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In this edition

- Text of labour and employment track finalised in G20 labour and employment ministers' meeting
- Employment-linked incentives announced in the union budget 2024
- Tabling of the bill on reservation for local candidates by the Karnataka government
- Extension of working hours in the IT sector being deliberated by the Karnataka Government
- SOPs for authorised officers being issued for audit of exempted establishments under the EPF Act
- SOPs for authorised officers being issued for freezing/defreezing of accounts
- Amendments under Tamil Nadu Shops and Establishment Act, 2018 and corresponding rules
- Inclusion of insurance-related details of establishments in Maharashtra
- Haryana mandates labour welfare fund contributions to be made monthly on an online portal





Regulatory updates

Text of labour and employment track finalised in G20 labour and employment ministers' meeting

The G20 Labour and Employment Ministers' ('LEMM') meeting in Fortaleza, Brazil, approved the Labour and Employment Ministerial declaration.¹ The final text was approved after the two-day LEMM on 25–26 July under Brazil's presidency. The Minister of State for Labour and Employment, Shobha Karandlaje, led the Indian delegation.

The text finalised in the LEMM meeting emphasizes creating formal jobs and promoting decent work as the most effective social tools for achieving a fairer and more equitable income. The LEMM also discussed the idea of just transition; the creation of quality jobs to ensure social inclusion and elimination of poverty and hunger gender equality and the promotion of diversity in the world of work; and the use of technologies as a means of improving everyone's quality of life.

Smt. Karandlaje stressed the need for skilling and reskilling to ensure a fair transition to greener alternatives. She talked about the Ayushman Bharat Scheme, the world's largest government-funded healthcare programme, which covers over 550 million citizens, demonstrating India's dedication to health security.

She also met the Japanese State Minister for Health, Labour and Welfare Mr. Miyazaki Masahisa. She discussed areas of mutual interest, including the need to further enhance the mobility of semi-skilled and skilled workers from India to Japan.

Impact

The LEMM indicates the readiness of governments globally to take steps to increase employment, improve working conditions and the quality of jobs and promote diversity, equity and inclusive practices in workplaces. This step seeks to eradicate poverty and ensure a more fair and equitable society. The emphasis on technology is important, considering the developments in AI and other advanced technological processes worldwide. Furthermore, considering global climate concerns, the importance of green alternatives is also significant.

¹ July 26, 2024



Employment-linked incentives announced in the union budget 2024

While presenting the union budget 2024,² the finance minister announced incentive schemes and proposals as part of the government's focus on employment generation and inclusive employment. The key highlights of the proposal are as follows:

The government announced three employment-linked incentive schemes – Scheme A, B and C.

- **Scheme A:** This is a subsidy to incentivise first-time employees, acknowledging that they have a learning curve before becoming fully productive. It applies to all sectors where the central government will provide a subsidy of one month's wage up to INR15,000 to the employees. Eligible employees would be new EPFO members with a monthly wage/salary of less than INR1,00,000.
- The subsidy would be paid in three instalments. Before claiming the second instalment, an employee must undergo a compulsory online financial literacy course. Further, the employer would have to pay back the subsidy if the first-timer's employment ends within 12 months of recruitment.
- **Scheme B:** This subsidy, specific to the manufacturing sector, assists employees and employers hiring first-timers.
- Corporate and non-corporate entities with a three-year track record of EPFO contribution will be eligible under the scheme. Additionally, an employer must hire at least 50 or 25 percent of the baseline (the previous year's number of EPFO employees), whichever is lower.
- Eligible employees would be those with a wage/salary of up to INR1,00,000 per month, subject to EPFO contributions. For those with wages/salaries of more than INR 25,000/month, the incentive will be calculated at INR 25,000/month.
- The incentive will be paid for four years at 24 percent for the first two years, 16 percent for the third year, and 8 percent for the fourth year. It would be equally divided between the employee and the employer.
- An employer would be required to maintain the threshold level of enhanced employment throughout, failing which the subsidy will stop. Furthermore, the employee must be directly working in the entity paying salary/wage (i.e., in-sourced employee).
- The employer would need to refund the total subsidy if the first-timer's employment ends within 12 months of recruitment.

Schemes A and B would be in effect for two years, with the subsidy under Scheme B being provided in addition to the benefit under Scheme A.

² 23 July 2024



- **Scheme C:** This would apply to an employer if there is an increase in employment above the baseline (previous year's number of EPFO employees) by at least five employees (two in specific instances), and it sustains this higher level. Accordingly, employers will be reimbursed up to INR3,000 per month for two years towards their share of the provident fund contribution for each additional employee. This would apply to employees whose salary does not exceed INR1,00,000/month. Additional employees would not need to be new entrants to EPFO. Furthermore, if the employer creates more than 1,000 jobs, reimbursement would be done quarterly for the previous quarter, and the subsidy would continue for the third and fourth years.

The scheme is applicable to all sectors except those covered under Scheme B.

- **Internship:** A comprehensive scheme will also be launched for providing internship opportunities in top 500 companies to 1 crore youth in five years. This is expected to help them gain exposure for 12 months to real-life business environments, varied professions and employment opportunities. An internship allowance of INR5,000 per month and one-time assistance of INR6,000 will also be provided. Companies will be expected to bear the training cost, reasonable admin expenses and a portion of the monthly allowance from their CSR funds, with the central government funding the remaining 90 percent of the internship allowance and the one-time assistance.
- **Women in Workforce:** To increase women's participation in the workforce, the government will establish working women's hostels in collaboration with the industry and creches. In addition, the partnership will seek to organise women-specific skilling programmes and promote market access for women's self-help groups.
- **Integration of portals:** The finance minister also announced the comprehensive integration of e-shram portal with other portals to facilitate a one-stop solution. This would involve open architecture databases for the rapidly changing labour landscape.

Impact of the proposals

The finance minister recently confirmed that the schemes are not mandatory but are nudges only to the private sector. While this may be the case, employers may consider availing benefits under the schemes by hiring fresh employees and creating a narrative promoting skilling, training and employment in India.

The introduction of an internship programme would help train and skill students for industry-related work while facilitating the recruitment of talent for Indian companies.

The measures taken to enhance women's participation in the workforce are significant strides towards promoting gender equality and increasing diversity in workplaces, instilling hope for a more inclusive future.

Furthermore, integrating the e-shram portal with other portals is another step towards ease of doing business and digitisation.



Karnataka considering extending working hours in the IT sector

The Karnataka assembly, during the monsoon session, tabled an amendment³ to the shops and establishment legislation of Karnataka by which the working hours for IT/ITes are to be increased to 14 hours from the present limit of 10 hours per day (including overtime).

However, per media reports, the bill has been put on hold due to opposition from the Karnataka State IT/ITes Employees Union (KITU) and other labour unions in the state.

Impact

If the Karnataka Legislative Assembly passes this bill, the working hours for IT/ITes employees would be extended to 14 hours per day. Consequently, companies would need to update their HR manuals and policies regarding overtime. Additionally, this change would lead to increased costs for employers if employees are required to work an extra two hours.

Karnataka tables bill on reservation for local candidates

The Karnataka government tabled⁴ “The Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024” (bill).

According to news reports, industries, factories and other establishments must reserve 50 percent of managerial-level jobs and 75 percent of non-managerial level jobs for local candidates.

To meet the objective, the bill states that candidates who do not possess a secondary school certificate with Kannada as a language must pass a Kannada proficiency test as specified by a designated “nodal agency.” Furthermore, if qualified local candidates are not available, establishments must take steps to train local talent within three years in active collaboration with the government or its agencies.

However, if enough local candidates are unavailable, an establishment may apply to the government for relaxation. After a thorough investigation, the government may issue appropriate orders accordingly. However, any relaxation granted would not be less than 25 percent for management positions and 50 percent for non-management roles.

The penalties for contravention of the provisions would be between INR10,000 and INR25,000, against any employer or occupier or manager of an establishment. Furthermore, repeated violations could lead to additional penalties of INR100 per day until compliance is achieved.

Per recent media reports, the bill has been put on hold.

³July 20, 2024

⁴July 16, 2024



Impact of the circular

While the bill has been put on hold, if later passed, it would require employers in Karnataka to reserve posts for local candidates per the prescribed limits, both in managerial and non-managerial roles. This would require re-assessment of which roles are to be selected for compliance with reservation requirements.

In case of a need for more candidates, establishments would be required to take steps to train local talent within three years in active collaboration with the government or its agencies. More clarity is required on how this would take effect practically as also on the application process for relaxation from meeting reservation obligations by an establishment.



SOPs for authorised officers being issued for audit of exempted establishments under the EPF Act

The Employees Provident Fund Organisation (EPFO), under the Ministry of Labour and Employment, Government of India, issued an SOP⁵ for the management and regulation of EPF-exempted establishments.

This notification, addressed to all zonal and regional offices, highlights the finalised format of Form RM-6, which is essential for third-party audits.

Impact of the notification

The EPFO's issuance of the SOP for the management and regulation of EPF-exempted establishments, including the finalised Form RM-6, would enhance the transparency and accountability of exempted entities. The new audit format and strict compliance would help effectively manage provident fund contributions and safeguard the interests of employees across India.

SOPs for authorised officers being issued for freezing/defreezing of accounts

The EPFO has released an SOP⁶ for freezing and de-freezing accounts to protect members from fraud. The EPFO has set a 30-day time limit for freezing each individual or establishment's account for verification, with up to a 14-day extension if necessary.

If the EPFO notices that certain accounts show potential fake transactions or fraud, they will have to undergo several verification steps for the Member ID, UAN and associated institutions. This process safeguards the money in these accounts in the retirement fund body. This measure taken by the EPFO is in line with safeguarding members' accounts.

Impact of the notification

These follow-up SOPs align with the protection of EPF members' funds and the prevention of fraudulent activities.

⁵11 July 2024

⁶4 July 2024



Amendments under Tamil Nadu Shops and Establishment Act, 2018 (TNSEA)

The TNSEA has been amended⁷ to include provisions such as drinking water and a sufficient number of latrines and urinals accessible during working hours. Additionally, employers must provide adequate and suitable rest rooms and lunchrooms with provisions for drinking water. Additionally, the provision of first-aid facilities has also been mandated. The TNSEA requires the rest and lunchroom to be sufficiently ventilated, lighted and maintained clean and tidy. Besides, these rooms must be adequately furnished with chairs or benches with backrests. The rules under the TNSEA have also been amended to reflect the requirements of first-aid facilities.

The amendments under the TNSEA have changed the registration of establishments. For instance, the registration forms (Form Y) have been changed.

This is to be done online along with a fee of INR100 through the designated web portal of the Labour Department. The application for changes to the registration details is also to be done online. Moreover, while registration is to be obtained within six months of the TNSEA being applicable to the establishment, changes in registration details or closure needs to be notified to the Inspector within 30 days of such event taking place.

The rules have also increased the penalty from INR 50 to INR 2,000 for contravention of the provisions of these rules.

Impact of the notification

The amendments aim to ensure that employers in Tamil Nadu provide basic amenities and facilities to facilitate the smooth working of employees in offices/establishments. Facilities such as latrines/urinals, restrooms, lunchrooms and first-aid facilities are also in line with promoting welfare and well-being of employees.

⁷July 2,2024



Inclusion of insurance-related details of establishments in Maharashtra

Through a notification⁸ published in the official gazette, the Government of Maharashtra introduced the Maharashtra Shops and Establishments Rules (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2024 (Amendment Rules 2024) to amend the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Rules, 2018 (Maharashtra S&E Rules).

Through these amendment rules 2024, the government has introduced the inclusion of insurance-related details of establishments in specific forms (such as Form A- application for registration of establishment, Form D (application for renewal of registration)etc.) appended to the Maharashtra S&E Rules.

Impact of the notification

While the amendment rules have been notified, clarity is awaited regarding the specific type of insurance the establishments must obtain.

Haryana mandates labour welfare fund contributions to be made monthly on the online portal

According to a circular dated 9 July 2024, the Haryana Labour Welfare Board has notified that employers are required to make labour welfare fund contributions every month on the online portal.

Impact of the notification

Employers based in Haryana must ensure that they comply with the requirement of making labour welfare fund contributions online on a monthly basis.

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