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In This Issue

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An Overview of The Haryana State Employment of Local Candidate Act, 2020

The Haryana government implemented The Haryana State Employment of Local Candidate Act, 2020 with effect from January 15, 2022. The Act aims to provide 75% of employment to domiciled candidates in all companies, societies, trusts, limited liability partnership firms, partnership firms, and any person employing ten or more persons, and an entity as may be notified by the government. The prescribed wage threshold for employment eligibility is for new hires whose gross monthly wages will be up to Rs.30,000. The Act defines a "**domiciled person**" as "*a bonafide resident of Haryana satisfying the conditions as may be issued by the Government from time to time and having Parivar Pehchan Patra (PPP) issued under the Haryana Parivar Pehchan Act, 2021*".

In light of the Act, some major Compliance requirements for employers are listed below:

- Establishments must be registered on the new Haryana Udhyam Memorandum (HUM) portal https://local.hrylabour.gov.in w.e.f. 15.01.2022.
- Under Section 3 of the Act, employers with the HUM number must register all its employees who receive the gross monthly wages up to Rs.30000 per month providing the required details of each such employee, in the form as specified on the designated portal.
- Employers must file their quarterly returns in the prescribed formats (Form III) within 20 days from the end of every quarter.
- Employers need to maintain records in digital formats and make them available for inspection and verification by the Designated Officers/Authorized Officers.
- An employer may apply for an exemption on the said provision of the Act, in case the adequate number of local candidates with desired skill, qualification, or proficiency is not available. Such application is to be filed with the concerned authority. The concerned authority shall then conduct an inquiry and evaluate the application made by the employer. Further, the appropriate authority may decide whether to grant such exemption or reject the application with the reason for rejection.

To ensure smooth implementation of the Act, at the first instance some categories of employers are granted the below-deemed exemptions as per order dated 17.01.2022.

- For vacancies in new start-ups and new IT/ITeS, a two-year period exemption is given for those employers who commenced operations after the commencement of the Act.
- For short-term employment, if the duration is less than 45 days.
- For vacancies under employers who engage in agricultural activities.
- For vacancies under employers for domestic work or services in residential homes.
- For vacancies that are being filled through promotion or transfer or absorption of surplus staff of any unit of the same employer in the state.
- For any class, job, skill, or category of employment that the government may announce if local candidates with the appropriate skill, qualification, or proficiency are not available.

It is also to be noted that The Gurgaon Industries Association and Faridabad Employer Association filed a writ petition with the Hon. Punjab High Court during December 2021 for a stay on the said notification. Further to that, the state government has also filed a response on the basis of the court's direction. The next hearing in this matter shall be due in February 2022.

From a compliance point of view, the new Act mandates all employers to mandatorily register on the HUM portal. In addition, all establishments' talent acquisition teams must bear in mind the above requirements while hiring from January 2022 onward.

EPFO ONBOARDS AIR INDIA FOR SOCIAL SECURITY COVERAGE

EPFO onboards Air India for social security coverage to service the Social Security needs of their employees. Air India Ltd. applied for voluntarily covered u/s 1(4) of the EPF & MP Act 1952 which has been allowed vide gazette notification dated 13.01.2022 w.e.f. 01-12-2021. The social security benefits will be provided to around 7,453 employees for whom contributions have been filed by Air India with EPFO for December 2021.

These Employees of AIR INDIA now will be entitled to the following benefits:

1. The employees will receive an extra 2% of the employer's contributions in their Provident Fund Accounts at 12% of their wages. Earlier they were covered under the PF Act of 1925, where the contributions to the Provident Fund was at 10% by the employer and 10% by the employee.
2. EPF Scheme 1952, EPS 1995 and EDLI 1976 will now apply to the employees.
3. A guaranteed minimum pension of Rs 1,000 will be available to employees and pensions to family and dependents in case of the death of an employee.
4. An assured insurance benefit in case of death of a member will be available in the range of minimum Rs.2.50 Lakh and a maximum of Rs.7 Lakhs. No premium is charged to the EPFO covered employees for this benefit.

Since 1952-53, Air India and Indian Airlines were the two separate companies that were covered under PF Act 1925. In 2007, both the companies merged into one company Air India Ltd. Under the PF Act 1925, the benefit of Provident Fund was available but there was no statutory pension scheme or insurance Scheme.

The employees used to participate in the self-contributory annuity-based pension scheme. Based on the scheme parameters, the accumulations used to be paid to the employees. There was no minimum pension guarantee and no extra benefit in case of the death of a member.

Source: Press Information Bureau

MAJOR INITIATIVES TAKEN BY MINISTRY OF LABOUR AND EMPLOYMENT IN 2021

Several major initiatives were undertaken by the Ministry of Labour and Employment during the year 2021. These include the inauguration of the E-Shram portal, EPFO-linked Atma Nirbhar Bharat Yojna and the setting up of new/expansions of ESIC hospitals in Gurugram (Manesar), Shahjahanpur, Haridwar, Vishakhapatnam, Meerut and Tinsukia, Assam.

- ***E-Shram Portal:*** The e-Shram portal was inaugurated on 26th August 2021 by Shri Bhupender Yadav, Hon'ble Minister (L&E) in presence of Shri Rameswar Teli, Hon'ble Minister of States (L&E). E-SHRAM portal has been developed for creating a National Database of Unorganized Workers, which is seeded with Aadhaar. It will have details of name, occupation, address, educational qualification, skill types family details etc. for the optimum realization of their employability and extend the benefits of the social security schemes to them. Any worker who is working in an unorganized sector and aged between 16-59, is eligible to register on the e-SHRAM portal

- ***Atma Nirbhar Bharat Rozgar Yojana (ABRY):*** To boost employment generation and to minimize the socio-economic impact of the COVID-19 pandemic, the Ministry of Labour& Employment on 30.12.2020 notified EPFO-linked Atmanirbhar Bharat Rozgar Yojana (ABRY). ABRY will help in the formalization of informal employment and create new employment opportunities during and after the post-COVID-19 Pandemic. As of 18th December 2021 total benefits of Rs. 2966.28 Crore have been given to 42,82,688 beneficiaries through 1,20,697 Establishments under ABRY

- ***Progress on EDLI Scheme:*** Under the Employees' Deposit Linked Insurance (EDLI) Scheme, assurance benefit is provided to eligible family members to provide financial assistance in the event of an employee's unfortunate death while in service. The assurance benefit has been raised from earlier ₹6 Lakhs to ₹7 Lakhs from 28.04.2021. Since 15.02.2020, an amount of Rs. 2470.80 Crore has been disbursed to 88,224 beneficiaries across 39,265 establishments as assurance benefit till 30.11.2021

- ***Occupational Safety, Health and Working Conditions Code, 2020 (OSH &WC Code 2020):*** Expert Committees: The Government of India has constituted four Expert Committees for framing standards on provisions relating to Safety, Health and Welfare as under Section 18, 23 and 24 of the Occupational Safety, Health and Working Conditions Code, 2020 pertaining to Factories, Dock Works, Building & Other Construction Works and Fire Safety. Further, the following two Expert Committees are being headed by Director General, DGFASLI: Expert Committee for framing standards on provisions relating to Safety, Health and

Welfare for workplaces relating to Factories, and Expert Committee for framing standards on Occupational Safety and Health for workplaces relating to Dock Work. The Draft standards are being prepared, which are nearing completion.

- *<u>Conduct of All-India Surveys:</u>* Labour Bureau, is conducting the following All-India Surveys under the overall guidance of an Expert Group:

1. **All India Survey on Migrant Workers.** (Launched on 1st April 2021.)
2. **All India Quarterly Establishment-based Employment Survey (AQEES)** (launched with effect from 1st April 2021.)
3. **All India Survey on Domestic Workers.** (Survey has been flagged off on 22nd November 2021).

Labour and Employment Minister Shri Bhupender Yadav released the report of the first quarter of the Quarterly Employment Survey (QES) part (April to June 2021), of the All-India Quarterly Establishment-based Employment Survey (AQEES) prepared by the Labour Bureau on 27.09.2021. The AQEES has been taken up by the Labour Bureau to provide frequent (quarterly) updates about the employment and related variables of establishments, in both organized and unorganized segments of nine selected sectors.

- *<u>Tripartite discussion on Global call to action for a human-centred recovery from COVID-19:</u>* ILO in collaboration with this Ministry has organized a tripartite discussion on the Global Call to action for a human-centred recovery from COVID-19, in the context of India on 10.12.2021 in New Delhi.

- *<u>Providing medical care facilities ESIC beneficiaries from nearby ESIC impaneled Hospitals in case of non-availability of ESIC Hospital or Dispensary:</u>* A step towards easing the hardships of ESI beneficiaries has been taken wherein, from now on ESI beneficiaries who did not have medical care facilities in the 10 KM radius of their residence can now avail medical facilities from ESI impaneled hospital, without a referral, with the use of ESI e-Pehchan card/Health Passbook along with Aadhar/Govt. issued Identity Card and avail cashless medical consultation for OPD services directly from such hospital. Reimbursement of the availed medical services and prescribed medicines during OPD consultation will be done through their nearest Dispensary cum Branch Office (DCBO) or Regional Office where DCBO is not available.

- ***Launch of ESIC COVID-19 Relief Scheme, in aid to COVID stricken Ips:*** To provide help and succor to the families of the Insured Persons (IPs) who died due to COVID-19, Employees' State Insurance Corporation (ESIC) has on 03.06.2021 launched ESIC COVID-19 Relief Scheme. Under this scheme, 90% of the average wages of the deceased Insured Person shall be paid to the eligible dependents of the Insured Person who died due to COVID-19. The Scheme is effective for two years w.e.f. 24.03.2020. The ESI Corporation, in its meeting held on 04.12.2021, has decided to relax the condition of minimum contribution from 70 days to 35 days in one year immediately preceding the diagnosis of Covid-19 disease. The spouse of the deceased IP shall also be eligible for medical care on depositing Rs. 120/- every year.

- ***ESIC to construct Hospitals in various states:*** To meet the medical services needs of IPs in Haridwar & surrounding districts, the ESI Corporation has decided to construct 300 bedded ESIC Hospital including 50 bedded Super Specialty beds & Staff Quarters in 5 acres of land at Haridwar, Uttarakhand. Keeping its firm to provide good medical healthcare benefits to the Insured Workers and to strengthen its medical care infrastructure of 350 bedded Hospital with an additional 50 bedded SST Wing and 128 Staff Quarters in a plot area of 8.72 acres(approx.) at Sheelanagar, Vishakhapatnam. ESIC approved the acquisition of the plot admeasuring 8.7 acres for setting up of 500 bed ESIC Hospital at HSIIDC, Manesar. The Corporation approved the acquisition of land of 2.024 hectares for the construction of 100 bed ESIC Hospital at Meerut, which the Govt. of UP provided free of cost. Bhoomi Pujan of the land acquired through the state govt. of U.P to kick start the construction of 30 bedded ESIC Hospital was also done on 24.12.2021.

- ***Launch of Pilot Project on Annual Preventive Health Check-up Programme for ESI Insured Persons / Insured Women (IPS/IWs) aged 40 years and above:*** Shri Bhupender Yadav, Hon'ble Minister of Labour & Employment; Environment, Forest and Climate Change, Govt. of India and Chairman, ESIC launched a dedicated Pilot Programme for preventive Annual Health Checkup for Insured Persons aged 40 years and above from Vigyan Bhawan, New Delhi in 04 ESIC Medical Colleges/Hospitals located at Ahmedabad, Faridabad, Hyderabad and Kolkata. This will benefit Insured Persons in the early detection of diseases.

- ***Taking over of State-run ESI Hospital, Tinsukia, Assam:*** ESIC Corporation approved taking over of State-run hospital at Tinsukia and its subsequent up-gradation to a 100 bedded ESIC Hospital.

- ***Inauguration of Dispensary and Branch Office at Rae Bareli & Panki, Uttar Pradesh:*** ESI Corporation also inaugurated new Dispensaries & Branch Offices at Rae Bareli & Panki on 27.11.2021 and 24.12.2021 respectively.

- ***Expansion of ESI Scheme:*** The ESI Scheme has been further expanded to 52 districts during the calendar year 2021, bringing 2,31,495 employees along with their family members under the Social Security umbrella of the ESI Scheme. The benefits of the ESI Scheme are now available in 592 districts. It is proposed to extend the coverage of the ESI Scheme to all districts of the country by the year 2022.

- ***National Career Service (NCS):*** NCS portal leverages information technology to bring together job seekers and employers on a common platform. As of 28-12-2021, the NCS platform has around 1.34 crore active jobseekers with around 1.7 lakh active employers and around 2.21 lakh active vacancies. The total number of vacancies mobilized on the portal since its launch in 2015 is more than 90 lakhs.

Source: SightInPlus (complete article can be viewed on the source website)

https://sightsinplus.com/news/labour-law/major-initiatives-taken-by-ministry-of-labour-and-employment-in-2021/

EMPLOYEES PROVIDENT FUND: NO TAX ON INCOME FROM DEPOSIT UP TO RS 7.5 LAKH EXPECTED FROM BUDGET 2022

In Budget 2021, the Government proposed to tax income on Provident Fund (PF) contributions above Rs 2.5 lakh in a year. This limit was further increased to Rs 5 lakh for PF accounts having no contribution from employers. According to the Institute of Chartered Accountants of India (ICAI), this limit is harsh for EPF accountholders planning their retirement and contributing to PF to maximize their savings. The ICAI has, hence, proposed that in the upcoming Budget 2022-23, the Government should raise the Rs 2.5/5 lakh limit to at least Rs 7.5 lakh.

The Finance Act 2021 amended sections 10(11) and 10(12) of the Income Tax Act to make interest income accrued during the previous year taxable if the contribution by the person exceeded Rs. 2,50,000/5,00,000 on or after 01.04.2021. “It is suggested that proposed limit of Rs 2,50,000 in section 10(11) and section 10(12) of the Act may be reconsidered and may be raised suitably,” ICAI said in its Pre-Budget 2022 memorandum.

The issue: The ICAI noted that the Contribution limit of Rs. 2.5/5 lakh appears to be on the lower side. It said that in most cases, interest on employee contributions within 12% of basic salary will become taxable if this proposal is implemented.

“*The limit may be reconsidered and maybe hiked appropriately say at least 12% of basic salary or Rs 5 Lakh whichever is higher to protect retirement corpus of genuine middle-class taxpayers to cater in absence of any social security scheme in place,*” the memorandum suggested. It further said that the current proposal to levy Income tax on so much of the interest as is attributable to the amount deposited in excess of Rs. 2.5/5 lakh during any of the previous years appears to be harsh on those who plan their retirement themselves by putting in their savings into PF.

The memorandum further pointed out that the legislative intent was to prevent the exemption from being enjoyed by the ultra-rich who can deposit Rs 1 crore per month in PF, however, the limit of Rs 2.5/5 lakh may affect honest middle-class salaried assesses and especially salaried class who may be safely depositing a major chunk of their savings every year to secure their retirement. Suggesting the Government to reconsider last year’s proposal, ICAI said, “*It is well known and duly acknowledged by the government that honest Middle-Class Salaried assesses are depositing their hard-earned money into PF to accumulate a retirement corpus. The government may consider fixing a higher limit that enables a middle-class salaried person to build its retirement corpus and also restrict people from taking undue advantage of the EEE scheme.*”

"The limit may be raised to at least Rs 7,50,000 in line with the overall exemption limit in respect to employer's contribution to PF and other funds," it added.

Alternate option: The ICAI further said that as an alternative to the above proposal, the Government may increase the PPF contribution limit of Rs.1.50 lakh per person per year so that benefit is available to all sections of society. With this step, "the Government would also have a good long-term source of funds. Considering inflation and need for social security for people when they are aged, the limit may be increased further as deemed suitable." The PPF contribution limit was raised from Rs 1 lakh to Rs 1.5 lakh in 2014. However, considering inflation and the need for social security for people when they are aged, the limit may be increased further, ICAI recommended.

Source: Financial Express

PHASED INTRODUCTION OF LABOUR CODES ON CARDS

The labor ministry is mulling over introducing the four labor codes in a staggered way, beginning with the least controversial and pro-labor codes. The two codes which may come in from the next fiscal will be the Social Security Code and the Code on Occupational Safety, Health, and Working Conditions. The idea is to get going on the codes, which have been pending for implementation for more than a year now, said people aware of the matter.

The Parliament had passed the Code on Wages in 2019 while the Code on Industrial Relations, the Code on Social Security, and the Code on Occupational Safety, Health & Working Conditions were passed in 2020. "*There is a thinking at the highest level on implementing the codes in phases, though no decision has been taken yet,*" a senior government official aware of the deliberations told ET on condition of anonymity. Labour secretary Sunil Barthwal did not respond to a query from ET. The Social Security Code, 2020 provides for universal social security, starting with the gig workers who would be covered under the Employees' State Insurance Corporation, besides paving the way for the government to merge all existing social security schemes under the code.

The Code on Occupational Safety, Health and Working Conditions (OSH&WC Code) provides for longer work hours, double the wages in case of overtime beyond the fixed work hours and a single licence for contractors and staffing firms, allowing them to operate pan-India under one registration, as against the prevailing situation where they have to obtain separate licences for operating in each location. "*Given the fact that the codes have long been enacted, the central government would introduce them in a phased manner and may reach out to states to fast-track framing rules across the Social Security Code and the OSH&WC code which are considered least controversial,*" said labour expert KR Shyam Sundar.

The other two codes, the Code on Wages, 2019 and the Industrial Relations Code, 2020 have financial implications on the employer and hence the industry has been seeking more time from the government to tide over the Covid-19 crisis before it takes on any additional financial burden. The Code on Wages provides for a minimum statutory wage for the entire country while capping the allowances to 50% of the wages, a move that will cost more to the employer and would require tweaking of the existing salary structure.

The Industrial Relations Code, on the other hand, eases rules for hiring and firing for employers while limiting the power of the trade unions to negotiate and significantly reducing the scope for employees or unions to go on a strike.

Source: Economic Times

WFH NOW A KEY CONSIDERATION AMONG JOB ASPIRANTS: EXPERTS

Job aspirants are increasingly only looking at indefinite work-from-home options and opportunities that offer flexible schedules, as the third wave of covid-19 sweeps the country. This is emerging as the most important factor for many recruits when it comes to choosing a new organization, said human resource (HR) consultants and managers.“*Work from home, which was a perk in the pre-covid era is becoming a deal maker or deal breaker now. Many employees are asking companies to include the permanent work from the home clause in their contracts. Else they are not accepting offers,*" said an HR consultant working with domestic as well as multinational company clients. Many companies are obliging, looking at the attrition rate at their organizations, he said. Companies, especially large IT giants and startups, are offering double bonuses, expensive gifts, and hikes of 30-40% to prevent poaching by rivals.

“We understand that the pandemic has resulted in a ‘cave syndrome’ among people, but looking at the attrition rates, our management is going soft on the demands people are making in terms of choice and freedom to work from anywhere. We have also left the option of working from office open to whoever wants to avail of it, provided they are fully vaccinated," said an HR executive at a technology company on the condition of anonymity.

India Inc. is seeing its highest attrition in five years, which could continue, according to headhunters. Firms are facing a 15% higher attrition than in 2019. IT firms made headlines with their record attrition rate of up to 21% last quarter, against around 12% in the first quarter.Education,logistics,manufacturing, insurance, and hospitality sectors are also seeing employee exits. The tech sector may see resignations touch 1 million by 2021 end, according to Randstad India. Last year, many companies, especially in the IT sector, decided they would call employees back to work from this month.

But, Omicron cases made them defer their plans till April. *“We were to report to work from January but our company has now postponed it to April. They will take a call on the work-from-home policy after April when the situation would be better, hopefully,"* said Chytra, who works with a technology firm in Bengaluru. Chytra’s company has, however, allowed physical attendance for employees who do not wish to work from home. Two of three people want mandatory work-from-home to avoid mass covid-19 spread, according to a survey by LocalCircles, a Community Social Media platform.

Source: Live Mint

RELAXATIONS IN ATAL BEEMIT VYAKTI KALYAN YOJANA : ESI

ESI Corporation has issued a notification dated 27th January 2022 relaxing the eligibility condition of two years insurable employment before unemployment and contributory condition of Atal Beemit Vyakti Kalyan Yojana with effect from 01st July 2021.

The amended eligibility condition is that an insured person should have been in insurable employment for a minimum period of twelve months immediately before his or her unemployment and should have contributed for not less than seventy-eight days in the one completed contribution period in twelve months immediately preceding to unemployment.

What is Atal Beemit Vyakti Kalyan Yojana (ABVKY)?: This scheme is a welfare measure for employees covered under Section 2(9) of the ESI Act, 1948, in the form of relief payment up to 90 days, once in a lifetime. It has also been decided to enhance the rate of unemployment relief under the scheme to 50% of wages from the earlier rate of 25% along with relaxation in eligibility conditions. In a significant relaxation, relief shall become due for payment 30 days from the date of unemployment and the claim can be submitted directly to the designated ESIC Branch Office by the worker. Claims to get the relief can be made online at the website www.esic.in along with submission of the physical claim with an affidavit, photocopy of the Aadhaar Card, and Bank Account details to the designated ESIC Branch Office by post or in person.

Source:Gov. notification

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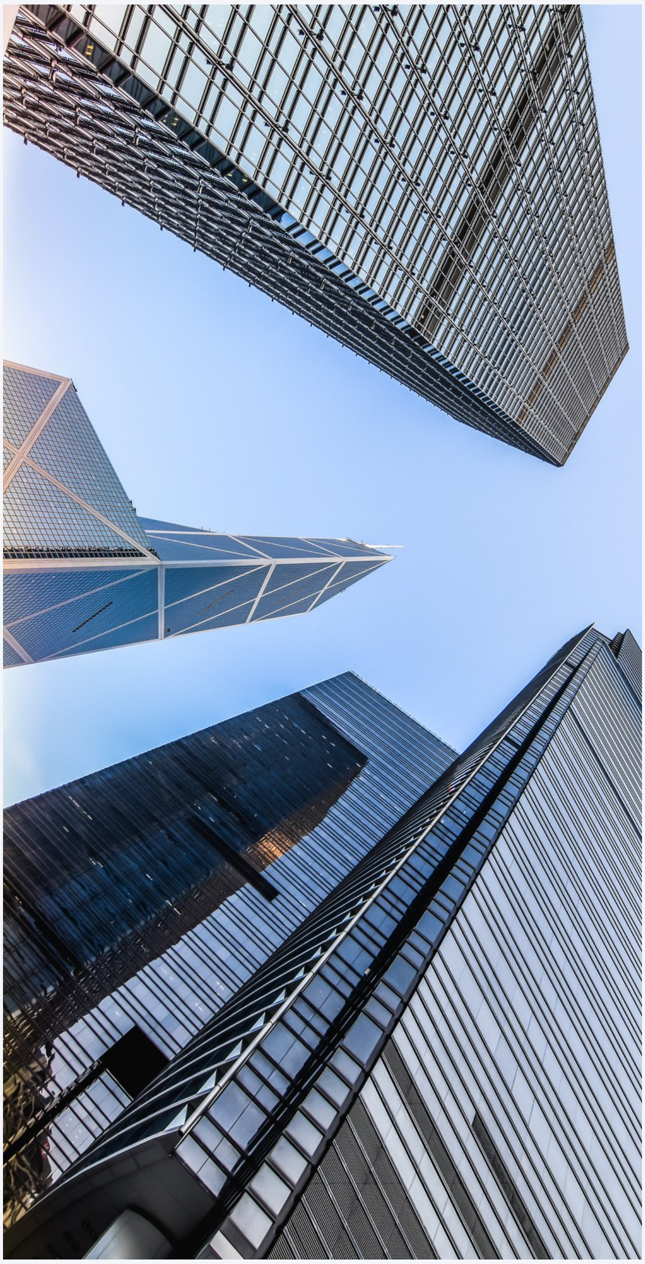

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