

THE COMPLIANCE WATCH

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What is the Difference between Lay-off and Retrenchment?

Shaiju Mathew, Chief Operating Officer

Considering the current economic instability, a frequently asked question is; ‘Do employees lay-off and retrenchment mean the same?’ Other related questions are; ‘Can an employer terminate employees without following the procedure prescribed under the ID Act (Industrial Dispute Act, 1947)?’ and, ‘Is the procedure same for lay-offs and retrenchment?’

The definitions given in the ID Act for lay-offs and retrenchment, and their procedures are different. Various government reports suggest that no massive retrenchment of employees was reported in the IT/ITeS sector in India for the last couple of years. However, it is a known fact that lay-offs and retrenchment of employees are a common occurrence in these sectors. Considering the ambiguity in the definition of ‘industry’ and ‘workmen’ under this Act, some industries (especially the IT/ITeS) are reluctant to follow the procedures prescribed under the ID Act.

As per Section 25 of the ID Act, a ‘lay-off’ indicates the employees will be asked to go on leave for a temporary period due to an interim shutdown of the process in the establishment. This lay-off period can be up to 45 days initially on approval from the Conciliation Officer and further extension can be given only based on the joint consent or approval from the respective parties. Lay-off here means, due to some reason the employer is unable to assign any task to the employee who is on the payroll and the employer is unable to pay the employee his/her full salary. This does not mean that the employee is dismissed from the job since lay-off is a temporary state. This is more relevant in factories and manufacturing units where production of goods is at times put on halt due to shortage of material, disruption of power supply, or a natural calamity.



On the contrary, ‘retrenchment’ by definition means the termination of an employee’s service by the employer for any reason other than as a punishment inflicted by way of disciplinary action. Hence, if an employee is terminated for any reason other than as a disciplinary action for any wrongdoing on his/her behalf, it is deemed as retrenchment. The ID Act further prescribes in Section 25 that the affected employees should be provided with a notice period or wages in lieu of the same. The notice of retrenchment must contain a clear date of termination of the employee. The employee must also receive a compensation equivalent to 15 days for every completed year of service over 6 months.

No industry is exempted from complying with the procedures to be followed under the ID Act. However, it is observed that many IT/ITeS companies do not follow the procedures of obtaining approval from the concerned government authority before such lay-offs or retrenchments, although few companies extend notice periods and give severance pays. The ambiguity in the definition of ‘industry’ and ‘workmen’ may be a reason for companies refraining from following the procedure. It is to be noted that some state governments like Haryana and Telangana are keen to enforce the Industrial Standing Order for commercial establishments including IT/ITeS considering frequent lay-offs and/or retrenchments. We recommend companies ensure the notice period and compensation be provided to these employees as prescribed under the Act, irrespective of companies deciding to inform the government of these lay-offs or retrenchments.

Supreme Court flags 'serious lapses' in implementation of Protection of Women from Sexual Harassment Act

The Supreme Court on May 12, in a judgment, said there are "serious lapses" and "uncertainty" in the implementation of the Protection of Women from Sexual Harassment (PoSH) Act, leaving many working women no choice but to leave their jobs.

A Bench of Justices A.S. Bopanna and Hima Kohli, in a 62-page judgment, said the "sorry state of affairs" concerning the anti-sexual harassment at workplace law even after a decade of its introduction was "disquieting", and it was time for the Centre and States to take affirmative action.

"Being a victim of such a deplorable act not only dents the self-esteem of a woman, it also takes a toll on her emotional, mental and physical health. It is often seen that when women face sexual harassment at the workplace, they are reluctant to report such misconduct. Many of them even drop out from their job," Justice Kohli, who authored the judgment, observed. Working women were reluctant to report instances of sexual harassment either due to uncertainty about whom to approach or because of their lack of confidence in the process itself and its outcome, Justice Kohli noted.



"However salutary this enactment may be, it will never succeed in providing dignity and respect that women deserve at the workplace unless and until there is strict adherence to the enforcement regime and a proactive approach by all the State and non-State actors. If the working environment continues to remain hostile, insensitive and unresponsive to the needs of women employees, then the Act will remain an empty formality," Justice Kohli stressed.

The apex court referred to a newspaper survey which revealed that out of 30 national sports federations in the country, only 16 had constituted Internal Complaints Committees mandated under the 2013 Act.

"This is indeed a sorry state of affairs and reflects poorly on all the State functionaries, public authorities, private undertakings, organisations and institutions that are duty bound to implement the PoSH Act in letter and spirit," Justice Kohli noted.

The court directed the Union, States and Union Territories to undertake a time bound exercise to verify whether Ministries, Departments, government organisations, authorities, public sector undertakings, institutions, bodies, etc. had constituted Internal Complaints Committees (ICs), Local Committees (LCs) and Internal Committees (ICs) under the Act. These bodies have been ordered to publish the details of their respective committees in their websites. They were given eight weeks to comply and file affidavits in the apex court.

"If the authorities/managements/employers cannot assure them a safe and secure work place, they will fear stepping out of their homes to make a dignified living and exploit their talent and skills to the hilt," Justice Kohli wrote.

The judgment came in an appeal filed against a March 15, 2012 judgment of the Bombay High Court dismissing a Goa University employee's writ petition against a disciplinary authorities' decision to dismiss him from services on the basis of complaints of sexual harassment.

The court said the inquiry process was done in a "tearing hurry" without adherence to the principles of natural justice. The case has been remanded back to the Complaints Committee, which has to complete the inquiry within three months.

Source: TheHindu

Employers must consider increasing maternity leave to 9 months: NITI Aayog

NITI Aayog member V K Paul said that both the private and public sectors should consider enhancing the the maternity leave for women workers from six months to nine months.

The Maternity Benefit (Amendment) Bill, 2016 was passed by the Parliament in 2017 entitling paid maternity leave of 26 weeks, up from earlier 12 weeks.

"Both private and public sector need to sit together to think about increasing the maternity leave of the mothers from present six months to nine months," FICCI Ladies Organisation (FLO) said in a statement quoting Paul. According to the statement, Paul said the private sector should help the NITI Aayog to design the comprehensive care of the children by opening more creches for children for better upbringing as well as doing the needful for the elderly care.

"As millions of care workers will be needed in future, we have to develop systematic soft and hard skilling training," Paul added.

FICCI Ladies Organisation (FLO) president Sudha Shivkumar said the global care economy, the paid and unpaid labour related to caregiving such as childcare, elder care, and domestic chores, is a critical sector that enhances economic growth, gender equity, and women's empowerment. Care work is economically valuable but globally undervalued, she added.

"In India, the biggest lacunae is that we lack a system for properly identifying care economy workers, and relative to other nations, India's public spending on the care economy is extremely low," she said.

Source : Business-Standard

Implementation of 4 labour codes stalled

The implementation of the four labour codes, passed by Parliament between 2019 and 2020, has been stalled. The implementation of the four labour codes, passed by Parliament between 2019 and 2020 and which seek to bring sweeping changes to India's job market, has been stalled. They are unlikely to take effect before the general election slated for 2024, people aware of the matter have said.

The four codes consolidated a complex web of 29 central labour laws. These are the Code on Wages, 2019; the Industrial Relations Code, 2020; the Occupational Safety, Health and Working Conditions Code, 2020; and the Code on Social Security, 2020. They have been both praised and criticised in equal measure. Critics see them as controversial and anti-worker, while those demanding freer labour policies say they will boost growth and employment, and end outdated laws no longer in sync with a rapidly transforming economy. The codes or laws represent one of the most significant economic reforms undertaken by the Modi government.



For instance, the changes will increase the number and type of companies that can fire workers without government approval, enforce new norms on how unions can call strikes, discard rules that bar women from working night shifts and, importantly, introduce a new social-security regime.

Three key reasons are holding up the codes, the persons quoted above said. One, some states are yet to publish rules to set the codes in motion, as required, since labour is a subject over which both Centre and states have jurisdiction.

Two, talks between the Union labour ministry and unions have stalled and, three, the Centre is inclined to take all stakeholders on board for which there needs agreement on key provisions. Given that the Modi government had to withdraw the farm laws in 2021, the Centre does not want a situation where unions go on industrial strikes and disrupt the economy, one of them said.

"It was being hoped that all formalities regarding the labour codes would have been completed and they could take effect in the beginning of the financial year 2024, that is April 2023," one official said, requesting anonymity.

Ravinder Himte, the general secretary of the Bharatiya Mazdoor Sangh (BMS), said there was no possibility of agreeing to some of the codes until the government accepted their recommendations, especially on the Industrial Relations Code and The Occupational Safety, Health and Working Conditions Code, 2020. The Rashtriya Swamsevak Sangh (RSS)-affiliated BMS said it "whole-heartedly welcomed" the other codes.

The Code On Industrial Relations lays down new conditions on the right of workers to go on strike. Unions will now have to give 60 days' strike notice. If proceedings are pending before a labour tribunal or the National Industrial Tribunal, workers cannot go on a strike for 60 days after they are concluded. These conditions apply to all industries. Earlier, workers could go on strike by giving between two weeks and six weeks of notice. Flash strikes will be outlawed.

A platform of 10 trade unions, barring the RSS-affiliated BMS, had urged labour minister Bhupender Yadav to scrap the four codes, saying they were anti-worker. "The codes are exploitative and represent a serious erosion of labour rights," said TN Karumalaiyan of the Centre of Indian Trade Unions.

Currently, 31 states have published draft rules under the Code on Wages, while 26 states have come out with draft rules on occupation safety code. On the industrial relation code, preliminary processes have been completed by 28 states. A similar number have published draft rules on the social security law.

Maharashtra notified rules for the codes on March 20. The Union government had recently directed the Union Territories to speedily frame rules regarding the key industrial relation code, which have been complied with. These are the National Capital Territory of Delhi, Andaman and Nicobar Islands, Chandigarh, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Puducherry.

Uttarakhand, Chhattisgarh, Odisha, Arunachal Pradesh, Uttar Pradesh, Madhya Pradesh, Haryana, Jharkhand, Himachal Pradesh, Punjab, Manipur, Bihar, and UT of Jammu and Kashmir, have framed required regulations under the new labour laws.

Source: HindustanTimes

IT Layoffs: Nearly 60,000 Contract Workers Lost Jobs in FY23, 7.7% Fall in Hiring

Nearly 60,000 outsourced contract workers lost jobs in India's IT sector in the financial year that ended in March 2023, according to a report in the Business Standard. The job losses come in the wake of a 7.7% decline in jobs for flexi workers hired through contractors as compared to the year before, the report said.

"The drop in new employment generation within the IT flexi staffing sector mirrored the global slowdown in IT hiring," said Lohit Bhatia, president of the Indian Staffing Federation which represents over 120 recruitment agencies across the country.

The sector provided 177,000 jobs in the last financial year as opposed to 2,30,000 jobs in the year before, the report said. Contract workers provided software solutions that helped businesses adapt during the pandemic as online shopping and remote work saw an unprecedented boom, the report said.

However, the \$194-billion sector is facing a slowdown this year as employees return to offices and the Russia-Ukraine war weighs on spending from clients in Europe.



A JP Morgan report also warned that soaring inflation, supply chain issues and the economic fallouts from the Ukraine war will bring an end to the growth boom that India's IT services saw during the pandemic, the Business Standard reported.

Bhatia said that the hiring of contract workers through a third-party may remain weak for the next few quarters in the software industry, according to the Business Standard report. Meanwhile, India's unemployment rate rose from 7.8% to 8.11% in April for the fourth consecutive month, according to Mumbai-based think tank Centre for Monitoring Indian Economy (CMIE).

Loss of contract work in the IT sector is in line with the global IT layoffs that began in the first quarter of 2022 with around 400 tech startups firing more than 74,000 employees, The Wire reported. In continuation of that trend, nearly 1,600 tech employees were laid off per day on an average in January 2023 alone, the report said.

Source: TheWire

Contemporary Workforce Engagement Models In The Changing Indian Labour Landscape

The boom of the aggregator business and the rise of remote working brought about by the pandemic, have propelled the growth of varied workforce models in India. Organisations should be wary of conducting a majority of their business through flexible arrangements since the approach could be construed as a sham to deprive individuals of their legitimate employment benefits write Bishen Jeswant, Partner and Varsha Sriram, Senior Associate, Cyril Amarchand Mangaldas. Workforce models in India have never been as varied as they are today. Factors such as the boom of the aggregator business (think Ola, Uber, Swiggy, Zomato etc.) and the rise of remote working brought about by the pandemic, have been pivotal in driving the growth of these varied workforce models.

These models have now become an integral part of our society and have worked to the benefit of both, corporations and individuals. On the one hand, organisations are able to tailor their workforce according to their business needs and move away from traditional full-time employment to hire fixed-term employees and gig workers. On the other hand, individuals now have the opportunity to choose engagement models best suited to them, giving them more flexibility and increasing their earning potential. In this article, we have examined key non-standard workforce models that have come to the forefront in recent times, in the backdrop of the current legal regime. Where relevant, we have also examined the model vis-a-vis the proposed Labour Codes (which consolidate existing central labour laws and are expected to come into force over the next year or so).



1. Gig workers: ‘Gig worker’ is a broad term used to refer to individuals who are engaged in work arrangements outside the traditional employer-employee relationship. They are typically treated as ‘partners’ of an organisation and not as their ‘workers/employees’ and accordingly benefits provided to employees are not provided to gig workers. Some classic examples of gig workers are delivery partners who work with aggregator companies such as Swiggy, Zomato, Dunzo etc. In 2020-2021, it was estimated that India had 77 lakh gig workers and by 2030, this number is expected to grow to 2.35 crore. The engagement of gig workers, including matters pertaining to their working conditions and social security benefits, is presently unregulated. Interestingly, the Chief Minister of Rajasthan, while presenting the state budget for the financial year 2023-24, announced that legislation would be enacted to ensure the protection of gig workers from exploitation. While an official draft of the bill has not generally been made available to the public, news reports suggest^[2] that the bill requires the registration of all gig workers and their aggregators and seeks to set up a welfare board, which will formulate schemes for the benefit of the gig workers, offer health insurance cover under state government schemes, provide a gratuity, pensions etc.

If this bill translates into legislation, Rajasthan will become the first state in India to regulate the engagement of gig workers. On the judicial side, litigation concerning gig workers in India is still at a nascent stage. While gig workers have made claims against aggregators for treatment as regular employees and provision of corresponding social security benefits under existing laws, where the courts will land on this issue is yet to be seen. The proposed Code on Social Security, 2022 (SS Code) however recognises gig and platform workers (essentially gig workers who work on online aggregator platforms) as a separate class of workers. In fact, one of the most distinguishing features of the SS Code is that it seeks to extend a variety of benefits to gig and platform workers, funded by contributions from the Central and State Governments and aggregators.

2. Consultants: Consultancy arrangements are not governed by any labour and employment laws. By their nature, consultants are not treated as employees and are accordingly not extended protections and benefits similar to regular employees. Previously, individuals were mostly engaged as consultants in specific occupations or at very senior levels. However, an increasing recognition of the flexibility a consultancy arrangement affords employers (no statutory benefits are required to be provided, arrangements may be terminated easily etc.) and individuals (engagements are usually non-exclusive, allow for better tax structures etc.), has resulted in a considerable increase in the number of consultants engaged in all sectors and across all levels.

3. Fixed-term employees: Fixed-term employment has largely been unregulated in India (apart from in specific sectors such as apparel). However, in 2018, the Central Government amended the Industrial Employment (Standing Orders) Central Rules, 1946 to recognise fixed-term employees in all sectors and required that all benefits available to permanent employees be provided to fixed-term employees as well, on a proportionate basis (although this may not extend to gratuity). A similar amendment was also introduced by several states.

In recent years, organisations have been engaging a larger number of fixed-term employees, especially for temporary or seasonal jobs where demand-based recruitment needs to be made. Organisations are also considering fixed-term employment as an alternative to contract labour arrangements. The Labour Codes also recognize fixed-term employees as a distinct category of employees and require that all benefits provided to permanent employees (including gratuity) be provided to them, on a proportionate basis.

4. Contract labour arrangements: Arrangements, where contractors provide services to clients through their own personnel, are generally regulated under the Contract Labour (Regulation and Abolition) Act, 1970 (CLRA). Here, the employer-employee relationship is between the contractor and the individual personnel (referred to as contract labour), who will be deployed at the workplace of the client i.e., the principal employer, to carry out the work of that client. Under the CLRA, principal employers are required to obtain a registration and will be liable to discharge other obligations in respect of the contract labour (such as paying wages and providing welfare facilities) in case the contractor fails to discharge these obligations.

Contract labour was and continues to be a workforce arrangement widely prevalent in India. Organisations engage contract labour for all activities ranging from core activities of the organisation to support activities such as housekeeping, security etc. It is expected that a significant change in contract labour engagement practices will be seen once the Labour Codes come into force. Under the Labour Codes, engagement of contract labour in core activities is generally prohibited (under the CLRA, this prohibition is only in force in a few states such as Andhra Pradesh and Telangana). Further, workers who are regularly employed by the contractor for any activity of his establishment are not considered contract labour. This express exclusion of the regular workforce of a contractor from the ambit of 'contract labour' will result in several arrangements not being considered as contract labour arrangements, consequently doing away with the need to comply with any principal employer or contractor-specific obligations. It is expected that this change will result in organisations engaging more third-party personnel. Especially with India embracing the title of the most populous country in the world, there has been increased chatter about how India can create job opportunities for its entire working-age population and leverage its demographic dividend. The varied and continuously evolving workforce models discussed here will no doubt play a pivotal role in this. The law will of course have to keep pace with the workforce models and walk the fine line between enabling organisations to innovatively expand their workforce in models most suited to them and ensuring that individual rights are adequately protected. Witnessing and being a part of this evolution in the coming years will certainly make an exciting journey.

All of the above said, organisations should be wary of conducting a majority of their business through flexible arrangements such as those described above, since this approach could be construed as a sham to deprive individuals of their legitimate employment benefits.

Source : BusinessWorld

India Inc.'s inclination towards paying higher stipends to apprentices continues to surge

The average stipend witnessed a 2 per cent increase in FY 23 compared to the previous fiscal, TeamLease Degree Apprenticeship report said. Chennai (Rs 13,100 per month) and Kochi (Rs 13,000 per month) were the top paying city, the report said. These cities were followed by Bengaluru and Coimbatore, both offering Rs 12,900 per month on average as apprentice stipend.



Additionally, Nagpur and Lucknow saw a 9 per cent increase in stipends, while Chandigarh had a 6 per cent increase and Delhi and Hyderabad each had a 5 per cent increase in stipend, report showed. "Incidentally, stipend growth in India has outperformed salary growth in many industries, with many industries paying higher than the minimum notified stipends," said Sumit Kumar, Chief Business Officer, TeamLease Degree Apprenticeship. Employers are willing to pay higher stipends than industry mandates as they see the value of investing in apprentices to bridge the skill crisis and create a sustainable talent supply chain, he added. The highest paying stipended jobs included agriculture field officer (Rs 15,200 per month), retail sales (Rs 13,800 per month) and HR (Rs 13,600 per month). Agriculture and agrochemicals, with current stipend of Rs 14,000 witnessed a 12 per cent growth. Apparel and textiles (22 per cent), FMCG (8 per cent), handicrafts and jewellery (6 per cent) and infrastructure and capital goods (5 per cent) also witnessed an increase in the payouts, it said. While the overall percentage increase has been a marginal spike, the findings highlighted a significant variation in stipend pay-outs across industries, cities and educational qualifications. In the services sector, 11 out of 13 industries provided a higher stipend in the fiscal. The top industries included media and entertainment (18 per cent), Services including repair and maintenance (11 per cent), education (9 per cent), life science (8 per cent) and e-commerce and tech products (8 per cent).

However, despite the technology boom and the advent of 5G, telecommunication (-4 per cent) and IT/ITeS (-2 per cent) saw a dip in the fiscal, the report noted. The Stipend Primer Report 2021-22, is based on a survey with 553 employers across 24 industries in 14 cities.

Source : economictimes

Higher EPS pension: EPFO extends deadline to June 26, 2023

The Employees' Provident Fund Organisation (EPFO) has extended the deadline to apply for higher pension from Employees' Pension Scheme (EPS) to June 26, 2023 from May 3, 2023.

This is the second time that EPFO has extended the deadline to apply for higher pension from EPS. Earlier, the Supreme Court set the four months deadline from the date of judgement (November 4, 2022) which was March 3, 2023. However, the implementation of Supreme Court's order by EPFO was delayed. It is evident from the fact that the facility to allow online application for eligible employees, who were EPF member prior to September 1, 2014 and continued to be members on or after September 2021, to apply for higher pension came out on February 20, 2023 just few days prior to 4 months SC deadline of March 3, 2023. Puneet Gupta, Partner, People Advisory Services, EY India says, "In a very welcome move, the EPFO has extended the timeline to 26 June 2023 to file higher pension applications. Employees will have the extended time to take an informed decision on whether or not to apply for higher pension. However, an important issue continues to remain - what happens if the employer does not have salary details for the entire period of past employment of the employee? Also, it may be clarified whether this extended timeline is only for the employee to file application or also for the employer to approve."

Keeping in mind the inadequacy of the time left EPFO had to extend the deadline by another two months to May 3, 2023. However, there were many issues which were still unresolved. The SC had asked EPFO to come up with a replacement methodology for 1.16% additional contribution, which EPFO used to ask its member to pay for when they decided to contribute to EPS above the prevailing wage ceiling. However, EPFO is yet to come up with the new methodology. Moreover, the EPFO was asking its member to give consent to accept unknown methodology which EPFO may come up with in future.

Besides, EPFO was asking its member to submit proof for approval for past higher contribution above wage ceiling which hardly any employee had. It was a practice to have higher contribution without taking prior approval from EPFO. So, they did not have the required document where they have taken permission from EPFO to deposit the contribution to the Employees' Provident Fund (EPF) account if wages exceed the notified limit (currently Rs 15,000 per month). Members went to Kerala High Court against this condition put by EPFO and the court allowed employees to go for higher pension without any past approval proof. However, EPFO is yet to rectify its online application facility to accommodate this court ruling and allow employee to submit application without this proof.

The latest deadline extension provides eligible employees with additional time to evaluate and apply for higher pension from EPS. Many employees were facing difficulty in applying for higher pension.

Further, while submitting the form, they are required to ensure that all their EPF accounts are merged into one Universal Account Number (UAN) and their service records matches with the EPFO data.

Source : EconomicTimes

How to ensure that correct service history is updated in EPFO records for higher pension under EPS?

If you are a member of the Employees' Pension Scheme (EPS), it is important to ensure that your service history is updated accurately in the Employees' Provident Fund Organisation (EPFO) records. This is especially important as service history is part of the formula to calculate the pension that you are entitled to receive once you reach the age of 58. The longer your service period, the higher your pension amount. So a gap in service history can lower your pension amount.



Prior to 2014, there was no Universal Account Number (UAN) - which brought the Employees' Provident Fund (EPF) account numbers provided by various employers under one umbrella. Hence, it is possible that a certain part of your employment history does not show up on the EPFO Member e-Sewa portal. In such a situation, how can you ensure that the records with the EPFO match your actual service records to accurately calculate pension?

It is important to note that employees are eligible to apply for higher pension under EPS if they were members of the EPF on September 1, 2014, making higher contributions above the prevailing wage limits prior to this date but missed the opportunity to apply for higher contributions under the pension scheme.

Rituparna Chakraborty, Co-Founder & Executive Director, TeamLease, says, "An EPF member can check if the EPFO records are correctly updated with the member's employment record by checking the EPF statement/passbook of the previous years. If an EPF member has continuously transferred his older EPF accounts to the new employer and it is reflected in the passbook by way of transfer-in entry, then the EPFO's records are updated with the EPF member's correct employment history. However, do note that old service records will not reflect on the EPFO's Member E-Sewa portal."

What if EPFO employment records are incorrect



There could be many reasons why the EPF passbook does not show such transfer-in entries. For one, the EPF member could have taken a sabbatical and withdrawn money (some or all) from the EPF account but not the EPS account. Another reason can be errors in the EPFO records. Chakraborty says, "If there is any mismatch between the EPFO and EPF member records, then an individual can file a complaint using the EPF i-Grievance Management System (www.epfigms.gov.in/). An individual is required to provide documentary evidence where the mismatch is occurring. Documentary evidence can include salary slips showing EPF contribution, EPF statement shared by employer, etc."

How to correct or update the employment records with the EPFO

An employee cannot update the service history. Only an employer can rectify the error in the employment record of the EPFO. So if an employee finds an error in the database, they should contact their present or previous employers and get it corrected, says Chakraborty. The data will reflect in the UAN portal based on the member's service history. Chakraborty says, "Please note that for those who joined another employer at a later stage, the offline data prior to the year 2011 may not be reflected in the member portal."

To correct the employment records with the EPFO, an individual has to submit the transfer-in form to their current employer. The transfer-in form is called Form 13. Chakraborty says, "This transfer-in process can be done only offline if the UAN is not created by the old employer subsequently. An online process is impossible if the service history pertains to the year prior to 2011 & if the UAN is not created by your previous employer."

To transfer or update the service history period, an individual has to submit the duly filled form to the present employer. The present employer will send the transfer form to the EPFO. The regional PF office will send the request to the previous regional PF office, which will verify the employment records based on the EPF account number mentioned on the transfer form. Once the records are verified, the transfer process will be completed. Chakraborty says, "This transfer-in process will work for those EPFO members as well who have withdrawn their EPF balance but left their EPS account untouched."

How to keep the track of service history

If individuals want to keep track of their service history for the purpose of EPFO, obtain an Annexure-K form from the EPFO or avail a scheme certificate for pension membership from the regional PF office concerned after leaving the service (if EPS transfer not initiated).

Source: EconomicTimes





Higher Pension Diversion Calculator And Online Application Error FAQ

EPFO body has now published the Pension Refund Calculator and the Application Error FAQs.

The Excel Tool introduced by EPFO has got 5 spread sheets:

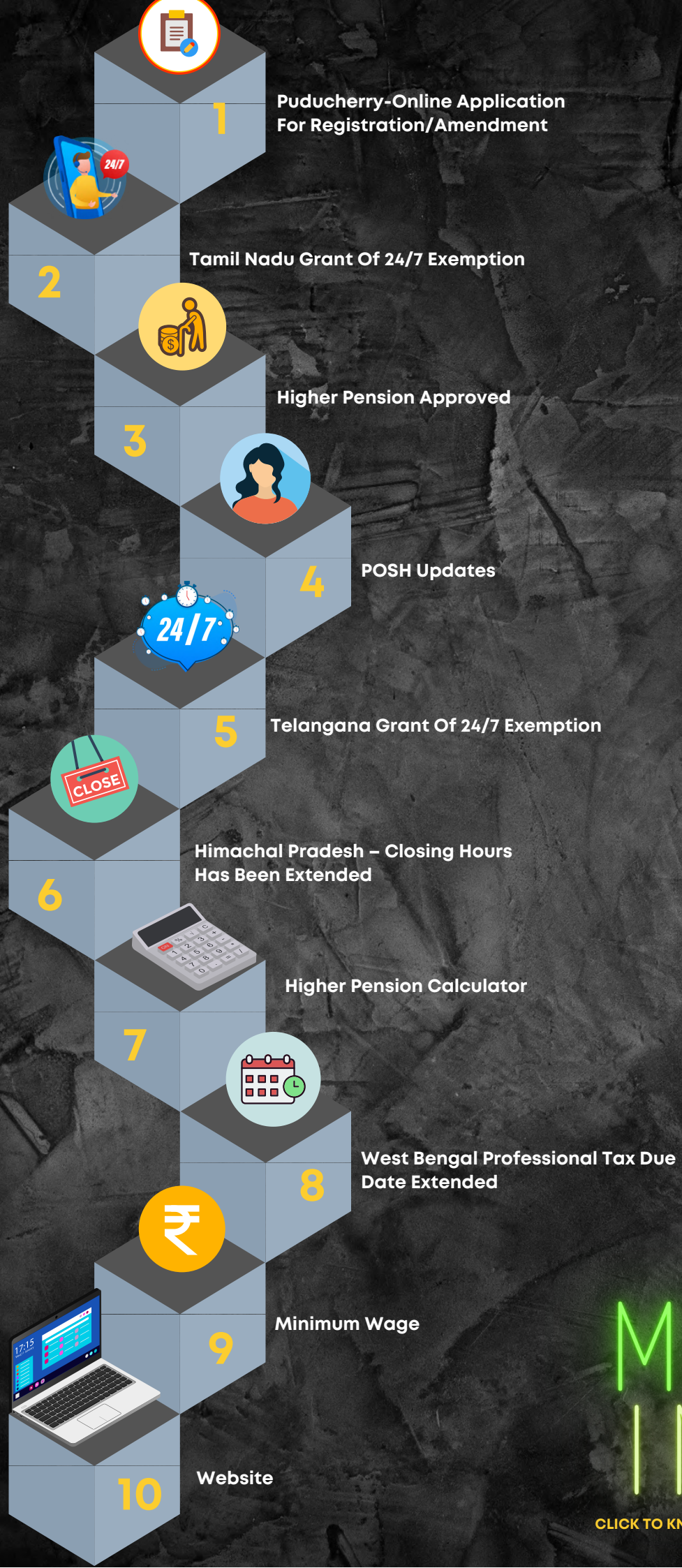
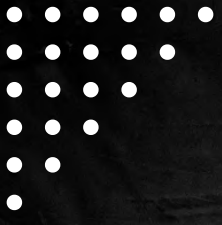
- Sheet1: Need to inputs the EPF Wages by the employees in Col E. Rest all will be taken care by the Tool.
- Sheet2: Calculation of 8.33% is auto arrived by the Tool. Interest Calculation on the cumulative balance is calculated by the tool.
- Sheet 3: Summary of 8.33% is shown for the employee to understand what is the Outgo of PF Amount from his PF Corpus into the Pension Account.
- Sheet 4: Additional contribution of 1.16% as per Honourable SC Judgment exceeding Rs. 15000/- wages from Sep 2014 is auto calculated by the tool. Interest on the Cumulative balance is arrived.
- Sheet 5: Summary of 1.16% is shown for the employee to understand what is the Outgo of PF Adtl Amount from his PF Corpus into the Pension Account.

Important Note:

1. The EPFO is yet to explain how the higher pension will be calculated. It is expected to soon release a separate circular with details of the method of calculation of higher pension. Current Pension Formula is Average 60 Months Pension Wages X No. of Years of Exp / 70 which is expected to Change for Higher Pension calculations.
2. Only the Wage information can be entered in the file and rest all will be auto populated by the Pension calculator tool.

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UCS CompliTool[®]

Streamline Compliance & Risk

UCSCompliTool is a technology to ease the complexities of navigating through the changing Labour laws. With our past experiences and feedbacks, we have developed an in-house Software solution and have created this robust mechanism which represents our motto – Compliance simplified. It provides a real time and 360-degree view of compliance status for the Principal employer (CompliTool - Compliance) and with risk matrix to monitor the contractors (CompliTool - Audit). We have developed a Role Based Access Control model and being a cloud-based system, we are offering an absolute security and protection of data.

Following are some of the major benefits of the Tool:

- Real Time Statistical Data
- Informative Tool
- Transparency
- Ease of Documentation
- Ease of Monitoring
- Highlighting of Critical Points
- Security and Data Confidentiality
- Centralization of Data
- Readily Available Documents
- Data Integrity
- Extensive Reporting
- User friendly Dash Boards
- Overall compliance review from front end maneuver

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United Consultancy Services is one of the leading consulting firms in India providing compliance, advisory and audit services in the field of Labour Laws, Human Resource Development and Legal matters pertaining to Industrial Relations. We provide meaningful, forward looking and compliance oriented solutions to help organizations grow while being compliant under labor laws. Proactive teams led by domain experts, use insight, experience and best practices to understand complex issues of publicly listed and privately owned clients and simplify compliance.

With over 30 years of existence and with more than 200 professionals the firm provides robust compliance services and solutions on complex requirements under Labour law. The information shared in the newsletter is on the basis of Government notifications and newspaper articles. This is for general information purposes only and does not constitute legal advice. Please reach out to your UCS contact or the Company legal counsel before taking any action.



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