

**CLASS/CODE OF INDUSTRY/ESTABLISHMENT**

**CODE - 171 (iii)**

**DATE OF EXTENSION - 06 MARCH 1982**

**CLASS OF ESTABLISHMENT - ANY SCHOOL, WHETHER OR NOT RECOGNISED OR AIDED BY THE CENTRAL OR STATE GOVERNMENT**

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

## **1 - REGISTERING AN ESTABLISHMENT ON THE EPFO PORTAL**

### **1. Why should an employer register his/her establishment on the EPFO Employer portal?**

With effect from 01.04.2012, any remittance to be made by the employer has to be done only after generating challan from the Employer Portal of EPFO. In case of wage month March 2012 onwards, the employer has to upload Electronic Challan cum Return (ECR) in the pre specified format and challan will be populated on the basis of uploaded return. For previous and other dues the challan has to be filled in online to generate and print it for remittance.

### **2. What happens if the employer does not register?**

The online generation of challan will not be possible if the employer has not registered his/her establishment. The employer has to register and create his/her user id & password for accessing the Employer Portal of EPFO.

### **3. Once the employer enters his/her establishment id a message is displayed "No record found". What should he/she do?**

Please check whether you have entered the correct code number and extension number, if any and have selected the correct EPFO Office. If correct, then please contact the concerned EPFO Regional/Sub Regional Office.

### **4. The employer enters his/her establishment id and clicks "Get Details" button. Message comes that the "Your Establishment is already registered". What should he/she do?**

Please check whether you have entered the correct code number and extension number, if any and have selected the correct EPFO Office. If correct, send a mail to the EPFO Helpdesk on [ecrhelpdesk@epfindia.gov.in](mailto:ecrhelpdesk@epfindia.gov.in) mentioning "RESET REGISTRATION". You will receive a form which has to be submitted under the signature of employer/Authorised signatory to the local EPFO Office under which you have to comply. After getting SMS on successful resetting of registration, you can register again.

### **5. The Registration screen asks for entry of PAN. Which PAN is to be entered as the Employer and Authorised Signatory have their PAN?**

**The PAN issued by the Income Tax of India in the name of the establishment is to be entered. Please also enter the name as it appears on the PAN.** *(Compiler's Note: If you are entering the Society PAN, your Establishment will be registered in the name of the Society. However the Profile Details may be changed subsequently, contact Regional Commissioner )*

### **6. After successful registration and creation of user id and password, the employer has forgotten the user id and/or password. What to do?**

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At the login screen of the Employer Portal, there is a link "Forgot Password?", Click the link. You will get a pop up screen where you have to enter the establishment id. Then enter the user id or primary mobile number or primary e-mail id. On submit, you will get an SMS using which you can login.

### **7. The employer has registered his/her establishment. How to change the primary mobile number?**

Please login to the Employer Portal. Under the "PROFILE" Menu there is link "Edit primary mobile number". Enter your new mobile number and submit. You will get an SMS with a PIN on the new mobile number. Enter the PIN and click "Change Primary Mobile". Confirmation SMS will be sent to the new mobile number which will become your primary mobile number.

### **8. At the time of initial registration the employer made a mistake in entry of mobile number and clicked "GET PIN" button. The button is now disabled and he/she did not get the PIN. What to do?**

Please edit the primary mobile field with the correct mobile number and wait for a few minutes. The button will get enabled and you can click it again to get the SMS with another PIN.

### **9. At the time of initial registration the employer got the PIN but for some reason he/she could not enter it and click REGISTER. Can he/she enter the PIN later and register the establishment?**

No, he/she has to fill in the details again and get a new PIN to complete the initial registration.

### **10. The employer has registered his/her establishment. How to change the primary email id?**

Please login to the Employer Portal. Under the "PROFILE" Menu there is link "Confirm primary email". Enter your new email id replacing the id that appears. Click "Send Verification link" An email message will go to the entered email id. Go to your email account and click the link in the message received. Your verified email id will be recorded in the system and in future you will get mail on the new id.

### **11. One person is employer or Authorised signatory for more than one establishment. Is he/she required to register each establishment separately?**

Yes.

### **12. One person is employer or Authorised signatory for more than one establishment. Can he/she have same user id for all such establishment?**

No.

### **13. What is the use of additional authorised signatories and his/her mobile/email details?**

These information will be used in future and SMS on activities other than registration and editing of the profile may be sent on the additional mobile numbers also.

### **14. How to change the profile details of the establishment?**

Please login to the Employer Portal. Under the "PROFILE" Menu there is link "Edit profile". Change the details and click "Get PIN" to get SMS on the primary mobile number. Enter the PIN and click Update Profile. Confirmation message will be sent through SMS.

## **2 - GRIEVANCE REDRESSAL MECHANISM IN EPFO - EFFORTS TAKEN TO MINIMISE GRIEVANCES**

Employees' Provident Fund Organisation has been consistently taking steps to redress grievances of the customers and on the other hand improving its services to all the stakeholders. The following new initiatives have been taken for this purpose:

1. Launch of Electronic challan cum return has facilitated the job of the employer. They are now not being asked to file the various paper returns which they were supposed to file in PF offices.
2. Large number of complaints pertain to transfers of sums from one region to another. Online transfer claim portal has facilitated the transfers.
3. EPFO has Public Relation Officer in all the Regional and Sub Regional offices. These facilitation centers are to facilitate filling up of the forms and resolution of grievances.
4. 44 lacs pensioners of EPFO are now being given pension through Core Banking System.
5. To avoid frauds in payment to the customers, 99% of the payments are being paid through electronic mode.
6. To facilitate the employers for allotment of code number, online registration of establishments facility has been launched.
7. "Know Your Claim Status" has been incorporated for members in our website.
8. 41 million Universal Account Numbers have been allocated to the contributing members. However, the process of seeding these UANs with proper data such as Adhaar, PAN and bank account number is going on.
9. Bhavishyanidhi Adalats are being held in all the regional and sub regional offices on 10th of every month. If 10th is a holiday, it is held on the next day.

### **HOW TO FILE YOUR GRIEVANCE**

1. The best way to file your grievance is through Employees Provident Fund Internet Grievance Management System (EPFIGMS). You can file your grievance online through the portal: [www.epfindia.gov.in](http://www.epfindia.gov.in).
2. You can also file your grievance through Centralized Public Grievance Redress And Monitoring System (CPGRAM). You can do so through the portal of the Ministry of Administrative Reforms and Grievances i.e [pgportal.gov.in](http://pgportal.gov.in).
3. You can approach the PRO in the Facilitation Centres of any regional and sub regional offices.

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4. You can send your grievances by post or email. You can email to [acc.csd@epfindia.gov.in](mailto:acc.csd@epfindia.gov.in) or [rc.csd@epfindia.gov.in](mailto:rc.csd@epfindia.gov.in).

5. You can also send grievance by post.

6. You can also email your complaints to the various regional offices, sub regional offices or at the head office. E-mail Ids of all offices are available at our website [epfindia.gov.in](http://epfindia.gov.in) under EPFO's directory.

7. You can also go to any of the Bhavishyanidhi Adalat in regional offices and sub regional offices and get your complaint resolved directly by the officers in charge.

### **RESOLUTION OF GRIEVANCES**

1. After registration of the complaint, every complaint received through any mode is registered in EPFIGMS, except complaint registered under CPGRAM.

2. The chance is that 80% of the complaints will get answered in less than 15 days in respect of 108 offices of EPFO, except fifteen offices (namely Bandra, Pune, Delhi South, Delhi North, Hyderabad, Gurgaon, Bangalore, Kandivilli, Whitefield, Bommasandra, Thane, Kolkatta, Noida, Tamram, Chennai) in which case resolution will be within 30 days.

3. Any complaint which is registered in Bhavishyanidhi Adalat is attended by the regional offices and the sub regional offices in less than 15 days time.

### **ROLE OF REGIONAL COMMITTEES**

1. Vide circular circular no. CSD-I/EPFiGMS/Action Plan/2014-15/7144 dated 24.06.2014 dated 21.06.2014, the Regional Committees have been empowered to look into all the complaints in respect of their regions. Secretary of the Regional Committee will have to put up the grievances which are pending for resolution before the Regional Committees. Therefore, in case you are not satisfied with the response from the Regional Offices or Sub Regional Offices, you can also approach the Administrative Secretary of the State concerned who is looking into the labour affairs. He/she is invariably, the chairperson of the regional committee.

### **NATIONAL LEVEL COMMITTEE ON GRIEVANCES**

1. Vide circular no. CSD-I/EPFiGMS/Action Plan/2014-15/7144 dated 24.06.2014, National Level Committee on Grievance has been created in the EPFO under the chairmanship of the Additional Central Provident Fund Commissioner at the headquarter office. If you have already registered complaint at EPFIGMS and it is more than three months old and you are also not satisfied by making complaint to the Administrative Secretary of the Labour Department, you can make the complaint to the National Level Committee on Grievance. This complaint may be addressed to the PRO at the Head Office i.e. Employees' Provident Fund Organization, Head Office, Hudco Vishala, 14, Bhikaji Cama Place, New Delhi-110 066. These grievances will be taken up by the National Level Committee on Grievance.

### **3 - CHECK FOR THESE DEFECTS WHEN FILLING FORMS**

**APPLICATION TYPE : 10D / 10C**

1. In reckonable service and particulars of non-contributory service, details of the wages drawn during the 12 months preceeding the date of exit etc. have to be furnished by the employer in the format enclosed.
2. The applicant has not affixed on rupee Revenue stamp and signed over it. Page No. # of application Form # refers.
3. The applicant has completed minimum qualifying service of 10 years for claiming monthly member's pension, at the age of 50/58 years. Therefore, withdrawal benefit cannot be paid. At present the applicant may obtain a scheme certificate for claiming pension, for which the application in Form 10C has to be submitted by retaining option (a) against item number 8 of the Form 10C. Documentary evidence for proof of age of children below 25 years also has to be submitted along with the application.
4. A sum of Rs. # (Rupees # only) has to be remitted to Pension Fund Account number 10 maintained by State Bank of India, in order to regularise the break in reckonable service and make the applicant eligible for pension. The application has to be resubmitted along with the challan of remittance.
5. The applicant becomes eligible for reduced pension on exit from service and after attaining 50 years of age, provided the minimum qualifying eligible service of 10 years has been completed/reckoned. Superannuation pension or retirement pension is payable on exit from service after attaining 58 years of age and 20 years of eligible service.
6. As per this office records, the applicant has completed # years of age as on date, where as it is # years with reference to the date of birth furnished in the application in Form 10D (EPS). Documentary evidences has to be produced in support of the date of birth, furnished in the application, such as extracts of SSLC book, School Admission Register, Driving Licence, Passport, Income Tax PAN, etc. Normally Date of Birth once furnished cannot be altered for obtaining Pension benefit.
7. Documentary evidences have to be produced in support of the age of children who are below 25 years. #,#.
8. Pension is payable through State Bank of India, Canara Bank, Syndicate Bank, HDFC Bank, Federal Bank or Indian Bank .
9. The applicant has to exercise option regarding commutation of pension against item No. 9 on page 2 of the Form 10D(EPS).
10. The applicant has to state whether he/she opts for Return of Capital, and in case of option in favour of Return of Capital, sub item (1),(2) or (3) of item 10 has to be specified. In case of option is in favour of item 10(2),the nominee for Return of Capital should be a person other than the spouse of the applicant.
11. Three passport size photographs (jointly with spouse) have to be produced duly counter signed and identified on the back side of them by the employer.
12. The applicant does not have the minimum eligible service under Employees' Pension Scheme to claim monthly pension. Application in Form 10C - Format enclosed - may be submitted to claim Scheme Certificate together with the supporting documents, or to claim one time withdrawal benefit by specifying option (a) or (b) against item 8 of the application in Form 10C.
13. Death Certificate in original along with two attested copies have to be submitted.

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14. The applicant has contributed to Employees' Pension Scheme for less than six months and therefore not eligible for any pensionary benefits.
15. Applicant has not specified whether he/she opts for withdrawal benefit or Scheme Certificate by way of option against item 8(a) or (b) of the application in Form 10C.
16. The applicant is not eligible for monthly pension as he/she left service prior to April 1993.

### APPLICATION TYPE : 19 / 20 / 5-IF

1. Details of contributions for the current period viz; # to # have not been furnished in the application. Contributions have to be recovered from the wages for the period upto and including the month in which the applicant left service. They may be obtained in the format enclosed.(F 3A).
2. Nomination in Form 2 is not available. Therefore, the E.P.F. and E.D.L.I benefits are payable equally among the members of family as per para 2(g) of the scheme, subject to the restrictions prescribed. Certificate regarding family members has to be obtained in the format enclosed either from the employer or from the Tahasildar of the revenue jurisdiction. Among the family members the following category gets the first priority viz., spouse, minor sons, unmarried daughters and dependent parents.
3. For paying assurance benefits under EDLI Scheme 1976, the member must have died while in service and his/her name would not have been removed from the muster- roll and such facts must be certified by the employer in the prescribed format in Form 5(IF) enclosed. As in the case of EPF benefits, the EDLI (Assurance) benefits are also payable to the nominee/family members/legal heirs.

### APPLICATION TYPE : ADVANCE

1. In the case of Advances on medical grounds in connection with hospitalisation of family members, the application is valid only if it is submitted before expiry of the period of hospitalisation. Relationship of the patient to the applicant has to be specified in the Medical Certificate. The Medical Certificate must mention that it is a case of hospitalisation for one month or more as inpatient in connection with TB, Paralysis, Leprosy, Cancer, Mental derangement or Heart ailment; or it is a case of major surgical operation.
2. In the case of treatment of the applicant, Advance is allowed in connection with treatment for Paralysis, TB, Leprosy, Cancer, Mental derangement, or Heart ailment. Withdrawal is also allowed in connection with hospitalised treatment for one month or more in connection with any other disease or for major surgical operation subject to fulfillment of the following conditions. The employer must have sanctioned leave for the period of hospitalisation. The member must have ceased to be eligible for cash benefit under ESI scheme, or he must not be
3. In the case of purchase of Flat/House/Dwelling site, etc; the application should be accompanied by a declaration-cum-undertaking, in the enclosed format, as well as the agreement of sale in original/certified copy. The agreement should specify that the property will be transferred in favour of the applicant or jointly in favour of the applicant and the spouse. Agreement which contains optional clause for transfer in favour of a third party is not acceptable.
4. In the case of withdrawal for additions and alterations, a period of 5 years should have expired after the construction was over and completion report in Annexure XIII has to be submitted.

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5. In the case of withdrawal for second alteration/repairs a period of 10 years should have expired after the first alterations and the fact has to be recorded in the declaration form as well as completion report in Annexure XIII (format enclosed).
6. For availing withdrawal in connection with repayment of House Building Advance availed from approved Financial Institutions, Nationalised Banks, State Governments, Housing Boards, Development authorities etc; the applicant should have completed 10 years membership and a certificate from the lending authority should have been obtained in the prescribed proforma - format enclosed. The lending authority should have sanctioned the advance in connection with purchase of house/flat or construction of house, in the name of applicant.
7. It is noticed that House Building Advance of Rs. # availed during # for purchase of site/construction of house was misused. Therefore, it has been decided to recover the same together with penal interest @ 2% per annum (simple interest). The applicant becomes eligible for a second withdrawal only after the recovery is over and a period of 3 years expired after the incidence of misuse.
8. For availing withdrawal in connection with substantial alterations to the house a period of 5 years should have expired after the construction was over. Moreover, the fact of completion of construction should have been intimated in the completion certificate in Annexure XIII - format enclosed.
9. The applicant has not completed the prescribed period of membership in the fund viz; # years for availing withdrawal under para # of the EPF Scheme in connection with housing advance/Repayment of Housing advance or advance in connection with marriage/post matriculation studies as the case may be.
10. The application is not supported by the relevant certificate. Certificates A to F provided in the application refers. Certificate # has to be furnished.
11. There is no sufficient amount at your credit in the employee's share. In order to consider payment of refundable withdrawal from employer's share, in connection with closure, lock out, a specific undertaking is required to the effect that the advance will be refunded by way of salary recovery in install- ments immediately on resumption of work or re-opening.
12. The period of agreement has expired. The agreement may be got revalidated.
13. The amount payable exceeds Rs. 2000/- and therefore payment by Money Order cannot be allowed. The applicant has to open a Savings Bank Account in any Scheduled Bank including Co-Operative Bank, mention its details in the application, and furnish an advance statmped receipt in the prescribed space in the application form.
14. The declaration-cum-undertaking is defective in as much as columns # are left unfilled/ the declaration is not signed/countersigned.
15. For allowing pre-retirement withdrawal of 90% one year prior to the date of retirement, the applicant should have completed 54 years of age or more. The date of retirement has to be certified by the employer.
16. A certificate from the educational institution where the student is undergoing post matriculation studies, duly mentioning the relation of the student with the applicant is required together with estimated expenses of the course of study.
17. The rules prescribed by the schemes framed under the EPF & MP Act, 1952 do not permit to grant any withdrawal for the purpose specified in the application.
18. The applicant is not eligible for the advance applied for, as three advances have been already availed under Para 68K of the EPF Scheme.
19. The applicant was sanctioned withdrawal of Rs. # for purchasing a dwelling site/House during #. An attested copy of the registered title of purchase, along with the declaration in Annexure

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- XIII has to be submitted immediately. Otherwise, it will be considered that, the withdrawal was misused and that the amount is liable to be recovered with penal interest of 2 % per annum.
20. The applicant purchased another property after sometime of availing the advance for a lesser amount and did not refund the unutilised amount of Rs.# This owes an explanation duly countersigned by the employer with his comments. More over, the balance amount is liable to be refunded along with penal interest of 2 % per annum.
  21. Application for withdrawal in connection with construction/addition to the house should be supported by details such as registration number,survey number of the property in which the construction/addition is proposed, duly owned by the applicant or jointly owned by the applicant and the spouse. The additional declaration and undertaking should contain details regarding estimate of construction, building permit number etc: If the constuction/addition is proposed in property situated in places where the Building Regulations Act are
  22. Applicant does not have sufficient amount at his/her credit.
  23. Advance for purchase of site/house cannot be granted since the registration of the property is already over.
  24. Advance for the purchase of house/dwelling site can be sanctioned only if the purchase is on behalf of the member or jointly in the name of the member and spouse.

### APPLICATION TYPE : GENERAL

1. The account number furnished is not correct. As per this office records, the Account No.KR/KK/#e relates to Sri./Smt. #
2. Name of Father/Husband furnished in Form # differs from our office records.
3. Details such as Date and reason for leaving service/Date of joining in Employees Provident Funds etc; have not been furnished by the employer in Form 5/10.
4. Waiting period of 2 months has not been completed. The application may be retransmitted on or after #.
5. The # has not # the application on page No. #
6. Benefits under EPF Scheme/EDLI Scheme and Employees' Pension Scheme cannot be paid through joint account. The applicant has to open a savings bank account in any scheduled bank including co-operative bank. In the case of monthly pension, the applicant has to open a savings bank account in any of the designated banks namely, Canara Bank, State Bank of India, HDFC, Indian Bank, Syndicate bank, or Federal Bank.
7. Your accounts has already been settled and an amount of Rs. # credited to your savings bank account/transferred to your present provident fund account No. KR/KKD/#e.
8. In case the establishment is under lockout/closure/winding up proceedings, etc, and the authorised signatory is not available, the applicant may obtain the application attested by the manager of the bank in which SB account is maintained.
9. Your signature in form # does not agree with that of this office records.
10. Your name furnished in Form # differs from this office records.

## **4 - KNOW ABOUT e-RETURN TOOL FOR EMPLOYERS**

The Employees Provident Fund Organisation (EPFO) that has taken steps for total computerisation to improve subscribers and employers, has developed e-return software in order to simplify the filing of various returns by employers. Employers of establishments covered under EPF and MP Act should henceforth download the software and file all monthly returns electronically from April 2011 onwards.

The tool and the user manual, guidelines for filing e-return are available as per following details

### **1. e-RETURN TOOL FOR EMPLOYERS**

Please Read: All the files (a to h) are to be downloaded by clicking on them and all the files should be kept in a single folder. The installation can be done using the Instructions. Options (b), (c) & (d) are to be downloaded and then unzipped in the same folder and these are to be installed only ONCE. But, the options (e), (f) & (g) are to be downloaded and installed every time for updated New Version.

- a. **Instructions for Installation**
- b. **Crystal Reports 10 5**
- c. **DotNet FX35**
- d. **Windows Installer 3 5**
- e. **Setup.exe**
- f. **eReturn Setup.msi**
- g. **User Manual**
- h. **Password File**
- i. **Example CSV Files for Upload Data in Tool**  
*(While creating CSV File take care that no **COMMA** is being used in the data field)*
- j. **Installation Procedure for New Versions**
- k. **Frequently Asked Questions (FAQs)**

### **2. VALIDATION TOOL FOR EMPLOYERS**

Please Read: If e-Return tool is not installed on the system, then you have to download option 1(c) and 1(d) along with the three options given below and all these should be kept in single folder.

- a. **Setup.exe**
  - b. **Validation Tool Setup.msi**
  - c. **User Manual**
  - d. **Structure of file for upload (Form 5 & 10)**
- 4. Structures for 12A and 3A**
- 5. DEMO (E-Return Tool) with Instruction to Use Demo**

The annual returns in form number 3A for 2011-12 should also be filed using the software along with a hard copy of form number 6A in order to upload the member balance and issue the annual statement of accounts expeditiously to the subscribers.

## **5 - KNOW ABOUT EMPLOYER e-SEWA**

EPFO Launches online receipt of Electronic Challan cum Return (ECR) from the Month of April 2012 (March paid in April). Employers are requested to Register their establishments and create their user id and password through this portal. The registered employers can upload the Electronic Return and the uploaded return data will be displayed through a digitally signed copy in PDF format. It will be available for printing also. Once approved by the employer online Challan will be popped based on uploaded return. The employer may choose to make the payment through internet banking of SBI or take a print out of the Challan and pay at any designated branch of State Bank of India (SBI).

### **BENEFITS**

- > No paper return to be prepared and submitted to EPFO.
- > No need to submit other returns viz Form 5/10/12A,3A and 6A.
- > Employers will get the confirmation of payment through SMS instantly.
- > The contribution will be credited to the members' account on monthly basis.
- > Employers can view the annual accounts slip for accounting year 2011-12 online.
- > For earlier years employers can request for the annual slips through this portal.

[Click here for employer e-sewa](#)

### **INSTRUCTIONS TO AVAIL FACILITY**

- Register your establishment at EPFO website
- You will receive system generated temporary username and password on your mobile.

On first login with the temporary User Id and password, create your permanent User Id and new password to avail facilities through the portal.

### **GENERAL INFORMATION**

- a. [How to Register](#)
- b. [Process Flow of ECR](#)
- c. [FAQs](#)
- d. [ECR File Format \(For Employers\)](#)
- e. [ECR Error Code List](#)
- f. [e-Return Tool](#)
- g. [Demo for ECR File Preparation](#)

Employer Registration starts from 20.03.2012

## **6 - IMPLICATION OF THE EMPLOYEES' PROVIDENT FUND AND MP ACT, 1952** *(to be read along with later amendments)*

### **Which establishments are covered by the Act?**

The Act is applicable to:

- a. every factory engaged in any industry specified in Schedule I to the Act and employing 20 or more persons;
- b. every other establishment employing 20 or more persons specified by the Central Government in this behalf.

Any establishment to which the Act applies shall continue to be governed by the Act even if the number of persons employed therein at any time falls below 20. {Section 1(3) & (5)}

### **Would the Act continue to apply to an establishment which has closed its manufacturing activities and does not employ a single employee?**

Where there is neither an establishment nor an employer nor an employee, there is no point in saying that the Act would continue to apply. In such circumstances any continued application of the Act would be in vacuum.

### **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?**

Where a factory is closed down for good and only four security men are retained for keeping a watch over the assets and properties of the establishment, the Act would not continue to be applicable to the factory.

### **Is the Act applicable to charitable institutions?**

The plea that an establishment is a charitable institution is not relevant to the determination of the question of the applicability of the Act.

### **Are "home workers" in the beedi industry entitled to the benefit of the Act?**

The workers employed at their homes in the manufacture of beedis are also entitled to the benefit of the Act and the Schemes framed there under.

### **Is a trainee an "employee" under the Act?**

The provisions of Section 2(f)(ii) of the Act and Para 2(f)(iv) of the Scheme framed under the Act are to be kept in mind while considering if a trainee is an employee or not. These provisions show that a trainee who is an apprentice engaged under the Apprentices Act, 1961 or who is an apprentice according to the certified standing orders applicable to the establishment is excluded from the definition of an employee under the Act.

### **Is a partner of a firm an employee under the Act?**

For the purpose of the Employees Provident Funds Act a partner of a partnership firm cannot be said to be an employee of the firm having regard to the provisions of the Indian Partnership Act. A person cannot be both an employer and employee.

### **Does the Act apply to a poly clinic?**

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A poly clinic is covered by the entry in respect of "establishments of hospital" as well as the entry in respect of "establishment of Medical Practitioners and Specialists" and therefore the Act applies to a poly clinic. The object (of the two entries) is to bring all medical establishments employing 20 or more persons under the purview of the Act.

### Can the Act be extended to other factories or establishments?

The Central Government has been given wide powers to extend the application of the Act. It can apply the provisions of the Act-

- a. to any factory or establishment even if such factory or establishment is employing less than 20 persons; {Section 1(3)(b) Proviso}
- b. to any factory or establishment whatsoever if the employer and the majority of the employees of such factory or establishment have agreed that the provision of the Act should be made applicable to it on and from the date of such agreement or from any subsequent date specified in such agreement; {Section 1(4)}
- c. to any factory employing 20 or more persons but not engaged in any industry specified in Schedule I to the Act. {Section 4}
- d. where, immediately before the Act becomes applicable to any establishment there is a provident fund which is common to the employees in that establishment and employees in any other establishment, to such other establishment. {Section 3}

### Is it permissible to exempt any establishment from the operation of the Act because of their financial position?

The Act permits the Central Government, subject to specified conditions, to exempt any class of establishments from the operation of the Act, if having regard to their financial position or other circumstances of the case, it is necessary or expedient to do so. {Section 16(2)}

### Are there any establishments to which the Act is not applicable at all?

The Act is not applicable -

- a. to any factory or other establishment registered under any Central or State law relating to co-operative societies, employing less than 50 persons and working without the aid of power;
- b. to any establishment belonging to the Central Government or a State Government and having a scheme of contributory provident fund or old age pension;
- c. to any establishment set up under any Central or State Act and having a scheme of contributory provident fund or old age pension; {Section 16(1) and (c)}

### Are the orders issued by the Central Government or the orders passed by the Central Provident Fund Commissioner appealable?

An appeal lies to the Provident Funds Appellate Tribunal -

1. against any order passed under the proviso to subsection (3) of section 1, applying the provisions of the Act to any establishment employing less than twenty persons;
2. against any orders passed under subsection (4) or section 1, applying the provisions of the Act to any establishment on the application of the employer and employees;
3. against any notification of the Central Government under section 3, applying the provisions of the Act to any establishment having a common provident fund with another fund with another establishment to which the Act is applicable;

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4. against any order passed under subsection (1) of section 7A, deciding any dispute regarding the applicability of the Act to any establishment and determining the amount due from any employer under the Act or any Scheme framed under the Act;
5. against any order passed under section 7B reviewing his own order;
6. against any order passed under section 7C, re-opening any case and redetermining the amount due from any employer;
7. against any order under section 14B, levying for de-fault any damages upon any employer by way of penalty.

### **Is a Writ Petition against an order under Section 7A of the Act maintainable?**

Under Section 7-I of the Act an appeal against such order lies to E.P.F. Appellate Tribunal and as such a Writ Petition against such order is not maintainable.

### **Who is the authority to decide disputes regarding the applicability of the Act to an establishment or as to the quantum of the moneys due from any employer?**

If any dispute 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. {Section 7(A)}

### **In what manner can the employer recover the moneys paid by him for or on behalf of a contractor?**

If the employer pays any contribution or administrative charges for or on behalf of a contractor, he can recover the same from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor. The contractors can, then recover the employer's contribution from the wages of the employee. {Section 8(A)}

### **What are the various modes in which the Central Regional Provident Fund Commissioner can recover arrears of any amount due from any employer under section 8 of the Act?**

The Central Regional Provident Fund Commissioner can recover such arrears-

1. by issuing a certificate to the Recovery Officer to recover the arrears from the employer by one or more of the modes mentioned in section 8-B;
2. by requiring any person from whom any money is due to the employer to deduct the amount of arrears from such money and pay the same to him, i.e., the Central Regional Provident Fund Commissioner;
3. by issuing a notice to any person from whom any money is due to the employer, requiring to pay the amount of arrears to him, i.e., the Central Regional Provident Fund Commissioner;
4. by applying to the Court, in whose custody there is any money belonging to the employer, for payment of the amount of arrears from such money to him, i.e., the Central Regional Provident Fund Commissioner;
5. by distraint and sale of the moveable property of the employer in the manner laid down in the Third Schedule to the Income Tax Act, 1961. {Subsection 8(B) to 8(G)}

### **Can Recovery Officer impose interest on the amount mentioned in the Recovery Certificate?**

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The position of a Recovery Officer is exactly that of an executing court. He can recover only the amount specified in the certificate. If the certificate does not include any interest, it is beyond the competence of the Recovery Officer to demand such amount.

### **Can the amount standing to the credit of any member in the Fund be assigned, charged or attached?**

The amount standing to the credit of a member in the Fund cannot be assigned, charged or attached under any decree or order of any Court. Similarly, the amount standing to the credit of a member in the Fund at the time of his death is free from any debt or other liability incurred by the member before his death and cannot be attached under any decree or order of any Court. {Section 10}

### **What does it mean when section 10(2) of the Act says that the amount standing to the credit of a member in the Fund at the time of his death and payable to his nominee shall vest in the nominee?**

Vesting of the amount in the nominee is for limited purpose of receiving the amount from the employer and handing over the same to the heirs entitled thereto. The nominee is merely authorized to receive the amount for the benefit of heirs of the deceased.

### **Can a nominee of a deceased employee claim an absolute right in respect of the amount of provident fund of the deceased employer?**

The nominee cannot claim an absolute right to the amount excluding the right of the heirs. An heir of the deceased employee can always initiate legal proceedings against the nominee for claiming his share in accordance with the law of succession.

### **What are the powers of the Inspectors appointed under the Act?**

An Inspector appointed under the Act has power-

1. to require any employer or contractor to furnish any information required by him;
2. to enter and search any establishment or premises and require any one found in charge thereof to produce any accounts, books, registers and other documents relating to employment or wages for his examination;
3. examine any employer or his agent, servant or employee found in such establishment or premises;
4. make copies of any book, register or other document or seize such books, register or other document. {Section 13}

### **If any establishment has departments or branches, are these departments or branches, to be treated as separate establishments or parts of the same establishments?**

Where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment. {Section 2(A)}

### **What happens to a private provident fund of an establishment when that establishment is covered under the statutory Provident Fund Scheme?**

On the application of the statutory Provident Fund Scheme to an establishment, the accumulations in the private provident fund in that establishment standing to the credit of the employees who become members of the statutory Provident Fund must be transferred to the statutory Provident Fund. The

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accumulations will be credited to the accounts of the employees entitled thereto in the statutory Provident Fund. {Section 15}

### What are the offences under the Act? What is the punishment for them?

- a. If any person, for the purpose of avoiding any payment to be made under the Act or the Schemes, knowingly makes any false statement or false representation, he would be punished with imprisonment upto one year, or with fine upto Rs. 5000.00 or with both.
- b. If any employer makes default in payment of the employer's contribution or the employee's contribution payable under the Employees' Provident Funds Scheme or paragraph 38 of the said scheme relating to the payment of administrative charges, or under section 17(3)(a) of the Act relating to the payment of inspection charges, he would be punished with imprisonment upto three years but it shall not be less than one year and a fine of Rs. 10000.00 in case of default in payment of the employee's contribution which has been deducted by the employer from the employees' wages and six months and a fine of a Rs. 5000.00 in any other case.
- c. If any employer makes default in payment of the employer's contribution or the administrative charges payable under the Deposit Linked Insurance Scheme under section 6-C or contravenes the provisions of section 17(3)(a) relating to the payment of inspection charges, he would be punished with imprisonment upto 1 year, but which shall not be less than 6 months, plus fine upto Rs. 5000.00
- d. If any person contravenes or makes default in complying with any other provision of the Act or any condition for exemption from any scheme, he would be punished with imprisonment upto six months but which shall not be less than 1 month and with fine upto Rs. 5000.00 or with both.
- e. If any person convicted of an offence under the Act or the Schemes commits it again, he would be punished with imprisonment upto five years but which shall not be less than two years, plus fine upto Rs. 25000.00 {Section 14 & 14(AA)}

### Is there any period of limitation for exercising the powers of levying damages under section 14-B of the Act?

No period of limitation is prescribed in the Act for exercising the power of levying damages under section 14-B of the Act.

### Are there any guidelines for quantifying damages Leviable under section 14-B of the Act for making default in payment of contribution?

In 1991, the Central Government, by inserting Para 32-A in the Employees' Provident Funds Scheme, has laid down different rates of damages depending upon the period of default. Courts have held that it is not just and fair to levy damages at a flat rate for different periods of default.

### Is any damage leviable on the employer delaying any payment due from him under the Act or the Schemes?

If any employer makes default-

- i. in the payment of any contribution to any Fund;
- ii. in the transfer of accumulations as required under Section 15(2) or Section 17(5);
- iii. in the payment of any charges payable under the Act or Schemes, the Central/Regional Provident Fund Commissioner can levy and recover from the employer by way of penalty such damages not exceeding the amount of arrears, as may be specified in the scheme. The Central Board may reduce or waive the damages levied by the Commissioner in certain case. {Section 14(B)}

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### Could the employer be punished under section 14-B in case the remittance of contribution by him is delayed in a bank of post office?

If the remittance of contribution to Provident Fund is delayed on account of the delay in a Bank or post office, the employer cannot be penalized for it under section 14-B.

### Is the employer liable to pay the contribution when he is not in a position to pay wages to the employees?

The employer is liable to pay the employer's contribution as well as the employee's contribution irrespective of the fact that wages have been paid to the employees or not.

### Is there any offence under the Act which is cognizable?

The offence relating to default in payment of any contribution especially the employee's share deduct from the wages of the employees by the employer is cognizable. That means a person committing such offence can be arrested by the police without warrant. {Section 14(AB)}

### Is it permissible under the Act to exempt any establishment from the operation of any Scheme?

The Act permits the Central Government or the State Government, subject to specified conditions, to exempt any establishment from the operation of all or any of the provisions of any Scheme if the Government thinks it fit to do so having regard to the adequacy of the benefits similar to those of the Schemes available to the employees of such establishment. {Section 17(1)}

### Are exempted establishments exempted from the provision of the Act?

The provisions of sections 6, 7-A, 8 and 14-B shall, so far as may be, apply to the employer of the exempted establishment and where such employer contravenes, or makes default in complying with any of the said provisions or any other provision of the Act, he shall be punishable under section 14 as if the said establishment had not been exempted. {Section 17(1A)}

### Is any employer allowed to maintain a Provident Fund account in relation to their establishments?

The Central Government is empowered to authorize any employer of an establishment employing one hundred or more persons to maintain a Provident Fund account in relation to the establishment so as to ensure prompt service to the members of the Fund. {Section 16(A)}

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

### What is the purpose of the Employees' Provident Funds Scheme, 1952, and to whom is it applicable?

The purpose of the scheme is to establish provident funds for the employees covered by the Employees' Provident Funds Act, 1952. As such, the scheme is applicable to the employees of all factories and other establishments covered by the said Act except those exempted under section 17 thereof. {Section 5 & Para 1}

### Since when was the scheme made applicable to the said factories and other establishments?

## **EMPLOYEE'S PROVIDENT FUND COMPANION**

The scheme is made applicable to different factories and different establishments from different dates as specified in paragraph 1 of the scheme. {Para 1}

### **Who is eligible to become a member of the Fund?**

Every employee employed in or in connection with the work of a factory or other establishment covered by the scheme other than an excluded employee is entitled and required to become a member of the Fund from the date of joining the factory or establishment. An excluded employee shall, on ceasing to be such an employee, be entitled and required to become a member of the Fund from the date he ceased to be such employee. {Para 26}

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

The persons employed by or through a contractor are included in the definition of "employee" under the Employees' Provident Funds Act, 1952, and as such, they are covered under the Scheme. {Para 30}

### **What is meant by "excluded employee"?**

"Excluded employee" means-

- i. 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) before migration from India for permanent settlement abroad; or for taking employment abroad;
- ii. an employee whose pay at the time he is otherwise entitled to become a member of the Fund, exceeds Rs. 6500.00 per month;
- iii. 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. {Para 2(f)}

### **What is the contribution payable by the employer and the employee under the Scheme?**

The contribution payable by the employer under the Scheme is 12 percent of the wages of an employee. The contribution payable by the employee under the Scheme is equal to the contribution payable by the employer in respect of such employee. {Section 6 & Para 29}

### **Have the employee and the employer to pay contribution on the entire pay of the employee?**

Where the monthly pay of an employee exceeds six thousand five hundred 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 six thousand five hundred rupees. {Para 26-A }

### **On what pay/allowances the PF Contributions is to be deducted?**

The P. F. Contribution is to be deducted -

1. On basic wages
2. dearness allowance and the retaining allowance if any. {Section 6}

Is it necessary to deduct provident fund contribution from arrears of wages paid to an employee as a result of an award revising his scale of pay?: Arrears are emoluments earned by the employee while on duty and provident fund contributions have to be deducted from such wages.

### **Is it permissible for any member to contribute at a rate higher than the rate or 12 percent?**

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A member, if he so desires, may contribute an amount exceeding 12 percent 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. {Para 29}

### **Is any interest payable on the Provident Fund accumulations of a member?**

Compound interest, at a rate determined by the Central Government from time to time, is paid on the amount standing to the credit of a member as on 1st day of April every year. {Para 60}

### **Is the employer required to pay administrative charges under the scheme?**

The employer is required to pay administrative charges at the rate of 1.10 percent of the pay payable to the employees in respect of which provident fund contributions are payable. {Para 38 & 39}

### **What is the provision of the Scheme in the matter of transfer of members?**

If a member of the Fund goes from one establishment to another or from one region to another, the balance of his Provident Fund is transferred from the old account to a new account in the new establishment. {Section 17 & Para 57}

### **If an employee has a "family", can he make nomination in favour of brother?**

No nomination can be made under the E F P. Scheme in favour of a person who is not a member of the "family". The word "family" is defined in Para 2(g) of the Scheme and according to the definition brother is not a member of the "family". The nomination made in favour of brother is invalid.

### **What is the provision of the Scheme in the matter of nomination by a member?**

Each member has to make a nomination to receive the 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. {Para 61}

### **What are the benefits provided under the Scheme?**

The following three kinds of benefits are provided under the scheme: (1) Withdrawal benefit, (2) Benefit of non-refundable advances, (3) Benefit of financing of Life Insurance Policies.

#### **1. Withdrawal Benefit**

- a. A member can withdraw the full amount standing to his credit in the Fund in the following circumstances immediately
  - i. Retirement after attaining the age of 55 years,
  - ii. retirement due to incapacity for work,
  - iii. migration for permanent settlement abroad,
  - iv. mass retrenchment,
  - v. voluntary retirement,
  - vi. closer of establishment,
  - vii. transfer to an establishment not covered under the Act,
  - viii. discharge with payment of retrenchment compensation, etc {Para 69}

b. In all the order cases of leaving services he can withdraw the full amount if he remains unemployed after the waiting period of two months unemployment.

### 2. Benefit of Non-refundable Advances

Non-refundable advances from the amount standing to the credit of a member in the Fund can be sanctioned for the following purposes:

- Marriage / Education
- Treatment
- Purchase or construction of Dwelling house
- Repayment of Housing Loan
- Purchase of Plot
- Addition/Alteration of House
- Repair of House
- Lockout
- Withdrawal Prior to Retirement
- Other Advances
- Notes

### 3. Benefit of financing of Life Insurance Policies

This benefit can be available as specified in Paragraphs 62 to 67. {Para 62 to 67}

#### **Is there any limit prescribed for getting the benefits?**

The scheme provides for payment of benefit by the Commissioner within 30 days from the date of receipt of claim application {Para 72(7)}

#### **Who is entitled to receive the accumulations in the Provident Fund account of a deceased member?**

On the death of a member the amount standing to his credit in the Fund is payable to his nominee or nominees. If there is no nominee, such amount is payable to his family members in the manner specified in Paragraph 70 of the Scheme or in their absence to the legal heir. {Para 70}

#### **How does a member know the position of his Provident Fund account?**

Every year the Commissioner for Employees' Provident Fund sends to each member, through the employer, a statement of his account in the Fund showing the opening balance, the amount contributed during the year, withdrawal during the year, the amount of interest and the closing balance. If the member finds any error in the statement, he has to bring it to the notice of the Commissioner within 6 months from the receipt of the statement. {Para 73}

#### **What are the offences under the Scheme and what is the punishment for them?**

If any person-

- a. deducts from the wages of a member the whole or any part of the employer's contribution;
- b. fails to submit any return, statement or other document required by the Scheme or submits a false return, statement or other document or makes a false declaration;
- c. obstructs any inspector appointed under the Act or the Scheme in the discharge of his duties or fails to produce any record for his inspection;

## EMPLOYEE'S PROVIDENT FUND COMPANION

d. is guilty of contravention of or non-compliance with any other requirement of the Scheme; he would be punished with imprisonment upto 1 year, or fine upto Rs. 4000.00 or with both. {Section 14(2) & Para 76}

### Is failure to submit return continuing offence?

The offence of failure to pay contributions amounts to continuing offence. In all other cases the offence is one committed once and for all. Failure to submit return is not continuing offence.

## THE EMPLOYEES' PENSION SCHEME, 1995

### What is the purpose of the Employees' Pension Scheme?

The purpose of the Scheme is to provide for

- (1) superannuation pension, retiring pension or permanent total disablement pension to employees covered by the Employees' Provident Funds Act, and
- (2) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees. {Section 6-A(1)}

### Since when did the Scheme has come into force?

By an ordinance No. 13 dated 11-Oct-1995 the President has substituted the "Employees' Pension Scheme 1995" for the "Employees' Family Pension Scheme, 1971." The Employees' Pension Scheme is brought into force from 16-Nov-1995.

### How are the benefits of the Scheme going to be met?

To meet the expenses for administering the Scheme a fund called the Employees' Pension Fund will be set up and from and out of the contribution payable by the employer under section 6 of the Act a part of contribution representing 8.33 percent will be credited to the Fund. The Central Government will also contribute to the Fund at the rate of 1.16 percent of the pay of the members of the Scheme. It is to be noted that where the pay of the member exceeds Rs. 6500.00 per month, the contribution payable by the employer and the Central Government will be limited to the amount payable on his pay of Rs. 6500.00 only. {Section 6-A & Para 3}

*It is also to be noted that if at the option of the employer and employee, contribution paid on salary exceeding Rs. 6500.00 per month from the date of commencement of this Scheme or from the date salary exceed 6500.00 whichever is later, and 8.33 percent share of the employers thereof is remitted into the Pension Fund, pensionable salary shall be based on such higher salary.*

### To whom the Scheme will apply?

The Scheme will apply to:

1. Employees who have been members of the Employees' Family Pension Scheme 1971;
2. Employees who on or later 16-Nov-1995 become members of the Employees' Provident Fund Scheme, 1952;
3. Employees who have been members of the Employees Provident Fund but not being members of the Employees' Family Pension Scheme opt to join the Employees' Pension Scheme within six months from 16-Nov-1995. {Para 6}

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### How the Pension is worked out?

- A. Before going into the method of calculation of Pension it is necessary to know a few terminologies.
- a. Pensionable Service: The period for which the Pension contributions i.e. 8-1/3% as employer's share are paid to the Employees' Pension Scheme from 16-Nov-1995.
  - b. Pensionable Salary: The average salary (Wages + DA / for the last twelve months before the date of exit)
  - c. Actual Service: The aggregate of the period of service during which the Pension contribution is paid after 16-Nov-1995
  - d. Past Service: The period of service prior to 16-Nov-1995 for which the existing member of Family Pension Scheme had been a member of the Family Pension Scheme.
  - e. Eligible Service: Is the total of past service and actual service.
- B. There are three types of pension available to members of the Pension Scheme
- a. Superannuation Pension: if the member has rendered eligible service of 20 years and retires on attaining the age of 58 years.
  - b. Retirement Pension: if the member has rendered 20 years of eligible service and retires or otherwise ceases to be in employment before attaining the age of 58 years.
  - c. Short Service Pension: If the member has rendered eligible service of 10 years and more but less than 20 years.

### Can a member opt for commutation of pension?

A member may opt, on completion of three years from the commencement of the scheme, to commute up to a maximum of one third of his pension so as to receive hundred times the monthly pension so commuted as commuted value of pension. {Para 12-A}

### Can a member opt for return of capital?

Option for return of Capital: A member being eligible to receive the pension can opt out for any one of the alternatives, if he so desires. {Para 13}

### Who is entitled to get permanent total disablement pension?

An employee who meets with an accident during employment and as a result thereof is permanently and totally disabled to do all work which he was capable of performing at the time of the accident is entitled to get permanent total disablement pension for his life time. To be so entitled the employee need not have rendered any pensionable service but he must have made atleast one month's contribution to the Pension Fund. {Para 15}

### Are the family members of a member entitled to any benefit on the death of the member?

Benefits to the Family - On the death of the member -

- a. **Widow Pension:**
  - i. If the member dies while in service and has paid at least one month's contribution to the Pension Fund;

## EMPLOYEE'S PROVIDENT FUND COMPANION

- ii. After leaving the service but before attaining the age of 58 years having rendered eligible service to be entitled for receiving pension and till his death he has not claimed reduced pension after the age of 50 years;
- iii. After commencement of pension on superannuation/retirement etc.;
- b. **In addition to the Widow's pension** mentioned at (a), two children of the member will get 25% of the Window pension, each till the child attains the age of 25 years.
- c. **If the wife of the deceased member has predeceased;** the two Orphan children will get 75% of the Window pension, as their parents to not exist {Para 16}

### **What will be the mode of disbursement of pension?**

The disbursement of pension will be arranged with agencies like Post Offices, Nationalized Banks or Treasuries. {Para 33}

### **Is it permissible to exempt any establishment from the operation of the Scheme?**

The Scheme permits the appropriate Government to grant exemption to any establishment from its operation if the employees of the establishment are members of any other pension scheme wherein the pensionary benefits are at par or more favourable than the benefits provided under the Scheme. {Para 39}

## **THE EMPLOYEES' DEPOSIT-LINKED INSURANCE SCHEME, 1976**

### **What is the purpose of the Employees' Deposit-Linked Insurance Scheme, 1976 and to whom is it applicable?**

The purpose of the scheme is to provide life insurance benefits to the employees of the establishments covered by the E. P. F. & M. P. Act, 1952. As such the scheme is applicable to the employees of all factories and other establishments covered by the said Act. {Section 6C & Para 1}

### **Since when the scheme has come into force?**

The scheme has come into force from 1-Aug-1976 {Para 1}

### **What is the contribution payable by the employee and the employer under the scheme?**

Under the scheme the employee is not required to pay any contribution. The employer is, however, required to pay every month contribution at the rate of 0.5 percent of the total wages of the employees covered by the scheme. In addition to the contribution the employer has to pay administrative charges at the rate of 0.1 percent of the total wages of the employees covered by the scheme. {Section 6(C) & Para 7}

### **Has the employer to pay contribution on the entire pay of an employee?**

Where the monthly pay of an employee is more than Rs. 6500.00 the contribution payable in respect of him by the employer (and the Central Government) is limited to the amounts payable on monthly pay of Rs. 6500.00 only. {Para 7}

### **What is the benefit provided under the scheme?**

The benefit provided under the scheme in the nature of life insurance is as follows. On the death of an employee while in service a lumpsum insurance amount is payable to his nominee or family

## EMPLOYEE'S PROVIDENT FUND COMPANION

members. The insurance amount is equal to the average balance in the account of the deceased employee in the Provident Fund during a period of 12 months immediately preceding his death. In case the average balance exceeds Rs. 35000.00 subject to a ceiling of Rs. 60000.00. {Para 22}

### **Can the employer recover the employer's contribution from the wages of the employees?**

The employer is prohibited from recovering the employer's contribution payable by him under the scheme by deducting the same from the wages of employees or in any other manner. {Para 9}

### **What is the manner of claiming the insurance-benefit payable under the scheme?**

The insurance benefit can be claimed by the nominee or the other claimant by making a written application in Form 5(1F) to the Regional Provident Fund Commissioner through the employer under whom the deceased was last employed. {Para 24}

### **Is it permissible to exempt any establishment from the operation of the scheme?**

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, permits the Central Government, subject to specified conditions, to exempt any establishment from the operation of all or any or the provisions of the scheme if the employees of such establishments are, without making any separate contribution or payment of premium, in enjoyment of life insurance benefits which are more favourable than the benefits admissible under the scheme. {Section 17(2A)}

## **7 - 2014 AMENDMENTS IN THE EMPLOYEES' PROVIDENT FUND ACT**

The Ministry of Labour and Employment, Government of India has, with effect from 1 September 2014, brought into force several important amendments to the schemes framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act") i.e. (i) The Employees' Provident Funds Scheme, 1952 ("PF Scheme"); (ii) The Employees' Pension Scheme, 1995 ("Pension Scheme"); and (iii) The Employees' Deposit-linked Insurance Scheme, 1976 ("Insurance Scheme").

### **KEY AMENDMENTS**

#### **PF Scheme**

- The definition of 'excluded employee' has been amended whereby the members drawing wages exceeding Rs 15,000 per month are excluded from the provisions of the PF Scheme. Accordingly, the wage ceiling for an employee to be eligible for the PF Scheme has been increased from Rs 6,500 per month to Rs 15,000 per month.

#### **Pension Scheme**

- New members (joining on or after 1 September 2014) drawing wages exceeding Rs 15,000 per month shall not be eligible to voluntarily contribute to the Pension Scheme.
- The maximum pensionable salary for the purpose of determining the monthly pension has been revised from Rs 6,500 to Rs 15,000 per month.
- The pensionable salary shall be calculated on the average monthly pay for the contribution period of the last 60 months (earlier 12 months) preceding the date of exit from the membership.
- The monthly pension for any existing or future member shall not be less than Rs 1,000 for the financial year 2014-15.

#### **Insurance Scheme**

- The contribution payable under the Insurance Scheme shall now be calculated on a monthly pay of Rs 15,000, instead of Rs 6,500.
- In the event of death of a member (on or after 1 September 2014), the assurance benefits available under the Insurance Scheme has been increased by twenty percent (20%) in addition to the already admissible benefits.

#### **Implications of the Amendments**

The amendments to the three schemes by the Government of India, post the proposal made by the Union Minister of Finance in his Union Budget speech (for the financial year 2014-2015), have enhanced the applicability, scope and benefits provided to employees under the EPF Act.

However, at the same time, it has also increased the liability of the employers who would now be responsible to register additional eligible employees and to contribute on the increased statutory wage ceiling.

## **8 - TRANSFER ACCOUNT OR CLAIM INOPERATIVE EPF MONEY**

### **Making withdrawals of Inoperative Account**

It's in your interest to either withdraw your money in case you are no longer a salaried person or unemployed or get your account transferred to the new employee.

In order to discourage people from leaving inoperative accounts, in which contributions aren't made anymore, Employees Provident Fund Office (EPFO) with effect from 2012 decided to stop paying interest on inoperative accounts that were more than three years old. This means in the example above you will lose out on interest after 31<sup>st</sup> March 2011.

Inoperative accounts will not fetch interest. EPF account earns a tax-free and risk-free rate of interest that is also capable of giving you real returns—inflation-adjusted returns. And the fact that both the employee and the employer contributed to the EPF account, the money compounded over so many years means even a small corpus invested years ago would have become a sizeable amount.

To make withdrawals, fill up the withdrawal form, also called Form 19 which became downloaded at [www.epfindia.org.in](http://www.epfindia.org.in) and submitted with the previous employer.

Even if you don't remember your EPF account number, your ex-employer will be able to help. But what happens in cases wherein the previous employer has shut shop? Or the exit was unceremonious enough that you don't want to interact with the employer again? There is a way out. Fill up Form 19 and get it attested from the branch manager of your bank. Attestation by the branch manager of the bank to which the EPF money goes is acceptable. Since employees are recognized through employers, in the absence of the employer the identity of the claimant needs to be verified.. Once the bank attests the identity, the details such as father's name and date of birth are further verified to authenticate the identity. Submit the form with the regional provident fund manager in which the employer maintains or maintained the account. If the account number is available, then it's easy to identify the regional fund manager. Log on to the EPF website and run an establishment search.

Retirement fund body EPFO has asked its field formations to strictly follow guidelines while settling claims out of inoperative accounts in order to reduce the risk of frauds.

Provident fund accounts, which fail to make contributions for 36 continuous months to the Employees' Provident Fund Organisation (EPFO), are classified as inoperative accounts.

As per the modalities for settlement of claims out of inoperative accounts, attestation of the claim by the employer is needed.

In cases where, the employer is not available to identify the claimant member, the attestation of claim by bank authorities is required along with Know—you—customer (KYC) document for applicants' identification and his/her proof of residence.

The KYC documents for the purpose include PAN card, voter identity card, passport, ration card, ESI identity card, driving licence and any other identity card issued by government including Aadhaar.

The procedure also provides that in cases where the settlement amount is beyond Rs. 50,000, the claims are approved by Assistant Provident Fund Commissioner.

In cases where settlement amount is more than Rs. 25,000 but less than Rs. 50,000, the claims are approved by Account Officer. For the amount less than Rs. 25,000, the claims can be approved by Dealing Assistant.

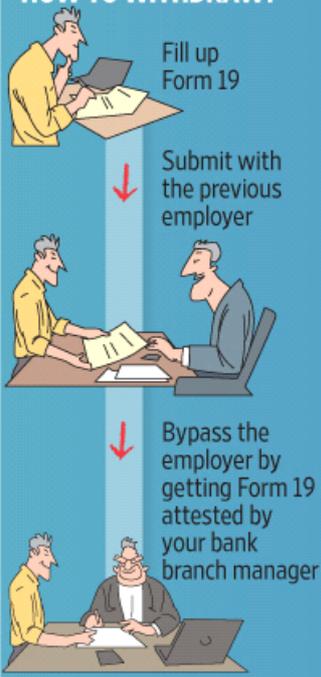
The EPFO had stopped crediting interest in the inoperative account from April 1, 2011. However, these accounts have definite claimants and the account holders can claim for withdrawal or transfer of provident fund.

According to information available, Rs. 26,496.61 crore is lying in the inoperative PF accounts with EPFO as on March 31, 2014.

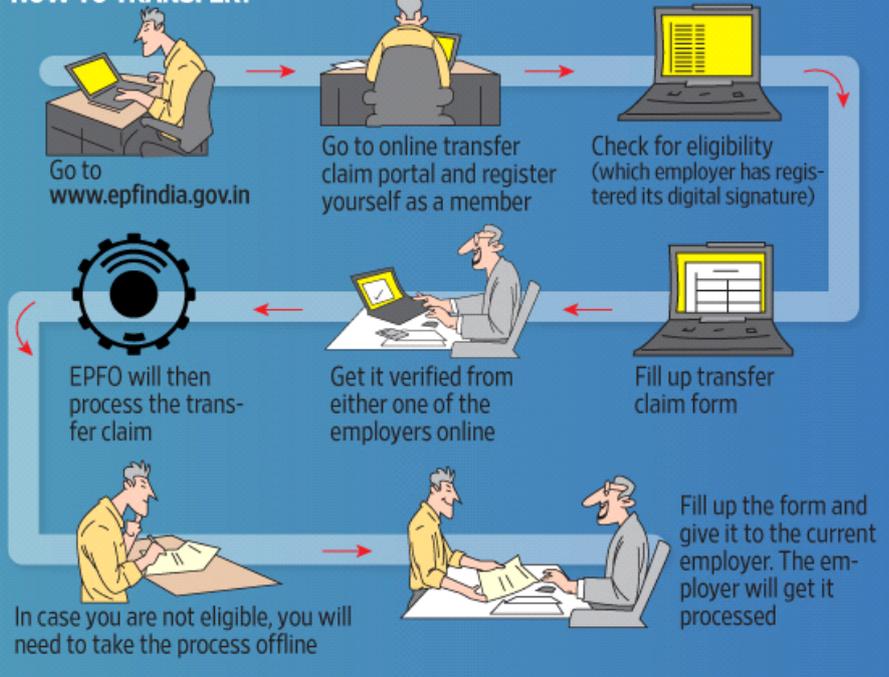
# STEP BY STEP

Here is how you can transfer or withdraw Employees' Provident Fund (EPF) money.

## HOW TO WITHDRAW?



## HOW TO TRANSFER?



Source: Mint research

### Transferring EPF Account

Transfer that money to your current EPF account. That way you can build a decent retirement corpus to address your pension needs. And to make the process of EPF transfer smoother, EPFO launched its online transfer claim portal on 2 October. But in order to use the service at least one of the employers will need to have their digital signatures registered with the EPFO.

The process is then simple, register yourself as a member, fill up the transfer form—Form 13—and submit it for attestation with the employer that has registered its digital signature. After your details are verified by your employer, EPFO will process your transfer.

What online transfer will also bring is timely transfer. You need to remember that you may submit the transfer form with the employer, but your employer may not forward the form to the EPF office, but with the online process EPFO will know the form has been submitted with the employer for attestation.

In case the employers have not registered their digital signatures, you can still transfer the money offline. Fill up the transfer claim form and submit with your current employer. Your employer's regional provident fund office will get in touch with the provident fund office of your previous employer to initiate the transfer.

In case the previous employer has shut shop you needn't worry. "The present employer would have attested your identity so that the transfer can take place", explains Gopal. The days of administrative pangs in touching your EPF money are slowly fading away. EPFO is putting in place both punitive and conducive measures to encourage you to take your account with you when you change jobs. It's in your interest to act now.