

Employees' Provident Funds & Miscellaneous Provisions (Amendment) Bill, 2019

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The Ministry of Labour and Employment released a draft of the Employees' Provident Funds & Miscellaneous Provisions (Amendment) Bill, 2019. The Bill amends the Employees' Provident Funds & Miscellaneous Provisions Act, 1952.

Key Amendments

- **Change in the definition of basic wages:** The Bill proposes to change the definition of 'basic wages' in the Act to conform with the Code on Wages, 2019, passed by Parliament. In the Act, wages include all compensation paid to an employee barring; (i) food concessions, (ii) dearness allowance, and (iii) presents made by the employer. The Bill changes the definition of wages to include basic pay, dearness allowance and retaining allowance.
 - However, the bill **does not include**; (i) bonuses, (ii) housing, (iii) pension contributions made by the employer, (iv) conveyance allowance, (v) overtime allowance, and (vi) commission, amongst others
 - The Bill adds the stipulation that if the total amount of payments not included within the wage exceeds 50% of all remuneration made by the

employer, it will be included in the wages.

- **Limitation for initiation of inquiries:** Currently, the Act does not provide for a limitation for initiation of inquiries into the applicability of the Act to an establishment and to determine the amount due from any employer under the Act. The Bill introduces a limitation period of 5 years to initiate an inquiry. Further, it suggests a time period of two years within which an inquiry must be concluded
- **Increase of fines:** The Bill proposes the increase of certain fines by ten times. For example, the fine for repeat offences is currently Rs 25,000. The Bill proposes to increase this to 2.5 lakh rupees. Further, the Bill suggests that offences should be made compoundable, including offences by companies
- **Changes in the rate of contribution:** Currently, the employee and employer contribution to the Employees' Provident Fund is 10%. The Bill changes the rate of contribution from 10% to 12%. Further, the appropriate government may prescribe different rates of contribution for a specific time period and class of employee earning below a certain threshold of monthly income. No change in the employers' contribution has been proposed.
- **Changes related to National Pension System:** The Bill proposes that an Employees' Provident Fund (EPF) subscriber may opt for the National Pension System (NPS) in lieu of benefits under the Act. (NPS refers to a voluntary contributory pension scheme regulated by the Pension Fund Regulatory and Development Authority).

Further, the Bill proposes that an NPS subscriber may opt to return to EPF at any time.

- **Grant of exemption:** The Bill amends the Act to allow for a grant of exemption to establishments that apply for an exemption and meet the criteria prescribed by the appropriate authority.