

**“BENEFITS OF AMNESTY SCHEME UNDER
PROVIDENT FUND AND ESI ACT ALONG
WITH LATEST AMENDMENT UNDER
PAYMENT OF BONUS ACT”**

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**VENUE : ICAI TOWER, PLOT No.C-40, 'G' BLOCK, BANDRA KURLA COMPLEX, BANDRA
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- Providing Services in this field on retainership basis to more than 350 clients
- Contributed articles on Labour Laws
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- Contributed articles on Labour Laws
- Visiting Faculty at Bharatratna Dr. Ambedkar Institute of Management & Legal Research, Mumbai

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

- ✓ Confederation of Indian Industries (CII) (in this seminar various corporates participate)
- ✓ Institute of Chartered Accountants of India (ICAI) (Western Region)
- ✓ Nasik Branch of WIRC of ICAI;
- ✓ Bhilai Branch of CIRC of ICAI
- ✓ The Institute of Company Secretaries of India.
- ✓ The Bombay Chartered Accountants Society
- ✓ The Chamber of Tax Consultants
- ✓ Bombay Stock Exchange (BSE) Broker's Forum
- ✓ Maharashtra Institute of Labour Studies (MILS)
- ✓ Larsen & Toubro Limited
- ✓ The Tata Power Company Ltd.
- ✓ Hindustan Unilever Field Services Pvt. Ltd
- ✓ Vodafone Essar Limited
- ✓ Bajaj Electricals Ltd
- ✓ Gammon India Ltd.
- ✓ 3i-Infotech Limited
- ✓ Maharashtra State Electricity Distribution Company Ltd
- ✓ Maharashtra State Power Generation Company Ltd
- ✓ Maharashtra State Electricity Transmission Company Ltd
- ✓ Dun & Bradstreet Information Services India Pvt. Ltd
- ✓ ABN AMRO Central Enterprise Services Pvt Ltd
- ✓ Bharatratna Dr. Ambedkar Institute of Management & Legal Research
- ✓ Lodha Group of Companies
- ✓ Ajmera Group of Companies.
- ✓ Kanakia Spaces Pvt Ltd
- ✓ C. V. O. Chartered & Cost Accountants Association
- ✓ Ghatkopar CPE Study Circle of WIRC of ICAI
- ✓ Borivali (Central) CPE Study Circle of WIRC of ICAI (Western Region)
- ✓ J B Nagar C.A. Study Circle, Andheri, & Dahisar CA Study Circle of WIRC of ICAI
- ✓ Pune Camp CPE Study Circle, of WIRC of ICAI
- ✓ Shri Kutchi Advocate's Welfare Association
- ✓ Princeton Academy (in this seminar various corporates participate)
- ✓ Satvam Consulting Pvt. Ltd (in this seminar various corporates participate)
- ✓ Sharp Facility Management Pvt Ltd (in this seminar various corporates participate)
- ✓ IEEMA (Indian Electronics & Electrical Manufactures Association)
- ✓ Bombay Master Printers Associations
- ✓ Raishabh Academy Pvt Ltd
- ✓ Shree Vagad Kala Kendra
- ✓ Kutch Corporate Forum
- ✓ Association of System Integrators & Retailers in Technology (ASIRT)
- ✓ Paper Traders Association
- ✓ Smart Edge, Goa
- ✓ Sampat & Mehta (Chartered Accountants)
- ✓ Computer Media Dealers Association, Fort, Mumbai.

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EMPLOYEES' PROVIDENT FUNDS & MISC. PROVISIONS ACT, 1952 & THE SCHEMES

CHECKLIST

Eligibility

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment.

Applicability

- Every establishment which is factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed.
- Any other establishment employing 20 or more persons which Central Government may, by notification, specify in this behalf.
- Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

Payment of Contribution

- The employer shall pay the contribution payable to the EPF, EDLI and Employees' Pension Fund in respect of the member of the Employees' Pension Fund employed by him directly by or through a contractor.
- It shall be the responsibility of the principal employer to pay the contributions payable to the EPF, EDLI and Employees' Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

Benefits

Employees covered enjoy a benefit of Social Security in the form of an unattachable and unwithdrawable (except in severely restricted circumstances like buying house, marriage/education, etc.) financial nest egg to which employees and employers contribute equally throughout the covered persons' employment.

This sum is payable normally on retirement or death. Other Benefits include Employees' Pension Scheme and Employees' Deposit Linked Insurance Scheme.

Rates of Contribution

SCHEME	EMPLOYEE'S	EMPLOYER'S	CENTRAL GOVT'S
Provident Fund Scheme	12%	Amount > 8.33% (in case where contribution is 12% of 10%) 10% (in case of certain Establishments as per details given earlier)	NIL
Insurance Scheme	NIL	0.5%	NIL
Pension Scheme	NIL	8.33% (Diverted out of Provident Fund)	0.65%

Clarification about Contribution

After revision in wage ceiling from Rs.6500 to **Rs.15000** w.e.f. 1.9.2014 per month, the government will continue to contribute **1.16%** upto the actual wage of maximum Rs.15000 per month towards Employees' Pension Scheme. The employer's share in the Pension Scheme will be Rs.1250 w.e.f. 1.9.2014.

Under Employees' Deposit-Linked Insurance Scheme the contribution @ **0.50%** is required to be paid upto a maximum limit of Rs.15000.

Notes:

The above clarification is given by taking wages upto a maximum of Rs.15000 towards wage (basic+DA).

Damages

- Less than 2 months@ 5% per annum
- Two months and above but less than four months@10% per annum
- Four months and above but less than six months@ 15% per annum
- Six months and above@ 25% per annum

Penal Provision

Liable to be arrested without warrants being a cognizable offence.

Defaults by employer in paying contributions or inspection/administrative charges attract imprisonment upto 3 years and fines upto Rs.10, 000 (S.14).

For any retrospective application, all dues have to be paid by employer with damages upto 100% of arrears.



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EMPLOYEES' PROVIDENT FUND ORGANISATION **DECLARED AMNESTY SCHEME**

VALID FROM: 1ST JANUARY, 2017 TO 30TH JUNE 2017

LAUNCH OF EMPLOYEES' ENROLMENT CAMPAIGN- 2017

Employees Provident Fund Organization (EPFO) has launched **EMPLOYEES' ENROLMET CAMPAIGN- 2017** from the **1st Day of January, 2017 till the 30th Day of June, 2017** to provide opportunity to all the employers covered or uncovered under EPF & MP Act, 1952 to voluntarily come forward and declare the details of all such olive employees, who were required or entitled to become member of EPF on or after the **1st day of April, 2009, but before the 1st day of January, 2017** and who could not be enrolled as member for any reasons. This campaign is currently available for Indian Nationals only. This benefit is not available to the employers of the establishments against whom, Inquiries u/s 7A of the Act or paragraph 26B of the Act is going on.

The employer has to voluntarily make the declaration between **1st Day of January, 2017 till the 30th Day of June, 2017** in the prescribed "**Declaration form for Employees' Enrolment Campaign, 2017**" available on website **www.epfindia.com** for which the following incentives will be provided to him:

- a) The employee's share of contribution, if declared by the employer as not deducted, shall stand waived.
- b) The damages to be paid by the employer in respect of the employees for whom declaration has been made under this campaign shall be at the rate of Rs. 1 (Rs. One) Per Annum, however only simple interest @ 12% per annum has to be paid.
- c) No Administrative charges for EPF Scheme 1952 and EDLI Scheme, 1976 shall be collected from the employer in respect of the contribution made under the declaration.
- d) The declaration made during the campaign shall be treated as bonafide, unless proved otherwise and no inspection for verification will be contemplated.

Further, once declaration is made the employer has to remit the dues within 15 days from the date of declaration, falling which the declaration made under this campaign will be deemed to have not been made. After the completion of the process the employee will be getting all eligible benefits based on the contributions.

TENTATIVE BENEFIT COMPARISAN CHART

Year	Dues (Both employee and employer share)	In the existing system				In the Enrolment campaign				
		Interest (7Q)	Damages (14B)	Admin (Charges 1.1%)	Total	Dues only employees share (If not deducted employer share)	Interest (7Q)	Damages (14B)	Admin Charges	Total
2009	100	96	100	1.1	297.10	50	48	*	0	98
2010	100	84	100	1.1	285.10	50	42	*	0	92
2011	100	72	100	1.1	273.10	50	36	*	0	86
2012	100	60	100	1.1	261.10	50	30	*	0	80
2013	100	48	100	1.1	249.10	50	24	*	0	74
2014	100	36	75	1.1	212.10	50	18	*	0	68
2015	100	24	50	0.85	174.85	50	12	*	0	62
2016	100	12	25	0.85	137.85	50	6	*	0	56

***Damages is levied as one rupee per annum**

Declaration Form for Employees' Enrolment Campaign, 2017

Return about the employees who were required or entitled to become members of the Fund for the period beginning the 1st day of April 2009 and ending the 31st day of December, 2016 but were not enrolled as members for any reason.

Name & Address of Factory/ Establishment _____

Code no of Factory/ Establishment

Sr.no.	Account No.	UAN	Name of the Employee	Father's Name (Or Husband's name in case of married women)	Date of Birth	Sex	Date of Eligibility for membership under EPF Scheme, 1952	Remarks (Previous Account no & particulars of previous service, if any)
1	2	3	4	5	6	7	8	9

I hereby declare that the above mentioned employees are alive on the date of making this declaration and they were required and entitled to become members of the fund from the dates indicated against their names but could not be enrolled as members. I further declare that Form- 11 from each of the above mentioned employees has been obtained duly signed or with thumb impression by the employee.

I hereby undertake that if the employee's contribution for any month has been deducted from the wages of any of the above mentioned employees, the same shall also be deposited by me along with interest thereon in accordance with the provisions of Employees' Enrolment Campaign, 2017.

I also undertake to remit the contributions. Interest and damages payable in respect of the above mentioned employees in accordance with the Employees' Enrolment Campaign, 2017.

Signature of the Employer or other Authorised

Official of the Factory/Establishment

Dated.....2017

Courtesy: EPFO

EMPLOYEES' STATE INSURANCE ACT, 1948 & the SCHEME

CHECK LIST

Applicability of the Act & scheme

Is extended in area-wise to factories using power and employing 10 or more persons and to non-power using manufacturing units and establishments employing 10 or more person upto Rs.21,000/- per month w.e.f. 1-1-2017. It has also been extended upon shops, hotels, restaurants, roads motor transport undertakings, equipment maintenance staff in the hospitals.

Coverage Of employees

Drawing wages (w.e.f. 1-1-2017)
Upto Rs.21000/-
per month
Engaged either directly
or thru' contractor
contractor

Rate of Contribution of the wages

Employers' **4.75%**
Employees' **1.75%**

THE ESI SCHEME TODAY

As on 31-3-2014

State / Union Territories Covered	31
No. of implemented Centres	815
No. of Employers covered	6,69,880
No. of Insured Persons/family units	1.95 Cr
No. of Beneficiaries	7.58 Cr
No. of ESI Hospitals	151

Manner and Time Limit For making Payment of contribution

The total amount of contribution (employee's share and employer's share) is to be deposited with the authorized bank through a challan in the prescribed form on or before 21st of month following the calendar month in which the wages fall due.

Benefits

To the employees under the Act
Medical, sickness, extended sickness for certain diseases, enhanced sickness, dependents maternity, besides funeral expenses, rehabilitation allowance, medical benefit to insured person and his or her spouse, medical bonus & Physical Aids.

WAGES FOR ESI CONTRIBUTIONS

Registers / files to be maintained by the employers.

To be deemed as wages

- Basic pay
- Dearness allowance
- House rent allowance
- City compensatory allowance
- Overtime wages (but not to be taken into account for determining the coverage of an employee)
- Payment for day of rest
- Production incentive
- Bonus other than statutory bonus
- Night shift allowance
- Heat, Gas & Dust allowance
- Payment for unsubstituted holidays
- Meal/food allowance
- Suspension allowance
- Lay off compensation
- Children education allowance (not being reimbursement for actual tuition fee)

NOT to be deemed as wages

- Contribution paid by the employer to any pension/provident fund or under ESI Act.
- Sum paid to defray special expenses entailed by the nature of employment – Daily allowance paid for the period spent on tour.
- Gratuity payable on discharge.
- Pay in lieu of notice of retrenchment compensation
- Benefits paid under the ESI Scheme.
- Encashment of leave
- Payment of Inam which does not form part of the terms of employment.
- Washing allowance for livery
- Conveyance (Amount towards reimbursement for duty related journey)

Contribution period

1st April to 30th September.

1st October to 31st March

Contribution period

If the person joined insurance employment for the first time, say on 5th January, his first contribution period will be from 5th January to 31st March and his corresponding first benefit will be from 5th October to 31st December.

Penalties

Different punishments have been prescribed for different types of offences in terms of Section 85:

- (i) (Six months imprisonment and fine Rs.5000),
- (ii) (One year imprisonment and fine), and 85A: (five years imprisonment and not less to 2 years) & 85C (2) of the ESI Act, which are self explanatory. Besides these provisions, action also can be taken under section 406 of the IPC in cases where an employer deducts contributions from the wages of his employees but does not pay the same to the corporation which amounts to criminal breach of trust.



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Latest Update on ESI

ESI Amnesty Scheme : SPREE Launched from 20th December 2016 to 30th June 2017.

Scheme to Promote Registration of Employers / Employees (SPREE)

The Employees State Insurance Corporation in its 170th meeting held on 03.12.2016, has approved a Scheme to promote registration of Establishment / Factories and employees coverable under the ESI Act. 1948.

The ESI Scheme is one of the premier Schemes launched in the independent India, with an objective to provide Social Security to the workforce in the country, which has now become part of life for millions. Employees State Insurance Corporation has been striving hard to evolve itself to serve India's workforce with utmost efficiency, keeping pace with time and technology, relentlessly trying to narrow down the digital divide and bringing in health reform initiatives under 2nd Generation Reforms, titled as "ESIC 2.0".

The employers are required to register the Factory / Establishment under the ESI Act within 15 days (Regulation 10-b) after the Act becomes applicable to the unit and also required to register their employees immediately. The principal employer shall pay the employees' and employer's contribution (Section 40). Damages are recoverable for non-payment of any dues in time (Regulation 31C). Provisions for punishment for failure to pay contribution are defined under Section 85(a) to (g) of the Act. Section 85 B provides power to recover damages as an arrear of land revenue.

A onetime drive, is intended to extend the social security benefits to all-eligible under the Act, who have till now been kept out of the ESI coverage, and is open for the period w.e.f. 20th Dec. 2016 to 30th June 2017.

The silent feature of the Scheme is as under:

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

All the employer / employees are encouraged to use this opportunity & ensure that all the units / employees coverable under the ESI Act. are registered availing the one time benefits of the Scheme.

It is advisable that eligible employers should take the advantage of this **amnesty scheme**.

PAYMENT OF BONUS ACT, 1965 & THE RULES

CHECKLIST

Applicability of Act

Every factory where in **10** or more persons are employed with the aid of power or
An establishment in which **20** or more persons are employed without the aid of power on any day during an accounting year. **Sec.1**

Establishment

Establishment includes Departments, undertakings and branches, etc.

Computation of available surplus

- Income taxes and direct taxes as payable.
- Depreciation as per section 32 of Income Tax Act.
- Development rebate, investment or development allowance. **Sec.5**

Components of Bonus

Salary or wages includes **dearness allowance** but no other allowances e.g. over-time, house rent, incentive or commission. **Sec.2 (21)**

Separate establishment

If profit and loss accounts are prepared and maintained in respect of any such department or undertaking or branch, then such department or undertaking or branch is treated as a separate establishment. **Sec.3**

Disqualification & Deduction of Bonus

On dismissal of an employee for

- Fraud; or
- riotous or violent behavior while on the premises of the establishment;
- or**
- theft, misappropriation or sabotage of any property of the establishment
- or**
- Misconduct of causing financial loss to the Employer to the extent that bonus can be deducted for that year.

Secs. 9 & 18.

Computation of gross profit

For banking company, as per First Schedule.

Others, as per Second Schedule

Sec.4

Eligibility of Bonus

An employee will be entitled only when he has worked for **30** working days in that year. **Sec. 8**

Payment of Minimum Bonus

8.33% of the salary or Rs.100 (on completion of 5 years after 1st Accounting year even if there is no profit) **Sec.10**

Eligible Employees

Employees drawing wages upto Rs.21,000 per month or less.
For calculation purposes Minimum Rs.7,000 PM or Minimum Wages Rate as per scheduled employment whichever is higher will be taken. (w.e.f 1/4/2014 by Gazette Notification Dated : 1/1/2016) **Sec.12**

Time Limit for Payment of Bonus

Within 8 months from the close of accounting year. **Sec. 19**

Set-off and Set-on

As per Schedule IV. **Sec. 15**

Submission of Return

In Form D to the inspector within 30 days of the expiry of time limit under Sec.19 **Rule5**

Maintenance of Registers and Records etc.

- A register showing the computation of the **allocable surplus** referred to in clause (4) of section 2, in form A.
- A register showing the **set-on and set-off** of the allocable surplus, under section 15, in form B
- A register showing the details of **the amount of bonus due** to each of the employees, the deductions under section 17 and 18 and the amount actually disbursed, in form C.

Sec.26, Rule 4

Act not applicable to certain employees of LIC, General Insurance, DockYards, Red Cross, Universities & Educational Institutions, Chambers of Commerce, Social Welfare Institutions, Building Contractors, etc. etc. **Sec.32.**

PENALTY

For contravention of any provision of the Act or the Rule

Upto 6 months or with fine upto Rs.1000. **Sec.28**