

THE EMPLOYEES PROVIDENT FUND AND MIS. PROVISIONS ACT

SPECIAL PROVISION FOR INTERNATIONAL WORKERS W.E.F 11th NOV 2008

1) Who is an International worker?

An International worker may be an Indian worker or a foreign national.

This means an Indian worker who has divided his/her career between India and another country with whom India has entered into a bilateral Social Security agreement or a foreign national working in India. (Para 2 ff)

2) Who is an 'excluded employee' under these provisions?

A 'detached worker' posted in an establishment in India but contributing to the social security programme of the source country in terms of the bilateral Social Security agreement signed between that country and India shall be an 'excluded employee' under these provisions. (Para 2 f)

3) Who is a 'detached worker'?

An International worker, being not an Indian employee, contributing to the social security programme of the source country in terms of the bilateral Social Security agreement signed between that country and India and exempt from making any contribution to the Indian system for the period and terms as set out in such an agreement is a 'detached worker' for the purpose of compliance under the Indian system. (Para 2 f)

4) What does the term 'Indian employee' mean?

An employee, holding or entitled to hold an Indian passport and employed by an establishment covered under the EPF and MP Act, 1952 is an Indian employee under the Special provisions in respect of International workers. [Para 2 ff (a)]

5) Who all shall become the members of the fund?

- a) Every International worker, other than an 'excluded employee' - from 1st Nov.2008.
- b) Every excluded employee, on ceasing the status, - from the beginning of the month following that in which he/she loses the status. (Para 26)

6) Which category of establishments shall take cognizance of these provisions?

All such establishments covered/coverable under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 that employ 'International workers' either in India or abroad shall take cognizance of these provisions. (Para 26)

7) Whether PF rules will apply to an employee if his salary is paid outside India?

Yes, the provisions will apply irrespective of where the salary is paid. (Para 30)

8) Whether PF will be payable only on the part of salary paid in India in case of split payroll?

In case of split payroll the contribution shall be paid on the total salary earned by the employee. (Para 29)

9) 'Monthly Pay' for calculating contributions to be paid under the Act?

The monthly pay shall be the pay as specified under Para 29 of the EPF Scheme, 1952, which covers:

- Basic wages (all emoluments paid or payable in cash while on duty or on leave / holiday except Dearness allowance, House rent allowance, overtime allowance, bonus, commission or any other similar allowance payable in respect of employment and any presents made by the employer)
- Dearness allowance (all cash payments by whatever name called paid to an employee on account of a rise in the cost of living)
- Retaining allowance
- Cash value of any food concession

10) What portion of salary on which PF would be payable in case an individual has multiple country responsibilities and spends some part of his time outside India?

Contribution is payable on the total salary payable on account of the employment of the employee employed for wages by establishment covered in India even for responsibility outside India also.[Section 2 (b)]

11) Is there a minimum period of days of stay in India, which the employee can work in India without triggering PF compliance?

No, there is no any minimum period of employment in India is required to be eligible for membership. Every eligible International worker has to be enrolled from the first date of his employment in India.

12) What constitutes the Pensionable service?

The service for which contributions are received and/or receivable as also the period of service rendered and considered as eligible under a Social Security Agreement that may cover an International worker. (Para 10 of EPS)

13) How is Pensionable service determined?

While the period of service for which contributions are received under the EPS will decide the quantum of pension admissible, the period of service rendered under a relevant social security agreement shall be taken into account only for the purpose mentioned under such agreement. (Para 10 of EPS)

14) Is there a cap on the salary up to which the contribution has to be made by both the employer as well as an employee?

No, there is no cap on the salary up to which the contribution has to be made by both the employer as well as an employee.

15) Is there a cap on the salary up to which the employer's share of contribution has to be diverted to EPS?

Yes, the cap on the salary up to which the employer's share of contribution has to be diverted to EPS remains at Rs.15000. (Para 3 of EPS)

16) What is a social security agreement (SSA)?

A social security agreement is a bi-lateral instrument to protect the interests of the workers in the host country. It being a reciprocal arrangement generally provides for avoidance of no coverage or double coverage and equality of treatment with the host country workers.

17) What are the provisions covered in a social security agreement?

Generally a social security agreement covers 3 provisions. They are:

a) Detachment

Applies to employees sent on posting in the host country, provided he/she is complying under the social security system of the home country.

b) Exportability of Pension

Provision for payment of pension benefits to the beneficiary choosing to reside in the territory of the home country directly without any reduction as also to a beneficiary choosing to reside in the territory of a third country.

c) Provision for totalisation of Benefits

The period of service rendered by an employee in the host country to be counted for the "eligibility" purpose and the payment may be restricted to the length of service, on pro-rata basis.

18) What is the status of the SSAs?

As of today, Social security agreements have been signed with Belgium, France and Germany. But the date of entry into force is yet to be notified. Negotiations are at various stages with The Netherlands, Czech Republic, Hungary, Norway, Switzerland, Sweden, Luxembourg, USA and Australia. Government level talks are on with many other countries where sizable numbers of Indian workers are employed. Although not a formal agreement, there is a reciprocal arrangement between India and Korea to settle the claims of the employees on completion of employment in the host country.

19) Should the eligible employees from Belgium, France and Germany contribute under the Special provisions till such time the 'date of effect' is notified?

Yes, the International workers from Belgium, France and Germany shall be enrolled as members of EPF till such time the 'date of effect' is notified by the Government of India and after such workers obtaining a 'detachment certificate' from the appropriate authority in their countries, respectively. Till the 'date of effect' is notified no Indian employee posted to these countries and none of the employees from these countries working in India shall be eligible for detachment status.

20) Indian employees working abroad and contributing to Social Security Scheme of that country with whom India has social security agreement. Should they be covered for PF in India or should be treated as excluded employee?

As of today the date of effect of the SSAs is yet to be notified. Therefore, a posted employee, whose name is retained in the pay bill maintained by the employer in India, shall be covered under EPF. If an Indian employee is directly employed by a local employer abroad, such an employee shall be covered by the host country legislations.

21) Could the term "Indian employee" mean any foreign national who is directly employed by an Indian establishment i.e. a person who is in India not under a secondment arrangement or any

deputation from a foreign employer but hired directly by the Indian establishment under local terms and service conditions?

The term Indian employee shall mean only such of those employees as explained under Q.No 4. No foreign national can be termed an Indian employee.

22) Whether a Third Country(C) National domiciled in a country (B) with which India (A) has a social security agreement is eligible for benefit under the social security agreement between India and that country?

Normally social security agreements are signed to cover the 'Nationals' of the respective countries. Therefore, the above employee may be eligible for the benefit provided that the Third country (C) has signed an enabling agreement with both India (A) as well as the Second country (B).

23) Indian employees working abroad and contributing to Social Security Scheme of that country with whom India DOES NOT have social security agreement. Should they be covered for PF in India or should be treated as excluded employee?

A posted employee, who is drawing wages from the employer in India, shall be covered under EPF. If an Indian employee is directly employed by a local employer abroad, such an employee shall be covered by the host country legislations.

24) Foreign nationals who are employed in India and being paid in foreign currency, whether to be covered or not?

Yes, International workers drawing salary in any currency and in any manner are to be covered. (Section 2 f).

25) Foreigners who are employed directly as an employee by an Indian establishment abroad to be covered or not?

The local employees of an Indian establishment engaged abroad shall be covered by the local legislations.

26) Considering that in most countries issuance of work permit to an individual is a trigger for social security compliance, whether the purpose and type of visa i.e. business/ employment will be a determinant for a person to be considered as an International Worker?

The purpose of the visit of an individual is the main determinant for social security compliance. The type of visa may help in determining the purpose of visit. For example - a foreign national coming in to India under an employment visa is working in India.

27) Whether benefit of reciprocity can be extended to an International Worker if his home country provides for exemption from social security to Indian nationals going to work in that country under its domestic law even though there is no social security agreement with India?

In the absence of a formal agreement the benefit of reciprocity is available at the time of withdrawal of the pension claim and not at the time of coverage. (Para 14 of EPS)

28) Where will the survivor benefits be delivered in case of a covered employee holding a passport, being other than an Indian passport, issued by a country with which India is not having a SSA?

In the absence of a SSA, the survivor benefits such as widow/widower pension, children /orphan pension,

nominee/parent pension, etc. as the case may be, shall be payable to a bank account of the eligible beneficiary in India. (Para 14 of EPS)

29) What is the criterion for receiving the withdrawal benefit for the services of less than 10 years under EPS, 1995?

In respect of employees hailing from the countries with which India has signed a SSA, the withdrawal benefit shall be paid or accounted for as per the provisions of the SSA. In all other cases, it shall be guided by the principle of reciprocity with reference to the entitlement available to Indian employees in the other country. (Para 14 of EPS)

30) How long an Indian employee retains the status of “International worker”?

An Indian employee attains the status of “International worker” only on account of his employment in a country with which India has signed a SSA. He shall remain in that status till the time he avails the benefits under a social security programme covered under that SSA. (Para 2 f)

31) Under what condition the contributions received in the PF account are payable along with interest?

The full amount standing to the credit of a member’s account is payable if any one of the circumstances mentioned under Para 69 of the EPF Scheme, 1952 is fulfilled

32) Is there a cap on the salary up to which the contribution has to be made to EDLI Scheme by both the employer?

Yes, the cap on the salary up to which contribution has to be made to EDLI Scheme remains unchanged at Rs.15000.



कर्मचारी भविष्य निधि संगठन
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour & Employment, Govt. of India)
मुख्य कार्यालय / Head Office
भविष्य निधि भवन, 14-भिकाजी कामा प्लेस, नई दिल्ली-110 066.
Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi - 110 066.

No. Coord./ 5(15)2009/International Worker

Dated: 25.11.2010

To

All Additional Central PF Commissioners (Zones),
All Regional PF Commissioners,
In charge of the Regions

Sub.: Amendment in the Employees' Provident Fund Scheme, 1952 and Employees' Pension Scheme, 1995 – Special Provisions for International Workers suggested by the Ministry of Overseas Indian Affairs – reg.

Sir,

Please find enclosed herewith a copy of letter no. S-65011/4/2009.SS-II dated 10.11.2010 of Ministry of Labour & Employment along with copies of published notification having numbers G.S.R. 148 and 149 both dated 03.09.2010 for information & necessary action in regard to subject matter.

It is emphasized that steps be taken to ensure that the exempted funds also suitably modify their respective schemes. Also proper compliance of such provisions may be ensured.

Encl.: As above

Yours faithfully

Anita S. Dixit
26.11.10

(Anita S. Dixit)

Regional P. F. Commissioner-I (Coordination)

Copy to:

1. FA & CAO/CVO/All ACCs, Head Office/Director NATRSS
2. All RPFC-I, RPFC-II Head Office
3. RPFC (IWU) w.r.t. UO no. IWU/751/Amendment dated 23.11.2010
4. All Deputy Director (Vig.)/Zonal Audit Parties/Zonal Training Institutes
5. PS to CPFC
6. Web Administrator for uploading on the website.
7. Hindi section for hindi version.
8. Guard File

V.V.B. Singh
26.11.10

Regional PF Commissioner-II (Coordination)

No.S-65011/4/2009.SS-II
Government of India
Ministry of Labour & Employment
(SS-II Section)

Dated the 16th November, 2010

To

The Central Provident Fund Commissioner,
Employees' Provident Fund Organisation,
14, Bhikaiji Cama Place
New Delhi.

Subject:- Amendments in Employees' Provident Funds Scheme, 1952 and in Employees' Pension Scheme, 1995-Special provisions for International Workers suggested by the Ministry of Overseas Indian Affairs (MOIA)-regarding.

Sir,

✓ I am directed to refer to your letter No.Pension 1/7 (5)2001/Vol.II/111 dated 22-4-2009 on the above mentioned subject. In this regard a copy of published notifications having numbers G.S.R. 148 and 149 both dated 3-9-2010 are enclosed for information and perusal.

Encl: As above.

Yours faithfully,

S.K. Brahmo
(S.K. Brahmo)
Section Officer

Udit
12/11/10
उदिता चौधरी
क्षेत्रीय नविष्य निधि आयुक्त-1
UDITA CHOWDHARY
Regional P. F. Commissioner

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Pl. let me have a copy



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 37] नई दिल्ली, सितम्बर 5—सितम्बर 11, 2010, शनिवार/भाद्र 14—भाद्र 20, 1932
No. 37] NEW DELHI, SEPTEMBER 5—SEPTEMBER 11, 2010, SATURDAY/BHADRA 14—BHADRA 20, 1932

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) और केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा विधि के अंतर्गत बनाए और जारी किए गए साधारण सांविधिक नियम (जिनमें साधारण प्रकार के आदेश, उप-नियम आदि सम्मिलित हैं)

General Statutory Rules (Including Orders, Bye-laws etc. of a general character) issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities (other than the Administrations of Union Territories)

गृह मंत्रालय

नई दिल्ली, 7 सितम्बर, 2010

सा.का.नि. 145.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पुलिस अनुसंधान और विकास ब्यूरो, सहायक निदेशक (विधि एकक) और विधि सहायक भर्ती नियम, 1985 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. संक्षिप्त नाम और प्रारंभ:— (1) इन नियमों का संक्षिप्त नाम पुलिस अनुसंधान और विकास ब्यूरो, सहायक निदेशक (विधि एकक) और विधि सहायक भर्ती (संशोधन) नियम, 2010 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. पुलिस अनुसंधान और विकास ब्यूरो, सहायक निदेशक (विधि एकक) और विधि सहायक भर्ती नियम, 1985 के स्थान पर निम्नलिखित अनुसूची रखी जाएगी, अर्थात् :—

(11)	(12)
<p>Direct recruitment :</p> <p>Note : 1. Vacancies caused by the incumbent being away on deputation or long illness or study leave or under other circumstances for a duration of one year or more may be filled on deputation basis from officers of Central Government :—</p> <p>(a) (i)—holding analogous post on regular basis in the parent cadre or department; or</p> <p>(ii) with three years' service in the grade rendered after appointment thereto on a regular basis in the pay scale of Rs. 5200—20200, (PB-I), Grade Pay of Rs. 2800 or equivalent in the parent cadre or department; and</p> <p>(b) possessing the educational qualification and experience prescribed for direct recruits under column (8).</p> <p>Note : 2—The maximum age limit for appointment by deputation shall be not exceeding 56 years as on the closing date of receipt of applications.</p>	Not applicable
(13)	(14)
<p>Group 'B' Departmental Promotion Committee for considering confirmation) consisting of :—</p> <p>(i) Director (Administration), Directorate of Extension —Chairman</p> <p>(ii) Director (Farm Information), Directorate of Extension —Member</p> <p>(iii) Under Secretary (Extension), Department of Agriculture and Cooperation —Member</p> <p>(iv) Deputy Director (Administration), Directorate of Extension —Member</p>	Consultation with Union Public Service Commission not necessary.
<p>[F. No. 01-01/2004-Extension (Vol.)] R. S. VERMA, Under Secy. (Extension)</p>	

श्रम और रोजगार मंत्रालय

नई दिल्ली, 3 सितम्बर, 2010

सा.का.नि. 148.—केन्द्रीय सरकार, कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 7 की उप-धारा (1) के साथ पठित धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्मचारी भविष्य निधि योजना, 1952 में और संशोधन करने के लिए निम्नलिखित योजना बनाती है, अर्थात् :—

1. (1) यह योजना कर्मचारी भविष्य निधि (संशोधन) योजना, 2010 कही जाएगी।

(2) यह सरकारी राजपत्रों में इसके प्रकाशन की तारीख को प्रवृत्त होगी।

2. कर्मचारी भविष्य निधि योजना, 1952 में पैरा (83) के स्थान पर निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात् :—

'83. अंतर्राष्ट्रीय कर्मचारियों के संबंध में विशेष उपबन्ध—यह स्कीम, इस पैरा में यथापरिभाषित अंतर्राष्ट्रीय कर्मचारियों पर लागू होने में, निम्नलिखित उपांतरणों के अध्वधीन होगी, अर्थात् :—

(1) पैरा 2 के खण्ड (च) के लिए, निम्नलिखित खण्ड प्रतिस्थापित किया जाएगा, अर्थात् :—

(च) "अपवर्जित कर्मचारी" से ऐसा अंतर्राष्ट्रीय कर्मकार अभिप्रेत है जो अपने मूल देश के, जिसके साथ भारत ने पारस्परिकता के आधार पर कोई सामाजिक सुरक्षा करार किया है, किसी सामाजिक सुरक्षा कार्य करने नागरिक या निवासी के रूप में योगदान दे रहा है और ऐसी अवधि और निबंधनों के लिए, जो ऐसे किसी करार में विनिर्दिष्ट किए गए हों, वियोजित कर्मकार की प्रास्थिति का उपभोग कर रहा है ;

(2) पैरा 2 के खण्ड (ज) के पश्चात्, निम्नलिखित खण्ड प्रतिस्थापित किया जाएगा, अर्थात् :—

(ज क) “अंतर्राष्ट्रीय कर्मकार” से निम्नलिखित अभिप्रेत है,—

(क) ऐसा कोई भारतीय कर्मचारी, जिसने किसी ऐसे विदेश में, जिसके साथ भारत ने सामाजिक सुरक्षा करार किया है, कार्य किया है या जो कार्य करने जा रहा है और जो उक्त करार के अधीन प्राप्त या प्राप्त की जाने वाली पात्रता के आधार पर उस देश के सामाजिक सुरक्षा कार्यक्रम के अधीन फायदों का उपभोग करने के लिए पात्र है;

(ख) भारत में किसी स्थापन, में जिस पर यह अधिनियम लागू होता है, कार्यरत भारतीय कर्मचारी से भिन्न कोई कर्मचारी जो भारतीय पासपोर्ट से भिन्न कोई पासपोर्ट धारित करता है;

3. पैरा 26, 26क और 26ख के स्थान पर, निम्नलिखित पैरा प्रतिस्थापित किए जाएंगे, अर्थात् :—

26. अंतर्राष्ट्रीय कामगारों की श्रेणी जो निधि से जुड़ने के लिए हकदार और अपेक्षित है—

(1) (क) किसी ऐसे स्थापन, जिस पर यह योजना लागू होती है, में 1 अक्टूबर, 2008 की स्थिति के अनुसार नियोजित प्रत्येक अंतर्राष्ट्रीय कर्मकार (किसी अपवर्जित कर्मचारी से भिन्न), 1 नवम्बर, 2008 से निधि का सदस्य बनने के लिए हकदार और अपेक्षित होगा।

(2) किसी ऐसे स्थापन, जिस पर यह योजना लागू होती है, में 1 अक्टूबर, 2008 की स्थिति के अनुसार नियोजित प्रत्येक अंतर्राष्ट्रीय कर्मकार (किसी अपवर्जित कर्मचारी से भिन्न), जो पहले से ही सदस्य न रहा हो उस स्थापना में अपना कार्यभार ग्रहण करने की तारीख से निधि का सदस्य बनने के लिए हकदार और अपेक्षित होगा।

(3) जहां यह योजना, उक्त अधिनियम की धारा 17 के अंतर्गत छूट के किसी आदेश के समाप्त या रह होने पर किसी स्थापना पर लागू होती है, वहां ऐसा प्रत्येक अंतर्राष्ट्रीय कर्मकार, जो छूट के कारण निधि का सदस्य बना हो और उस रूप में बना रहा हो, तुरन्त निधि का सदस्य हो जाएगा।

(4) ऐसी किसी स्थापना, जिस पर यह योजना लागू होती है, का कोई अपवर्जित कर्मचारी, ऐसे कर्मचारी न रहने पर, ऐसा कर्मचारी न रहने की तारीख से निधि का सदस्य हो जाएगा।

(5) निधि में सम्मिलित होने के लिए पैरा 27-क के अधीन छूट प्राप्त अंतर्राष्ट्रीय कर्मकारों की किसी श्रेणी के पुनः निर्वाचन पर या उस पैरा के अधीन किसी आदेश की समाप्ति या उसके रहकरण पर ऐसा प्रत्येक अंतर्राष्ट्रीय कर्मकार, जो ऐसी छूट के कारण निधि का सदस्य बना हो और उस रूप में बना रहा हो, तुरन्त निधि का सदस्य हो जाएगा।

(6) ऐसा प्रत्येक अंतर्राष्ट्रीय कर्मकार, जो किसी ऐसी छूट प्राप्त स्थापना के संबंध में बनायी गयी प्राइवेट भविष्य निधि का सदस्य है और जो ऐसी छूट के कारण निधि का सदस्य बना हो और उस रूप में बना रहा हो, ऐसे किसी स्थापन, जिस पर यह योजना लागू होती है, में कार्यग्रहण करने पर, तुरन्त निधि का सदस्य हो जाएगा।

26क. सदस्यता का बना रहना.—निधि का कोई सदस्य, निधि में अपने खाते में जमा राशि को पैरा 69 के अधीन वापिस लेने या अधिनियम की धारा 17 के अंतर्गत छूट की किसी अधिसूचना या पैरा 27 या पैरा 27क के अधीन छूट के किसी आदेश के अंतर्गत आने या फायदों का भारत और उसके मूल के देश के बीच किए गए सामाजिक सुरक्षा करार के अधीन सुसंगत उपबंधों के निबंधनानुसार निपटारा किए जाने तक सदस्य के रूप में बना रहेगा।

26ख. शंकाओं का निराकरण—यदि इस बारे में कि क्या कोई अंतर्राष्ट्रीय कर्मकार सदस्य बनने या उस रूप में बने रहने का हकदार या उसके लिए अपेक्षित है या उस तारीख के बारे में जिससे वह सदस्य बनने के लिए हकदार या अपेक्षित है, कोई प्रश्न उत्पन्न होता है तो उस पर क्षेत्रीय आयुक्त का विनिश्चय अंतिम होगा :

परन्तु कोई भी विनिश्चय तब तक नहीं किया जाएगा जब तक कि नियोजक और अंतर्राष्ट्रीय कर्मकार दोनों को सुनवाई का अवसर नहीं दिया गया हो।”

4. पैरा 29 में, उप-पैरा (1) में, बिन्दुओं के पश्चात् निम्नलिखित परन्तुक जोड़ा जाएगा, अर्थात् :—

आगे यह प्रावधान किया गया कि जहां मजदूरी का भुगतान भारतीय रुपए के अलावा अन्य किसी मुद्रा में किया जाता है वहां उस मुद्रा के विनिमय की दर उस माह, जिसके लिए मजदूरी देय है, के अंतिम कार्य दिवस को ऐसी मुद्रा के क्रय हेतु भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) के अंतर्गत स्थापित भारतीय स्टेट बैंक द्वारा प्रस्तावित टैलिग्राफिक अंतरण क्रय दर होगी।

5. पैराग्राफ 36 के लिए निम्नलिखित पैराग्राफ प्रतिस्थापित किया जाए, अर्थात् :—

36. नियोजता के कर्तव्य.—(1) किसी प्रतिष्ठान का प्रत्येक नियोजता जिस पर यह स्कीम लागू होती है आयुक्त को इस योजना के ऐसे प्रतिष्ठान पर लागू होने के 15 दिनों के भीतर ऐसे फॉर्म में जो कि आयुक्त विनिर्दिष्ट करें, निधि के सदस्य बनने हेतु अपेक्षित अथवा प्राप्त

अंतर्राष्ट्रीय कामगारों (प्रत्येक अंतर्राष्ट्रीय कामगार की राष्ट्रीयता को विशेषरूप से इंगित करते हुए) एक समेकित विवरणी भेजेगा जिसमें मूल वेतन, प्रतिधारण भत्ता (यदि कोई हो) और ऐसे प्रत्येक अंतर्राष्ट्रीय कामगार को दी गई खाद्य रियायत की नकद कीमत सहित महंगाई भत्ता दर्शाया गया हो :

परन्तु यह कि यदि ऐसा कोई अंतर्राष्ट्रीय कामगार न हो जो इस निधि का सदस्य बनना अपेक्षित हो अथवा हकदार हो, तो नियोक्ता 'शून्य' विवरणी भेजेगा ।

(2) प्रत्येक नियोक्ता हर एक महीने के समाप्त होने के 15 दिन के भीतर आयुक्त को—

(क) फॉर्म 5 में, पूर्ववर्ती माह के दौरान पहली बार इस निधि का सदस्य बनने के लिए अर्हता पाने वाले अंतर्राष्ट्रीय कामगारों की ऐसे अर्हता वाले अंतर्राष्ट्रीय कामगारों द्वारा प्रस्तुत की गई फॉर्म 2 में उद्घोषणा सहित (ऐसे प्रत्येक राष्ट्रीय कामगार की राष्ट्रीयता विशेषरूप से इंगित करते हुए) एक विवरणी भेजेगा, और

(ख) ऐसे फॉर्म में जो आयुक्त विनिर्दिष्ट करें, पूर्ववर्ती माह के दौरान नियोक्ता की सेवा छोड़ने वाले अंतर्राष्ट्रीय कामगारों (ऐसे प्रत्येक राष्ट्रीय कामगार की राष्ट्रीयता विशेषरूप से इंगित करते हुए) एक विवरणी भेजेगा :

परन्तु यह कि यदि पूर्ववर्ती माह के दौरान पहली बार निधि का सदस्य बनने की अर्हता पाने वाला कोई अंतर्राष्ट्रीय कामगार न हो अथवा नियोक्ता की सेवा छोड़ने वाला कोई अंतर्राष्ट्रीय कामगार न हो तो नियोक्ता 'शून्य' विवरणी भेजेगा ।

6. पैराग्राफ 69 के लिए निम्नलिखित पैराग्राफ प्रतिस्थापित किया जाए, अर्थात् :—

69. वे परिस्थितियाँ जिनमें किसी अंतर्राष्ट्रीय कामगार को निधि में संचयी धन राशि देश हांगी—

(1) कोई अंतर्राष्ट्रीय कामगार निधि में उसके खाते में जमा पूर्ण धनराशि को निकाल सकता है—

(क) 58 वर्ष की आयु का हो जाने के उपरान्त किसी भी समय प्रतिष्ठान सेवा से निवृत्त हो जाने पर;

(ख) प्रतिष्ठान के चिकित्सा अधिकारी द्वारा प्रमाणित अथवा जहाँ प्रतिष्ठान में कोई नियमित चिकित्सा अधिकारी न हो, तो प्रतिष्ठान द्वारा पदनामित पंजीकृत चिकित्सा व्यवसायी द्वारा प्रमाणित शारीरिक अथवा मानसिक कमजोरी के कारण काम करने में स्थायी और पूर्णतः अक्षम होने के कारण सेवा निवृत्त हो जाने पर ;

परन्तु यह कि—

(i) जहाँ कोई प्रतिष्ठान बंद हो चुका हो, तो किसी पंजीकृत चिकित्सा व्यवसायी का प्रमाण-पत्र स्वीकार कर लिया जाए;

(ii) जहाँ प्रतिष्ठान कर्मचारी राज्य बीमा योजना द्वारा कवर किया गया हो, तो जिस कर्मचारी राज्य बीमा औषधालय से कर्मचारी संबद्ध हो उस के चिकित्सा अधिकारी का प्रमाण-पत्र अथवा योजना के अंतर्गत जिस बीमा चिकित्सा प्राधिकारी के पास कर्मचारी पंजीकृत हो उसका प्रमाण-पत्र प्रस्तुत किया जाए;

(iii) जहाँ नियोक्ताओं और कर्मचारियों के आपसी सहमती से किसी प्रतिष्ठान अथवा प्रतिष्ठानों के किसी समूह के लिए कोई चिकित्सा बोर्ड मौजूद हो, तो ऐसे चिकित्सा बोर्ड द्वारा जारी किया गया प्रमाण-पत्र भी इस उप-पैराग्राफ के प्रयोजनार्थ स्वीकार कर लिया जाए ।

(2) जहाँ किसी सदस्य द्वारा उप-पैराग्राफ (1) खण्ड (ख) के अंतर्गत प्रस्तुत मूल प्रमाण-पत्र, इसके असली होने से संबंधित कोई संदेह उत्पन्न करें, तो क्षेत्रीय आयुक्त किसी सदस्य से उनकी ओर से कार्य कर रहे किसी सिविल सर्जन अथवा किसी डाक्टर से एक ताजा प्रमाण-पत्र लाने की भांग कर सकते हैं;

परन्तु यह कि उनकी ओर से कार्य कर रहे सिविल सर्जन अथवा किसी डाक्टर का समूचा शुल्क निधि में से अदा किया जाएगा यदि उनकी ओर से कार्य कर रहे सिविल सर्जन अथवा किसी डाक्टर के निष्कर्ष मूल प्रमाण-पत्र से मेल खाते हों, यह कि जहाँ उनकी ओर से कार्य कर रहा ऐसा डाक्टर मूल प्रमाण-पत्र से सहमत हो, और यह कि जहाँ ऐसे निष्कर्ष मूल प्रमाण-पत्र से मेल नहीं खाते हों, तो निधि में से केवल आधा शुल्क ही अदा किया जाएगा तथा शेष बचा आधा सदस्य के खाते के नामे डाला जाएगा ।

(3) तपेदिक अथवा कुष्ठ रोग (अथवा कैंसर) से ग्रस्त किसी सदस्य को, चाहे वह बीमारी के आधार पर किसी प्रतिष्ठान की सेवा छोड़ने के उपरान्त ही ग्रस्त क्यों न हुआ हो, परन्तु भुगतान प्राधिकृत किए जाने से पूर्व ग्रस्त हुआ हो, कार्य करने के लिए स्थायी रूप से और पूर्णतः अक्षम माना जाएगा ।

(4) भारत सरकार अथवा किसी अन्य देश के बीच हुए किसी सामाजिक सुरक्षा समझौते के अंतर्गत कवर किए गए किसी सदस्य के संबंध में ऐसे आधारों पर जो उस समझौते में विनिर्दिष्ट किए गए हों ।

7. पैराग्राफ 72 के लिए निम्नलिखित पैराग्राफ प्रतिस्थापित किया जाए, अर्थात् :-

72. भविष्य निधि का भुगतान—

- (1) जब किसी सदस्य के खाते में जमा धनराशि देय हो जाए, तो योजना में किए गए प्रावधान के अनुसार उसका तत्काल भुगतान करना आयुक्त का कर्तव्य होगा।
- (2) भारत सरकार और किसी अन्य देश के बीच हुए किसी सामाजिक सुरक्षा समझौते के अंतर्गत कवर किए गए किसी सदस्य को धनराशि उस समझौते में विनिर्दिष्ट ढंग और शर्तों के अनुसार देय होगी।
- (3) अन्य सभी मामलों में देय धनराशि, प्राप्तकर्ता के बैंक खाते में जमा की जाएगी।

8. पैराग्राफ 78 के लिए निम्नलिखित पैराग्राफ जोड़ दिया जाए, अर्थात् :-

78क. सामाजिक सुरक्षा समझौतों के अंतर्गत कुछ विशेष कार्य निष्पादित करना—

भारत सरकार और किसी अन्य देश के बीच हुए किसी सामाजिक सुरक्षा समझौते के अंतर्गत आयुक्त, कर्मचारी भविष्य निधि संगठन को सौंपे गये ऐसे सभी कार्य समझौते में विनिर्दिष्ट ढंग से और शर्तों के अनुसार निष्पादित करेंगे।

[फा. सं. आर-11011/1/2007-एसएस-II (खण्ड-II)]

एस. के. देव वर्मन, संयुक्त सचिव

पाद टिप्पण : कर्मचारी भविष्य निधि योजना, 1952 सा.का.नि. संख्या 1506, दिनांक 2 सितम्बर, 1952 द्वारा भारत के राजपत्र भाग II, खण्ड 3, उप-खण्ड (i) में प्रकाशित की गई थी और यह योजना अंतिम बार सा.का.नि. 451(अ) दिनांक 29-6-2009 द्वारा आशोधित की गई थी।

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 3rd September, 2010

G.S.R. 148.—In exercise of the powers conferred by Section 5, read with sub-section, (1) of Section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme, further to amend the Employees' Provident Funds Scheme, 1952, namely :—

1. (1) This Scheme may be called the Employees' Provident Funds (Amendment) Scheme, 2010.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Employees' Provident Funds Scheme, 1952 for paragraph 83, the following paragraph shall be substituted, namely :—

83. Special provision in respect of International Workers.—The Scheme, shall, in its application to International Workers as defined in this paragraph, be subject to the following modifications, namely :—

(1) For clause (f) of paragraph 2, the following clause shall be substituted, namely :—

(f) "excluded employee" means an International Worker, who is contributing to a social security, programme of his country of origin, either as a citizen or resident, with whom India has entered into a social security agreement on reciprocity basis and enjoying the status of detached worker for the period and terms, as specified in such an agreement;

(2) After clause (j) of paragraph 2, the following clause shall be substituted, namely :—

(ja) "International Worker" means,—

(a) an Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;

(b) an employee other than an Indian employee, holding other than an Indian passport, working for an establishment in India to which the Act applies;

3. For paragraphs 26, 26A and 26B, the following paragraphs shall be substituted, namely :—

26. Class of International Workers entitled and required to join the Fund.—

(1)(a) Every International Worker (other than an excluded employee), employed as on 1st day of October, 2008, in an establishment to which this Scheme applies, shall be entitled and required to become a member of the Fund with effect from the 1st day of November, 2008.

(2) Every International Worker (other than an excluded employee), employed after the 1st day of October, 2008 in an establishment to which this Scheme applies, who has not become a member already shall be entitled and required to become a member of the Fund from the date of his joining the establishment.

(3) Where the Scheme applies to an establishment on the expiry or cancellation of an order of exemption under section 17 of the Act, every International Worker who, but for the exemption would have become and continued as a member of the Fund shall become a member of the Fund forthwith.

(4) An excluded employee of an establishment to which this scheme applies shall, on ceasing to be such an employee, be entitled and required to become a member of the Fund from the date he ceases to be such employee.

(5) On re-election of a class of International Workers exempted under paragraph 27 A to join the Fund or on the expiry or cancellation of an order under that paragraph, every International Worker, who but for such exemption would have become and continued as a member of the Fund, shall forthwith become a member thereof.

(6) Every International Worker who is a member of a private provident fund maintained in respect of an exempted establishment and who, but for the exemption, would have become and continued as a member of the Fund shall, on joining an establishment to which this Scheme applies, become a member of the Fund forthwith.

26A. Retention of membership.—A member of the Fund shall continue to be a member until he withdraws under paragraph 69 the amount standing to his credit in the Fund or is covered by a notification of exemption under section 17 of the Act or an order of exemption under paragraph 27 or 27 A or the benefits are settled in terms of the relevant provisions under the social security agreement entered into between India and his country of origin.

26B. Resolution of doubts.—If any question arises as to whether an International Worker is entitled or required to become or continue as member, or as to the date from which he is entitled or required to become a member, the decision thereon of the Regional Commissioner shall be final :

Provided that no decision shall be given unless both the employer and the International Worker have been given an opportunity of being heard.

4. In paragraph 29, in sub-paragraph (1), after the points, the following proviso shall be inserted, namely :—

Provided further that where wages are paid in a currency other than in the Indian Rupee, the rate of conversion of that currency shall be the telegraphic transfer buying rate offered by the State Bank of India established under the State Bank of India Act, 1955 (23 of 1955) for buying such currency on the last working of the month for which the wages are due.

5. For paragraph 36, the following paragraph shall be substituted, namely :—

36. Duties of employer.—(1) Every employer of an establishment to which this Scheme applies shall send to the Commissioner within fifteen days from the application of the Scheme to such establishment, a consolidated return in such form as the Commissioner may specify, of the International Workers (indicating distinctly the nationality of each and every International Worker) required or entitled to become members of the Fund showing the basic wage, retaining allowance (if any) and dearness allowance including the cash value of any food concession paid to each of such International Worker :

Provided that if there is no International Worker who is required or entitled to become a member of the Fund, the employer shall send a 'NIL' return.

(2) Every employer shall send to the Commissioner, within fifteen days of the close of each month, a return

(a) in Form 5, of the International Workers qualifying to become members of the Fund for the first time during the preceding month together with the declarations in Form 2 furnished by such qualifying International Workers (indicating distinctly the nationality of each and every International Worker), and

(b) in such form as the Commissioner may specify, of the International Workers (indicating distinctly the nationality of each and every International Worker) leaving service of the employer during the preceding month :

Provided that if there is no International Worker qualifying to become a member of the Fund for the first time or there is no International Worker leaving service of the employer during the preceding month, the employer shall send a 'NIL' return.

6. For paragraph 69, the following paragraph shall be substituted, namely :—

69. Circumstances in which accumulations in the Fund are payable to an International Worker.—

(1) An International Worker may withdraw the full amount standing to his credit in the Fund—

(a) on retirement from service in the establishment at any time after the attainment of 58 years;

(b) on retirement on account of permanent and total incapacity for work due to bodily or mental infirmity duly certified by the medical officer of the establishment, or where an establishment has no regular medical officer, by a registered medical practitioner designated by the establishment :

Provided that—

- (i) where an establishment has been closed, the certificate of any registered medical practitioner may be accepted;
 - (ii) where the establishment is covered by the Employees' State Insurance Scheme, medical certificate from a medical officer of the Employees' State Insurance Dispensary with which or from the Insurance Medical Practitioner with whom the employee is registered under the Scheme, shall be produced;
 - (iii) where by mutual agreement of employers and employees, a Medical Board exists for any establishment or a group of establishments, a certificate issued by such Medical Board may also be accepted for the purposes of this sub-paragraph.
- (2) it shall be open to the Regional Commissioner to demand from the member a fresh certificate from a Civil Surgeon or any doctor acting on his behalf where the original certificate produced by him under clause (b) of sub-paragraph (1) gives rise to suspicion regarding its genuineness :

Provided that the entire fee of the Civil Surgeon or any doctor acting in his behalf shall be paid from the Fund in case the findings of the Civil Surgeon or any doctor acting on his behalf agree with the original certificate, and that where such doctor acting in his behalf agree with the original certificate, and that where such findings do not agree with the original certificate, only half of the fee shall be paid from the Fund and the remaining half shall be debited to the member's account.

(3) A member suffering from tuberculosis or leprosy or cancer, even if contracted after leaving the service of an establishment on grounds of illness but before payment has been authorised, shall be deemed to have been permanently and totally incapacitated for work.

(4) In respect of a member covered under a social security agreement entered into between the Government of India and any other country, on such grounds as may be specified in that agreement.

7. For paragraph 72, the following paragraph shall be substituted, namely :—

72. Payment of Provident Fund.—

(1) When the amount standing to the credit of a member becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in the Scheme.

(2) The due amount shall be payable to the member covered under a social security agreement entered into between the Government of India and any other country, in the manner and as per the terms specified in the agreement.

(3) In all the other cases, the amount due shall be payable to the credit of the payee's bank account in India.

8. After paragraph 78, the following paragraph shall be inserted, namely :—

78A. Performing certain special functions under social security agreements.—

The Commissioner shall perform all such functions as are assigned to the Employees' Provident Fund Organisation under a social security agreement entered into between by the Government of India and any other country, in the manner and as per the terms specified therein.

[F.No.R-11011/1/2007-SS-II (Vol-II)]

S. K. DEV VERMAN, Jt. Secy.

Footnote: The Employees' Provident Funds Scheme, 1952 was published in the Gazette of India, Part II, Section 3, Sub-section (i), vide number S.R.O. 1506 dated 2nd September, 1952 and was last amended vide number G.S.R. 451(E) dated 29-6-2009.

नई दिल्ली, 3 सितम्बर, 2010

सा.का.नि. 149.—केन्द्रीय सरकार, कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 7 की उप-धारा (1) के साथ पठित धारा 6क द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कर्मचारी पेंशन स्कीम, 1995 का और संशोधन करने के लिए निम्नलिखित स्कीम बनाती है, अर्थात् :—

1. (1) इस स्कीम को कर्मचारी पेंशन (संशोधन) स्कीम, 2010 के नाम से जाना जाए।
- (2) यह राजपत्र में इसके प्रकाशन की तिथि को प्रवृत्त होगी।

2. कर्मचारी पेंशन स्कीम, 1995 में पैरा 43 क के लिए निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात् :-

43क. अंतर्राष्ट्रीय कर्मचारों के संबंध में विशेष उपबंध.—यह स्कीम, इस पैरा में यथापरिभाषित अंतर्राष्ट्रीय कर्मचारों के लिए निम्नलिखित संशोधनों के अध्वधीन लागू होगा, अर्थात् :-

(1) पैरा 2 के खण्ड (vii) के पश्चात् निम्नलिखित खण्ड अंतःस्थापित किया जाएगा, अर्थात् :-

(viii क) "अंतर्राष्ट्रीय कर्मकार" से निम्नलिखित अभिप्रेत है :-

(क) उक्त करार के अन्तर्गत कोई भारतीय कर्मचारी, जिसने उस बाह्य देश में कार्य किया हो अथवा कार्य करने जा रहा हो, जिसके साथ भारत ने सामाजिक सुरक्षा करार किया है और जो उस देश के सामाजिक सुरक्षा कार्यक्रम के अंतर्गत प्राप्त पात्रता अथवा मिलने वाली पात्रता के आधार पर उन लाभों का हकदार हो,

(ख) भारतीय कर्मचारी से भिन्न कोई कर्मचारी, जिसके पास भारतीय पासपोर्ट से भिन्न कोई पासपोर्ट हो, भारत के उस प्रतिष्ठान में कार्यरत है जिसमें यह अधिनियम लागू हो।

(2) पैरा 2 के खण्ड (XV) के लिए निम्नलिखित खंड प्रतिस्थापित किया जाएगा, अर्थात् :-

(XV) "पेंशन योग्य सेवा" से किसी "अंतर्राष्ट्रीय सामाजिक सुरक्षा करार के अंतर्गत आने वाले सदस्य द्वारा की गई सेवा, जिसके लिए अभिदाय प्राप्त हुए हैं अथवा प्राप्त होने योग्य हैं, और संबंधित सामाजिक सुरक्षा करार के तहत पात्र मानी गई सेवा की अवधि, अभिप्रेत है।

(3) पैरा 3 के उप-पैरा (2), (3) और (4) को हटा दिया जाएगा।

(4) पैरा 4 के उप-पैरा (2), के परन्तुक को हटा दिया जाएगा।

(5) पैरा 10 के उप-पैरा (1) के लिए निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात् :-

(1) किसी सदस्य की पेंशन योग्य सेवा, जो अंतर्राष्ट्रीय सामाजिक सुरक्षा करार के अन्तर्गत शामिल है, को कर्मचारी पेंशन निधि में उसके हिस्से के प्राप्त अथवा प्राप्य अभिदाय के संदर्भ में अभिनिर्धारित की जाएगी :-

बशर्ते कि, अंतर्राष्ट्रीय सामाजिक सुरक्षा करार के अन्तर्गत शामिल पेंशन योग्य सेवा के निर्धारण के लिए संबंधित सामाजिक सुरक्षा कार्यक्रम के तहत की गई अवधि की सेवा को सिर्फ ऐसे किसी करार में उल्लिखित उद्देश्यों के लिए उस उप-पैरा के अन्तर्गत पेंशन योग्य सेवा में जोड़ा जाएगा।

(6) पैरा 11 के लिए निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात् :-

11 पेंशन योग्य सेवा का निर्धारण : पेंशन योग्य वेतन पीस रेट आधार पर किसी भी प्रकार से औसत आहरित मासिक वेतन सहित कर्मचारी पेंशन निधि की सदस्यता वाले अभिदाय की सेवा-अवधि के दौरान मानी जाएगी।

(7) पैरा 14 के लिए निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात् :-

14. मासिक सदस्यता पेंशन के लिए पात्र होने से पूर्व सेवा छोड़ने के लाभ :-

कोई अंतर्राष्ट्रीय कर्मकार जिसे सामाजिक सुरक्षा के लिए भारत तथा अन्य देश के मध्य किए गए ऐसे करार के तहत विहित पैरा 9 में बाहर जाने की तिथि को की गई पात्रता सेवा अथवा 58 वर्ष की आयु पूरी होने तक, जो भी पहले हो, उक्त सामाजिक सुरक्षा करार में प्रदत्त कुल लाभ का हकदार होगा;

बशर्ते कि यदि उक्त करार के उपबंधों के अन्तर्गत शामिल अंतर्राष्ट्रीय कर्मकार ने, उक्त करार में प्रदत्त कुल लाभ को शामिल करने के पश्चात् भी, पात्रता सेवा न पूरी की हो, तब ऐसे अंतर्राष्ट्रीय कर्मकार तालिका 'घ' में यथा उल्लिखित आहरण लाभ का पात्र होगा।

(8) पैरा 33 के पश्चात् निम्नलिखित परन्तुक अंतःस्थापित किया जाएगा, अर्थात् :-

बशर्ते कि इस स्कीम के अंतर्गत यदि लाभार्थी भारत एवं अन्य देश के मध्य हुए सामाजिक सुरक्षा संबंधी करार के अंतर्गत कवर किया गया है तो पेंशन तथा अन्य लाभ उक्त करार में इस स्कीम के अंतर्गत विनिर्दिष्ट निबंधन एवं शर्तों के अध्वधीन संचित किए जाएंगे।

(9) पैरा 35 के पश्चात् निम्नलिखित पैरा अंतःस्थापित किया जाएगा, अर्थात् :-

35क. सामाजिक सुरक्षा करार के तहत कतिपय कार्यों का निष्पादन.—आयुक्त, भारत सरकार एवं अन्य देश के मध्य हुए सामाजिक सुरक्षा संबंधी करार के तहत कर्मचारी भविष्य निधि संगठन को सौंपे गए सभी कार्य इस स्कीम में विनिर्दिष्ट रीति में निबंधन एवं शर्तों के अनुसार करेगा।

[फा. सं. आर-11011/1/2007-एसएस-II (खण्ड-II)]

एस. के. देव वर्मन, संयुक्त सचिव

पाद टिप्पण : कर्मचारी पेंशन स्कीम, 1995, भारत के राजपत्र भाग II, खण्ड 3 के उप-खण्ड (i)-में सा.का.नि. 748(अ), तारीख 16 नवम्बर, 1995 द्वारा प्रकाशित की गई थी और स्कीम में अंतिम संशोधन सा.का.नि. 594(अ) तारीख 21 अगस्त, 2009 द्वारा किया गया था।

New Delhi, the 3rd September, 2010

G.S.R. 149.—In exercise of the powers conferred by section 6A, read with sub-section (1) of Section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Pension Scheme, 1995, namely:—

1. (1) This Scheme may be called the Employees' Pension (Amendment) Scheme, 2010.
- (2) It shall come into force on the date of its publication in the Official Gazette.
2. In the Employees' Pension Scheme, 1995 for paragraph 43A, the following paragraph shall be substituted, namely:—

'43A. Special provisions in respect of International Workers.—The Scheme, shall, in its application to International Workers as defined in this paragraph, be subject to the following modifications, namely:

- (1) After clause (vii) of paragraph 2, the following clause shall be inserted, namely:
- (viii) "International Worker" means,—
- (a) an Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
- (b) an employee other than an Indian employee, holding other than an Indian passport, working for an establishment in India to which the Act applies;
- (2) For clause (xv) of paragraph 2, the following clause shall be substituted, namely:—
- (xv) "pensionable service" means the service rendered by the member for which contributions have been received or are receivable and the period of coverage earned in another country and considered as eligible under a relevant social security agreement.

- (3) Sub-paragraphs (2), (3) and (4) of paragraph 3 shall be omitted.
- (4) Proviso to sub-paragraph (2) of paragraph 4 shall be omitted.
- (5) For sub-paragraph (1) of paragraph 10, the following sub-paragraph shall be substituted, namely:
- (1) The pensionable service of the member covered by an international social security agreement shall be determined with reference to the contributions received or are receivable on his behalf in the Employees' Pension Fund:

Provided that for the purposes of determining the pensionable service of a member covered by an international social security agreement, the period of service rendered under a relevant social security programme shall be added to the pensionable service under this sub-paragraph only for the purposes mentioned under such an agreement.

- (6) For paragraph 11, the following paragraph shall be substituted, namely:—
11. Determination of pensionable salary.—The pensionable salary shall be the average monthly pay drawn in any manner including on piece-rate basis during the contributory period of service of the membership of the Employees' Pension Fund.

- (7) For paragraph 14, the following paragraph shall be substituted, namely:
14. Benefits on leaving service before being eligible for monthly members' pension.—
- An International Worker covered under a social security agreement entered into between India and another country who has not rendered the eligible service prescribed in paragraph 9 on the date of exit, or on attaining the age of 58 years, whichever is earlier, shall be entitled to a totalization benefit as may be provided in the said social security agreement:

Provided that if the International Worker covered under the provisions of the said agreement has not rendered the eligible service even after including the totalisation benefit as may be provided in the said agreement, then, such international worker shall be entitled to a withdrawal benefit as laid down under Table 'D'.

- (8) After paragraph 33, the following proviso shall be inserted namely:—Provided that if the beneficiary under the Scheme is covered under a social security agreement between India and another country, the pension and other benefits under the scheme shall be disbursed in the manner and as per the terms and conditions specified in the said agreement.

- (9) After paragraph 35, the following paragraph shall be inserted, namely:—
- 35A. Performing certain functions under the social security agreement.—
- The Commissioner shall perform all such functions as are assigned to the Employees' Provident Fund Organisation under a social security agreement entered into between the Government of India and any other country, in a manner and as per the terms and conditions specified therein.

[F.No.R-11011/1/2007-SS-II (Vol. II)]

S. K. DEV VERMAN, Jt. Secy.

Footnote: The Employees' Pension Scheme, 1995 was published in the Gazette of India, Part-II, Section 3, Sub-section(i), vide number G.S.R. 748 (E), dated the 16th November, 1995 and the Scheme was last amended vide number G.S.R. 594(E) dated 21-8-2009.



कर्मचारी भविष्य निधि संगठन

(श्रम एवं रोजगार मंत्रालय, भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

(Ministry of Labour & Employment, Govt. of India)

मुख्य कार्यालय / Head Office

भविष्य निधि भवन, 14-भीकाजी कामा प्लेस, नई दिल्ली-110 066.

Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi - 110 066

No. IWU/7(11)2011/ Compliance/

Dated: 23/5/2013

5037

23 MAY 2015

To

All Additional CPFCs (Zone)

All Regional PF Commissioner in charge of ROs and SROs

Subject: Securing Compliance under Para 83 of Employees' Provident Fund (Amendment) scheme 2010 and Para 43A of Employees' Pension (Amendment) scheme 2010-Regarding.

Sir,

As you are aware special provisions were made by the Government in respect of International Workers by inserting Para 83 (vide GSR 706E dated 01/10/2008) and Para 43A (vide GSR 705(E) dated 01/10/2008) in the Employees' Provident Fund Scheme 1952 and Employees' Pension Scheme 1995 respectively.

According to the Special provisions of the EPF Scheme 1952, contributions in respect of an International Worker (i.e. employer's and employee's) were required to be remitted by an employer on full *pay* (i.e. without ceiling of Rs.6500/ per month) w.e.f. 1st of November 2008 or from the date of joining, whichever was later. The restrictions on the diversion of 8.33% from the employer's share of EPF contribution towards the employees' pension fund was also done away with vide GSR 149 dated 03/09/2010. Thus, it is very clear that in respect of the International workers, the contributions had to be deducted and remitted under EPF as well as EPS Scheme on full *pay* without any ceiling (Where "*Pay*" consist of basic wages, Dearness allowance, Retaining allowance (if any) and cash value of food concession (if any)).

In this context while scrutinizing a case referred to the Head Office by the Embassy of Republic of Peru, the following serious aberrations were noticed:

1. Even though the International Worker had apparently joined service in a covered establishment (M/S Shipnet Software Solutions India Pvt Ltd.) on 1/4/2009, the provident fund and pension contributions were deducted only from 1st June 2009.

2. The deduction of P.F. contribution as well as diversion of EPS contribution was not being made on full *Pay* from due dates.

The instant case pertains to Regional Office, Tambaram. However, other field offices also might be having similar cases where employers are not remitting the contributions as per stipulated Law.

The employers need to be educated and updated appropriately about the special provisions relating to the International Workers because such violations of the provisions entail very serious consequences for the employers by way of liability towards both damages under section 14B and penal interest under section 7Q including prosecution under Section 14 of the EPF&MP Act 1952. At the same time, such monitoring lapses on the part of the EPFO field offices in ensuring proper administration of the special provisions relating to the International Workers shall cause embarrassment to the EPFO. However, more than anything else, an International Worker shall face financial loss and great difficulties when totalisation of benefits is attempted under various Social Security Agreements.

The Regional PF Commissioners of the field offices are expected to streamline their enforcement machinery to ensure full compliance in respect of all International Workers. The data may be collected from FRROs for cross checking to ensure due compliance.

Willful defaulters may also be considered for booking under Law to have deterrent impact and ensuring strict compliance.

Yours faithfully,


(K.C. Pandey)
Additional Central PF Commissioner (IWU)

Copy to:

- i) All Officer in Head Office
- ii) Director, NATRSS
- iii) All ZTIs/ZAOs/DDs (Vig.)
- iv) RPFC (NDC) with a request to upload it on official website.



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation
श्रम एवं रोजगार मंत्रालय, भारत सरकार
Ministry of Labour And Employment, Government Of India
मुख्य कार्यालय/ Head Office

भविष्य निधि भवन, 14, भीकाजी कामा प्लेस, नई दिल्ली - 110 066
Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi - 110 066

No. IWU/8(4)/2009/RTI/11997-98

Dated :

12 FEB 2015

To

Ms Janhavi Manjrekar
(E-mail:- rticall-dopt@nic.in)

Sub: Supply of information under RTI Act, 2005- Reg.

Madam,

Please refer to this office letter No IWU/8(4)/2009/RTI/11794 dated 04-02-2015 on the subject cited above. The revised reply is as under :

Questions	Answer
1) Background is that person is working drawing salary in India. If person has OCI (Overseas Citizen of India) Card Holder/PIO (Person of Indian Origin). The person hold the other than Indian Passport. 2) Is person holding OCI/PIO will be considered as International Worker under EPF & MP Act, 1952. 3) If earlier person holder of Indian Passport & currently he is holding Australian passport & OCI Card, in such scenario is person will be treated as International Worker 4) Secondly, if the person is International Worker & has contributed 10 years of membership under EPS Scheme, then will be eligible to get pension under EPS after attainment of 58 years. of Age.	Question numbers 1, 2 and 3 As per special provision in respect of International worker, an employee other Indian employee holding other than an Indian passport working for an establishment in India to which the EPF and MP act 1952 applies will be treated as International Worker. Thus, a person holding other than Indian passport will fall under the category of International Worker. Ans 4 Yes he will be eligible to claim pension.

5)What will be provision if person does not complete 10 years of membership under EPS Scheme at time of retirement/after attainment of 58 years. of Age. Already referred to FAQ on EPFO Portal & raised grievance on the same. But does not get clarity on above mentioned aspects, hence requesting to give clarity on above raised queries in detailed.

Ans 5 If 'International Worker' comes from a country with whom India has an SSA then he may avail the benefit of Totalisation of eligible service rendered in both the countries for eligibility purposes. In case after Totalisation his service is 10 or more years then he can claim pension benefit and if it is less than 10 years then he is eligible to see withdrawal of EPS contribution

If 'International Worker' comes from a country with whom India does not have an SSA then the benefit of Totalisation is not available to him. He may apply on completion of 58 years for pension if he has completed 10 years of service under EPS 1995. Withdrawal benefit will, however, not be available to him.

The details of Appellate authority is as under:
Shri Rajesh Bansal,
Addl. Central PF Commissioner (HQ),
Employees' Provident Fund Organization,
Head Office, 14, Bhikaji Cama Place,
New Delhi - 110066

Yours faithfully,

(Navein Juneja)
Regional PF Commissioner -II (IWU)

Copy to – RPFC, NDC with a request to upload on EPFO website.

(Navein Juneja)
Regional PF Commissioner -II (IWU)