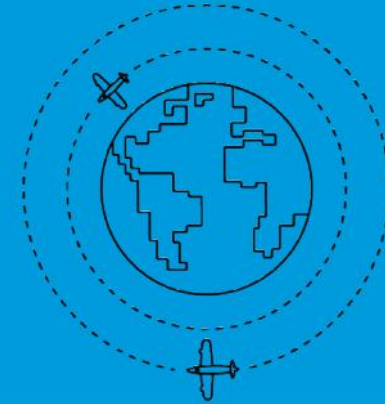



Global Vision Backed By  
Local Knowledge

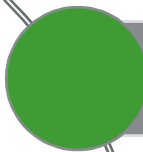
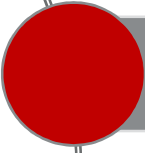
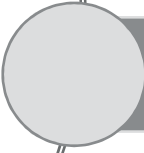
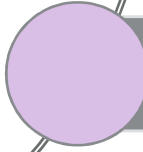


## Presentation on Recent Labour Law Updates - By Vaishali Mehta & Darshana Sharma

# Contents

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



# 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 25,000 p.m, in case of disabled employees. Same limit till 31 December 2016 was Rs. 15,000 p.m.**
- **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 contribution to be paid on or before 15th of subsequent month.(w.e.f. the contribution payable for the month of June,2017 i.e. by 15th July, 2017)**

# Interest & Damages on delayed payments of contribution-ESIC

- Penal Provisions under Section 84 to 86 of ESI Act, 1948 (as amended)

**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 extended for 26 weeks (w.e.f. 20<sup>th</sup> January, 2017)**
- Insured woman having two or more surviving children shall be entitled to receive maternity benefit of 12 weeks only**
- 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.



# 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 0.65 %,0.5% as insurance premium. Minimum charge is 500/- (Rs. 75/- for inactive company). (w.e.f. 1<sup>st</sup> April,2017)**
- 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 case of death of employee during employment services) is 30 times of last drawn salary (Maximum 15,000) + 50% of average balance in EPF Account (Maximum 1.5 Lacs) of deceased, subject to total ceiling of Rs.6 lacs.
- 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.



# 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 01-04-2017 to 30-09-2017:-

- Zone - I

Name of the Establishment	Basic Pay	S.A. (Special Allowance)	Per Day	Total Amt/ Per month with 26 days
	Gujarat			
Skilled	293	29.60	322.60	8387.60
Semi-skilled	284	29.60	313.60	8153.60
Un-skilled	276	29.60	305.60	7945.60

# 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. 18,000.
- **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 up to 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%.

# 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 up to 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.



# 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](#)





# 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

---

“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

---

“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

---

“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	N	N	N	N	N	N	N	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

## Changes in The EPF Act 1952

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- Admin charges for EDLI under A/c no. 22 has been omitted w.e.f. 1<sup>st</sup> April 2017
- Admin charges for PF under A/c No. 2 has been reduced to 0.65% from 0.85 % w.e.f. 1<sup>st</sup> April 2017
- EPFO has decided to consider the skill level eligibility by using the salary / wages limit as Rs. 15,000/- for availing benefit under PMRPY scheme
- EPFO has decided to facilitate housing needs of workers, under this facility EPF member can withdraw up to 90% of accumulations in his provident funds account with certain terms & condition mentioned in gazette notification dated: 12<sup>th</sup> April 2017

# Changes in The Maternity Benefit Act 1961

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- ❑ By gazette notification issued by Govt. of India dated 28<sup>th</sup> March 2017 maternity benefit to woman covered under Maternity Benefit Act,1961 form 12 weeks to 26 weeks, for up to 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.

[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)
- ❑ **Due date of payment of ESIC Contribution changed from 21<sup>st</sup> day to within 15<sup>th</sup> day of last day of the calendar month (w.e.f. Contribution month of June 2017 i.e. 15<sup>th</sup> July 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).

# Changes in The Employees Compensation Act, 1923

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- **The main amendments introduced by the Act are**
- **Sec.17A**, The employer needs to inform an employee of his rights to compensation under the Act in writing as well as through electronic means. Failure to do so will make the employer liable to penalty.
- 
- **Sec.16**, Penalties have been increased from a maximum of Rs. 5000 to a definite penalty of Rs. 50,000 which may extend to Rs.1,00,000.
- By amendment in section 22 of said act, Government Officer authorized to file application for the purpose of compensation to be paid to such employee or dependent or dependents

THANK YOU FOR  
YOUR TIME AND  
ATTENTION