

Let us honour the Hard Work and Sacrifices of the man  
who gave India its Constitution.



WISHING YOU ALL A HAPPY  
*Ambedkar Jayanti*

Pic courtesy: Pinterest

Let this day be the Beginning for the Best in your Life...

New Calendar – KROTHI in Tamil ... குரோதி ஆண்டு, தமிழ்

&

Happy Vishu

### Don'ts by Employer under ESIC Act

1. Do not engage any employee (on roll or through vendors), without Registration under ESIC (Obtaining IP number), if they are eligible to be covered under ESIC Act
2. Do not Reduce wages for the purpose coverage of Employee under ESIC
3. Do not reduce /discontinue benefits otherwise admissible to your employees under the pretext of ESI Benefits
4. Do not dismiss, discharge or punish when the Insured person is availing
  - a. Maternity Benefit
  - b. Sickness Benefit
  - c. Temporary Disablement Benefit
5. Do not fail to submit Accident Report, within timelines
6. Do not fail in maintaining Inspection Book at the premises
7. Do not obstruct inspection or defer/deny production of documents / records / registers
8. Do not fail to reply to show cause notices

**ESIC Social Security Officers, does not JUST go with the Nomenclature of Heads of Account during inspections ...refer few Judgment of Hon'ble courts:**

*“Even though the Management has chosen to use a self-serving description, namely, as incentive bonus, the E.S.I. Court, on evidence, rightly found it as over-time wages.”  
(Narasimha Mills Ltd. Vs. ESIC, High Court, Chennai 20.1.2000)*

*“The liability under the Act does not depend upon the nomenclature used by the employer or designation given to the employee” (T.I.Diamond Chains Ltd., T.I. Cycles (India) Ltd and two others Vs. ESIC) – El OP No, 20/1991, 44/1991, 45/1991 and 57/1991 on 24.3.2000. counts.....*

## Unconfirmed News Item: states that the PF Ceiling wages are set to Enhance to Rs.21,000 (from Rs.15,000)...

Following Conditions may change if Labour Codes are notified.

What will happen to Employees (PF Members) & Employers..... a Deep Dive.....

\*\*\*For International Worker (including OCI/Sri Lankan refugees who are mandatorily considered as IW's), this has no impact.

### Glossary:

1. Current PF ceiling wages: Rs.15,000 .00 (it is Basic or Basic+DA only)... Readers, please do not get confused by the Hon'ble SC Judgement dated 28-2-2019 which is for PF Contribution/Remittance (Gross-HRA, where Gross is inclusive of all allowances, which are Universally, Ordinarily, Necessarily paid to an employee..... Where Basic or Basic+DA is more than Rs.15,000.00, this rule is not applicable, as you will be considering PF for more than the PF Ceiling wages.)
2. PF Wages.. Basic + DA (for considering whether the employee can be a member or not)..
3. Coverage under PF.. All those who are mandatorily or non-mandatorily covered under EPF Act.. But any new joinee with UAN, who had not withdrawn both PF and EPS, membership is mandatory irrespective of PF Wages.
4. Excluded Employee.. First Timer and PF wages are more than PF ceiling wages
5. First Timer
  - a. New joinee (first time to employment) to PF applicable establishment.
  - b. Experienced and joining a PF covered Establishment for the First time.. meaning the past employers were not covered under PF as it is not applicable for them (head count less than 20),
  - c. Having UAN but withdrawn both PF and Pension and joins a PF applicable establishment.
6. HRA: Applicable HRA only (50% or 40% of Basic or Basic+DA only)
7. IT Exemption .. Section 80C, restricted to Rs.1,50,000 (currently) and applicable for Old Tax Regime only

**Disclaimer: The said PF enhancement is not a confirmed news... the discussion is based on such unconfirmed news & we have speculated some challenges and probable resolutions, for the benefit of our readers....**

## Impact to Employees (PF members / Excluded Employees)

Following Conditions may change if Labour Codes are notified.

Whether or not the Employer is paying up to PF Ceiling wages or on Actual PF Wages.....

Remarks	Employee covered as a Member	(If) Employee is currently Excluded as a Member
Current PF wages less than 15,000	No Impact	No Impact as such employee cannot be excluded..
Current PF wages (Basic+DA) 15,000	No Impact	No Impact as such employee cannot be excluded..
Current PF wages (Basic_DA) is 15,001 and upto 21,000	<p>To Pay more monthly PF</p> <ol style="list-style-type: none"> <li>1. Consider Basic/Basic+DA and all allowances which are Universally, Ordinarily and Necessarily paid, exclusive of HRA</li> <li>2. Take home will be less (Savings into PF)</li> <li>3. CTC is set to go high</li> <li>4. More Savings (as employer is also going to make his contribution to that extra PF)</li> <li>5. More Income Tax Exemption (80C)</li> <li>6. More Pension – Pension contribution will enhance to Rs.1750 (from 1250)</li> <li>7. More EDLI Coverage</li> </ol>	<ol style="list-style-type: none"> <li>1. To be covered under PF membership, afresh</li> <li>2. To pay PF on Basic/Basic+DA &amp; all allowances which are Universally, Ordinarily &amp; Necessarily paid, exclusive of any HRA</li> <li>3. CTC set to be revised</li> <li>4. Take home to be less (so far, no deduction under PF)</li> <li>5. DoJ in PF will be different from DoJ in current Employment (for those who had already joined)</li> <li>6. IT Exemption (80C) / EDLI cover</li> <li>7. Becomes new Member for Pension under EPF Act</li> </ol>
Employer paying PF on Actual PF Wages (more than 15k but less than 21k)	If an employee's PF wages are more than 15,000 and upto 21,000 the above is applicable, and the new contribution will be Gross-HRA restricted to Rs.21,000.00	No Impact as employee was already excluded
Current PF wages (Basic_DA) is 21,001 or more	No impact	No impact

Following Conditions may change if Labour Codes are notified.



## Impact to Employers (Financial Liability/Administrative Task)

1. Financial Liability in case of both the above conditions (discussed as above)
  - a. For current members it will be little extra
  - b. For currently excluded-turned-to be covered, the Liability for Employer will be High
2. CTC to be revised/enhanced
3. More Employees to be covered
  - a. More administrative work
  - b. To insert new members (to PF) who are old employees (as per service) – confusion amongst employment
4. If the Employer wanted to revise the compensation structure to keep the excluded employees, to continue to be excluded:
  - a. To enhance Basic / Basic + DA (cannot adjust with other allowances, unless otherwise acceptable to employee – employment condition as per Section 9A of ID Act)
  - b. In such case, Gratuity will be more (more liability as Basic / Basic+DA is set to enhance)
5. Administrative charges (PF and EDLI) set to enhance... with new members and currently it is on 15000 and with new enhanced ceiling wages, the Admin charges will be High

**There can be a BIG Challenge**

**(Speculation ... if EPFO is going to announce the enhancement, hope they will come up with appropriate remedy)**

**Excluded Employees, but covered.....Those who are First Timers and their Actual PF wages are more than Rs.15,000.... Still paying PF, but not covered (currently) under EPS... If they are to be covered under EPS as per the notification... how to manage?**

**(for e.g. My Basic is Rs.18,000 and currently not paying EPS in account no.10 and with the enhanced revision in PF ceiling wages, I may be covered under EPS....)**

**What will happen to  
those Establishments (for Employee and Employers)  
who have restricted PF contributions to  
PF ceiling wages (currently Rs.15,000),  
as per the Hon'ble SC Judgment in Marthwada Gramin Bank case....**

1. **Employers:** More Financial Liability - New members (those who are between 15001 to 21000 Basic wages) will be included and more financial liability
2. **Employers:** Administration charges will be High (on the new Ceiling wages)
3. **Active PF Employees....** Less take home but More Savings... Employees' extra contribution as well as Employer's extra contribution.... More to IT exemption
4. **Active PF Members' Family:** More Financial Security to Members Family (EDLI will be enhanced)
5. **For New PF Members/Family (due to enhancement in ceiling in PF wages):**
  - a. Less Take Home in salary
  - b. PF savings – a big saving
  - c. More CTC – as it will be more with Employer contribution of PF
  - d. Pension Coverage – new coverage
  - e. EDLI – so far not covered and new financial security to the family