishment coverage campaign 2017

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was entitled and required to become members of the fund) is either between 01.04.2009 and 31.03.2011 or between 01.04.2014 and 31.12.2016. For instance, if the employer declares one employee, Mr. 'A' to have joined on 01.04.2010, the employer will get the benefits under the Campaign in respect of Mr. 'A' only for the period for which the inquiry has not been initiated, i.e. for 01.04.2010 to 31.03.2011 and for 01.04.2014 to 31.12.2016.

- Q.9 The establishment is having 7A inquiry going on in respect of 110 employees. Whether the remaining employees, for whom no 7A proceeding is being conducted, can be declared and enrolled under the Campaign?**  
Yes.



# PF INCENTIVE SCHEME – PRADHAN MANTRI ROJGAR YOGNA

## Pradhan Mantri Rojgar Protsahan Yojna (PMRPY): EPF

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- ❑ Under this scheme the Government of India would pay 8.33% of EPS (Employees Pension Scheme) contribution of employer for new employment provided.
- ❑ For the textile (apparel) sector, the government will also be paying the 3.67% Employees Provident Fund (EPF) contribution of the eligible employer for these new employees.
- ❑ This Scheme is applicable for new employment generated & having a new Universal Account Number (UAN), for 3 years starting from the date of joining in the establishment.



[File in link\RI PMRPY 17346.pdf](#)

# FAQ -PMRPY

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## **Q. 1 Which establishments are eligible for PMRPY scheme?**

All establishments registered with EPFO can apply for availing benefits under the scheme subject to the following conditions:

(a) Establishments registered with the (EPFO) should also have a Labour identification Number (LIN) allotted to them under the Shram Suvidha Portal

<https://shramsuvirdha.gov.in>

(b) The eligible employer must have added new employees to the reference base of workers.

## **Q.2 What is reference base of workers under PMRPY scheme?**

The reference base of workers is determined by the number of employees against whom the employer has deposited the 12% (3.67% EPF + 8.33% EPS) with EPFO as on 31 st March, 2016, as ascertained/verified from the monthly Electronic Challan cum Return (ECR) for March, 16. Thus it is necessary that the establishment should have submitted their ECR for the month of March, 16.

## FAQ -PMRPY

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**Q. 3 What would be the reference base for the new establishments coming into existence/ getting registered with EPFO after 01<sup>st</sup> April, 2016?**

In case of new establishments getting registered with EPFO after 01<sup>st</sup> April, 2016, the reference base would be taken as Zero/NIL and all new employees would be entitled to be covered under the Scheme, subject to other eligibility conditions.

**Q. 4 What is the definition of new employee under the PMRPY scheme?**

New Employee, for the purposes of the scheme, is defined as

- (i) an employee earning less than Rs. 15000 per month,
- (ii) not working in any establishment registered with the EPFO in the past (prior to 01<sup>st</sup> April, 2016 ) and
- (iii) did not have a Universal Account Number prior to 01<sup>st</sup> April, 2016.

All the above conditions should be satisfied for an employee to be categories as new employee.

It is important to note that for the purpose of the PMRPY Scheme, the UANs need to be Aadhaar seeded and verified

## FAQ -PMRPY

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### **Q. 5 How long the employer will get the benefit for the eligible new employees?**

The Scheme will be in operation for a period of 3 years. Hence, the employers will continue to get the 8.33% contribution paid by the Government for the eligible new employee for the next 3 years, provided such employee continues in employment with the same employer.

### **Q. 6 How the employer would avail the benefits under the scheme?**

The brief process for employer to avail benefits under the scheme is provided below:

- The eligible establishment will update the PMRPY interface each month (latest by 10<sup>th</sup> of following month) through a PMRPY form wherein the description of the post (job role) for the new employment needs to be specified along with the date of joining and date of exit, if applicable.
- PMRPY form for a month should be submitted by eligible employers, preferably By the 10<sup>th</sup> day of the following month.

## FAQ -PMRPY

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- In case the employer does not submit the information on-line on the PMRPY form by 10<sup>th</sup> of the following month, he will not be eligible for availing benefits under the PMRPY Scheme for that month.
- An online certificate/ undertaking would be made by the employer in prescribed format duly digitally signed.
- Till the introduction of new ECR 2.0, the release of the contribution fund would be made directly to the employer in his bank account.
- The details of the new employee (as submitted by the employer in the ECR) will be validated from the UAN database
- UAN seeded with Aadhaar number would be validated in UIDAI/EPFO database for verification and de-duplication
- After due verification, the system will compute the amount due for that establishment against the verified new employee.





# DEFINITION OF WAGES UNDER DIFFERENT LABOUR LAWS

# Wages under PF Act

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Section 2(b) “basic wages” means -

- all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him,
- but does not include –
  - **i).** The cash value of any food concession;
  - **ii).** Any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;
  - **iii).** Any presents made by the employer.

## Wages under ESIC Act

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Wages u/s 2(22) of the ESI Act, for the purpose of charging of contribution includes:-

- Matinee allowance which is being paid to employees in Cinema Houses
- Shift allowance paid to employees who work on shift duty at odd shifts
- Location allowance paid, in addition to DA to meet the high house rent
- Compensatory allowance
- Cash handling allowance paid to Cashier
- Supervisory Allowance
- Additional pay paid to training staff
- Charge allowance
- Steno/Typist allowance (cont...)

## Wages under ESIC Act (Cont..)

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- Plant allowance
- Honorarium for looking after the hospital/dispensary
- Computer allowance
- Gestetner/Photocopier/Printer allowance
- Personnel/Special allowance
- Machine allowance
- Conveyance allowance
- First-aid allowance
- Personnel allowance - Pay over and above the basic wage and dearness allowance for skill, efficiency or past good records.
- Area allowance - given to employees living in a particular area to meet the high cost of living in that area.
- Extra payment if payment is made within an interval of two months.

# Payments not include as Wages under ESIC Act

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The following items will not form part of the wage either under Section 2(9) or under Section 2(22) of the ESI Act:-

- Payment made on account of un-availed leave at the time of discharge.
- Commission on advertisement secured for Newspapers, if not paid to the regular employee.
- Fuel allowance/Petrol allowance
- Entertainment allowance
- Shoes allowance
- Payment made on account of gratuity on discharge/retirement
- Any incentive or other payment made at an interval exceeding 2 months
- Payment made on encashment of leave

# Wages under Minimum Wage Act

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“Wages” means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract 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 house rent allowance, but does not include--

- (i) the value of-- (a) any house-accommodation, supply of light, water, medical attendance, or (b) any other amenity or any service excluded by general or special order of the appropriate Government;
- (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;
- (iii) any travelling allowance or the value of any travelling concession;
- (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (v) any gratuity payable on discharge;

## Wages under Gratuity Act

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“Wages” means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

# Wages under Bonus Act

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“Salary or wage” means all remuneration (other than remuneration in respect of over-time work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), but does not include—

- (i) any other allowance which the employee is for the time being entitled to;
- (ii) the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;
- (iii) any travelling concession;
- (iv) any bonus (including incentive, production and attendance bonus);
- (v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;
- (vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any ex gratia payment made to him;
- (vii) any commission payable to the employee.



# Applicability Of Laws On Diff Components Of Wages

	BASIC	DA/ COLA	HRA	WASHING / SHOES ALLO- WANCE	TRAVELLING /CONVE- YANCE ALLOWANCE	EDUCATION ALLOWANCE	PETROL/ ENTERTA INMENT ALLO- WANCE	LTA	TELEPH -ONE ALLOW	UNIFORM ALLOW	MEDICAL REIMBU- RSEMENT	OVER- TIME	OTHER INCENTIVE/ EARNING
PF	Y	Y	N	N	N	N	N	N	N	N	N	N	N
ESIC	Y	Y	Y	N	Y	Y	N	Y	Y	Y	N	Y	Y
MIN. WAGE	Y	Y	Y	Y	N	Y	Y	N	Y	Y	N	N	N
PT	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
GRATUITY	Y	Y	N	N	N	N	N	N	N	N	N	N	N



# RECENT UPDATES IN VARIOUS LABOUR LAWS

## PF CONTRIBUTIONS CAN BE DEPOSITED IN PRIVATE SECTOR BANKS

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- The Government of India has amended paragraph 38 of the Employees' Provident Fund Scheme relating to 'Mode of Payment of Contribution'
- Prior to June 2016 this paragraph was amended whereby in addition to State Bank of India other nationalised banks were included.
- NOW by a Gazette of India Notification No. G.S.R.6(E) dated 4<sup>th</sup> January, 2017, Employees' Provident Fund Scheme has provided for remittances through All Scheduled Banks in India including Banks in Private Sector.

# Changes in The Maternity Benefit Act 1961

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- ❑ The Maternity Benefit (Amendment) Bill, 2016 passed by Rajya Sabha on 11<sup>th</sup> August, 2016 which inter-alia include increasing maternity benefit to woman covered under Maternity Benefit Act,1961 from 12 weeks to 26 weeks, for upto 2 surviving children allowing the mother to take care of the child during child's most formative stage.
- ❑ Provides maternity benefit of 12 weeks to commissioning mother (In case of surrogate child) and Adopting mother (In case of adoption)
- ❑ Facilitates “**work from home**” to a mother with mutual consent of the employee and the employer.
- ❑ The bill is pending to be passed on Lok Sabha and accordingly, the law has not come into force yet.

[File in link\Maternity Benefit Bill, 2016.pdf](#)

# Changes in ESIC Act 1948

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- ❑ ESIC coverage on wage ceiling has been increased from Rs.15,000/- to Rs. 21,000/-. (w.e.f. 01.01.2017)
- ❑ ESIC contribution reduced for newly covered area of implementation for 2 years. Employee contribution rate from 1.75% to 1% and Employer contribution rate 4.75% to 3% total contribution rate 6.5% to 4%. (w.e.f. 01.01.2017)

[File in link\ESIC 21000.pdf](#)

[File in link\Reduce in contribution rate.pdf](#)

# Changes in Wages Act 1936

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- ❑ Amendment to Section 6 of the Payment of Wages Act which will further provide crediting the wages in the bank account of the employees or payment through cheque along with the existing provisions of payment in current coin or currency notes.

Also, the appropriate Government (Centre or State) will have to come up with the notification to specify the industrial or other establishments where the employer shall pay wages ONLY through cheque or by crediting the wages in employees' bank account.

[File in link\The Payment of Wages \(Amendment\) Ordinance 2016.pdf](#)

# Gujarat Amendment of Minimum Wages Act 1948

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- ❑ In Minimum Wage Act, in section 11 (1), the following provision is added -

Every establishment registered under the Factories Act & Gujarat Shop And Establishment Act 1948, wherein not less than 20 employee are engaged, shall pay the minimum wage only through cheque or by depositing in any Bank.

[File in link\Gujarat Wage Notification.pdf](#)

# Changes in Labour Welfare Fund Gujarat 1953

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- ❑ The following changes are made in the contribution rate of employees & employer-  
Employee rate increased from Rs.3 to Rs.6  
Employer rate increased from Rs.6 to Rs.12
- ❑ Labour welfare fund to be paid only through online mode. ([www.glwb.gujarat.gov.in](http://www.glwb.gujarat.gov.in))
- ❑ Above mentioned changes effective from December 2016

[File in link\LWF Gujarat.pdf](#)



# Changes in EPS

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The Ministry of Labour and Employment has notified that—

1. Members and pensioners of the Employees' Pension Scheme desirous of continuing to avail pension and membership to the Employees' Pension Scheme by availing the Central Government's contribution and subsidy under the said Scheme, are required to furnish proof of Aadhaar number or undergo Aadhaar authentication as per the procedure laid down by the Employees Provident Fund Organisation for better and hassle free identification through Aadhaar.
2. A member or a pensioner of the Employees' Pension Scheme desirous of continuing the benefit of the said Scheme, who is not yet enrolled for Aadhaar shall be required to make an application for Aadhaar enrolment by 31st January, 2017, in case he is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act and such members and pensioners may visit any Aadhaar enrolment center (list available at [www.uidai.gov.in](http://www.uidai.gov.in)) to get enrolled for Aadhaar:

[PPT 7.1.17\File in link\AADHAR CARD MANDATORY EPF.pdf](#)

# Changes in The Payment of Bonus Rules, 1972

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- ❑ The rule 5 of the payment of Bonus Rules, 1972 was amended:-  
New time line for submission of Form D is now 1<sup>st</sup> February for the filing of the return. Hence, now the annual return needs to be filed for every calendar year before 1<sup>st</sup> Feb of the following year irrespective of the financial year that an employer follows. (w.e.f. 6<sup>th</sup> Dec. 2016).



RSM ASTUTE CONTRIBUTION TO  
HELP YOU ACHIEVE YOUR GOALS

## What we are doing to Help You

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- Launch of Labour Law Support Mobile app
- Representations being created for government
- RTI applications for clarifications on the schemes
- Proposal to create an employer's association to address issues of employers including representations, writ petitions etc
- Advisory, software, compliance audits & other services
- Compliance dashboard app
- Assistance to clients to get benefits for their employees
- Awareness programs, presentations, seminars etc
- Research publications

THANK YOU FOR  
YOUR TIME AND  
ATTENTION