

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

## CHECKLIST

### Eligibility

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

### Payment of Contribution

- The employer shall pay the contribution payable to the EPF, DLI 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, DLI and Employees' Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

### Clarification about Contribution

After revision in wage ceiling from Rs.5000 to **Rs.6500** w.e.f. 1.6.2001 per month, the government will continue to contribute **1.16%** upto the actual wage of maximum Rs.6500 per month towards Employees' Pension Scheme. The employer's share in the Pension Scheme will be Rs.541 w.e.f. 1.6.2001. Under Employees' Deposit-Linked Insurance Scheme the contribution @ **0.50%** is required to be paid upto a maximum limit of Rs.6500.

The employer also will pay administrative charges @ **0.01%** on maximum limit of Rs.6500 whereas an exempted establishment will pay inspection charges @ **0.005%** on the total wages paid.

#### Notes:

The above clarification is given by taking wages upto a maximum of Rs.6500 towards wage (basic+DA).

Since an excluded employee i.e. drawing wages more than Rs.6500 can also become member of the Fund and the Schemes on joint request and if, for instance, such an employee is getting Rs.10,000 per month, his share towards provident fund contribution will be Rs.1200 e.g. 12% and employer's share towards provident fund contribution will be Rs.659 and Rs.541 towards Employees' Pension Fund.

### Applicability

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

### Benefits

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

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

## Rates of Contribution

SCHEME	EMPLOYEE'S	EMPLOYER'S	CENTRAL GOVT'S
Provident Fund Scheme	12%	Amount > 8.33% (in case where contribution is 12% of 10%) 10% (in case of certain Establishments as per details given earlier)	<b>NIL</b>
Insurance Scheme	<b>NIL</b>	0.5	<b>NIL</b>
Pension Scheme	<b>NIL</b>	8.33% (Diverted out of Provident Fund)	1.16%

### Damages

- Less than 2 months .....@ 17% per annum
- Two months and above but less than upto four months .....@22% per annum
- Four months and above but less than upto six months .....@ 27% per annum
- Six months and above

### Penal Provision

Liable to be arrested without warrant being a cognisable 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.

# 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

### Establishment

Establishment includes Departments, undertakings and branches, etc.

### Computation of available surplus

Income tax 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 behaviour 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 1<sup>st</sup> Accounting year even if there is no profit)  
**Sec.10**

### Eligible Employees

Employees drawing wages upto Rs.3500 per month or less.  
**For calculation purposes Rs.2500 per month maximum will be taken even if an employee is drawing upto Rs.3500 per month.**  
**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**

Note: The proposal to enhance the existing ceiling of Rs.3500 is under active consideration by the Govt.

### 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, Dock Yards, 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**

# PAYMENT OF GRATUITY ACT, 1972 & THE RULES

## CHECKLIST

### Sec. 1

#### **Applicability**

Every factory, mine, oil field, plantation, port, railways, company, shop, establishment or educational institutions employing 10 or more employees

### Sec. 2(s)

#### **Wages for Calculation**

@ 15 days' wages for every completed year as if the month comprises of 26 days at the last drawn wages.

### Sec. 2(e)

#### **Employee**

All employees irrespective of status or salary

Entitlement  
On completion of five years' service except in case of death or disablement

#### **Qualifying period**

On rendering of 5 years' service, either termination, resignation or retirement.

### Sec. 1

#### **Calculation Piece-rated employee**

@ 15 days wages for every completed year on an average of 3 months' wages

#### **Calculation Seasonal employee**

@ 7 days' wages for every completed year of service.

### Rule 4

#### **Display of Notice**

On conspicuous place at the main entrance in English language or the language understood by majority of employees of the factory, etc.

### Sec. 4(3)

#### **Maximum Ceiling**

**Rs.3,50,000**

### Rule 2

#### **Mode of payment**

Cash or, if so desired, by Bank Draft or Cheque

### Sec.6 Rule 6

#### **Nomination**

To be obtained by employer after expiry of one year's service, in Form 'F'

### Rule 9

#### **Penalties**

- Imprisonment for 6 months or fine upto Rs.10,000 for avoiding to make payment by making false statement or representation.
- Imprisonment not less than 3 months and upto one year with fine on default in complying with the provisions of Act or Rules.

### Sec.8 Rule 8

#### **Recovery of Gratuity**

To apply within 30 days in Form I when not paid within 30 days

### Sec. 4(6)

#### **Forfeiture of Gratuity**

- On termination of an employee for moral turpitude or riotous or disorderly behaviour.
- Wholly or partially for wilfully causing loss, destruction of property etc.

### Sec. 13

#### **Protection of Gratuity**

Can't be attached in execution of any decree