

Seminar Name

Venue

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**Key Regulatory Retirement Developments
& Introduction to the Draft Labour Code**

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- Key Regulatory Developments
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Key Regulatory Developments



- Change in EPFO Payout Rate (May 25, 18)
 - MoL notified interest rate of 8.55% for FY 17-18
 - Envisaged reduction of 0.10% as against FY 16-17 (8.65%)
- Amendment to POGA, 1972 (Mar 29, 2018)
 - Max GR payable increased from INR 10 lacs to INR 20 lacs
 - Lady employees to enjoy 26 weeks of maternity leave as continuous service

Key Regulatory Developments



- Amendment to Benefit under EDLI-'76 (Feb 15, 2018)
 - Amendment applicable to PF “covered” establishments
 - Min benefit to be Rs. 2,50,000 (until Feb 15, 2020)
 - Thought: Link term cover to salary rather than fixing an amt.
- Transfer of Unclaimed PF to SCWF (Oct 13, 2017)
 - Transfer of balance from Exempt PF Trust to SCWF (lying unclaimed for 7 years post becoming “inoperative”)
 - Trustees to make a concerted effort to reach such members
 - Member has 25 years to claim PF balance from SCWF
 - Forfeiture by Government post 25 years
 - Procedure not clearly provided as yet
 - Literature suggests Trust should set off future contributions to SCWF against claims made (what if demographics change?)

Key Regulatory Developments

- SC Decision on uncapped EPS-95 pension
 - Scheme viability may have been an issue
 - Para 11(3) – contribution on higher wages – deleted
 - Sept 1, 2014 onwards no EPS for wages > Rs. 15,000
 - Six month (up to Feb 28, 2015) window to “Re-exercise” option
 - SC decision (R.C. Gupta vs. RPFC) allows pension on h. wages
 - Pre-cursor is that PF would be on uncapped/ higher wages
 - Option can be retrospectively exercised
 - Q: has the judgment done justice to scheme viability?
- Interpretation of “Loss” to an exempt PF
 - Condition no 6 of 31 conditions u/p 27-AA of EPF Scheme, 52
 - Case of IL&FS default – no fraud or negligence of Trustees
 - Do we take “loss” in the same strain, or is it “just any” loss?
 - Market is divided on the issue

Key Regulatory Developments



- Steep Rise in PF Claim Experience
 - Composite claim form introduced w.e.f. Feb 20, 2017
 - Replaced multiple forms due to UAN through AADHAR
 - No supporting docs or attestation from employer required
 - Purpose of claim
 - Housing loan
 - Grant of advances on factory/ shop closure
 - Marriage
 - Post-matriculation study education of children
 - Advance in abnormal conditions, e.g. damage to one's own property
 - In some sample cases, claim increase is 10-12 times
 - Matter of concern – indicative of possible misuse
 - Q: Convenience vs. Defeating the Purpose of Social Security?

Contents



- Introduction to Draft Labour Code
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 - Rationale
 - Key Issues to be Addressed
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 - Administrative Structure
 - Coverage
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 - Contribution

Draft Labour Code



- Background
 - MoL&E taken up the task
 - In line with recommendations of
 - 2nd National Labour Commission
 - ILO Convention No 102
 - First draft in public domain in March 2017
 - Feedback from stakeholders, experts
 - Much deliberation and > 3,000 pages of feedback
 - Second draft tabled in March 2018

Draft Labour Code



- Rationale
 - All have a right to a dignified living
 - No person/ dependents need suffer in adverse times
 - Old age, sickness, accident, disability, unemployment, etc.
 - SS is linked to National prosperity
 - Helps to avoid social costs - protects efficient labour force
 - A matter of “right”
 - Not a privilege, not a means of appeasement
 - Provided by the Govt. with Regulatory Oversight
 - Funded by workers, employers and by taxpayers
 - Depends on worker categorization

Draft Labour Code



- Key Issues to be Addressed
 - Not universal and sector-wise discrimination
 - Inclusion of informal sector (approx 85-90% of workforce)
 - “Decent Work and Growth” Goal 8 of 2030 SDG (09/15)
 - Too many Regimes/ Regulators/ Agencies
 - MoL v MoF, Seamen, Coal Miners, Assam Tea Plantations
 - Potential turf war in pension space (IRDAI/SEBI/PFRDA)
 - Fragmentation portfolios not leveraging economies
 - Too many pools of money being managed simultaneously
 - Misuse of thresholds/ monetary ceilings
 - PF “exclusion” on the basis of Statutory base – 291 List
 - Standardization of ceiling across benefits

Draft Labour Code



- Legislation to be Subsumed (fully/ partially)
 - EPF&MP Act
 - ESI Act
 - Payment of Gratuity Act
 - Maternity Benefit Act
 - Bidi, Cine workers, miners, construction workers
 - Employee compensation (medical, disablement, invalidity, unemployment)

Draft Labour Code

- Administrative Structure
 - National Security Council
 - Apex body headed by PM
 - Central Board of Social Security
 - Registration, Contributions, Investments, Co-ord. Schemes
 - State Boards of Social Security
 - Decentralized Federal Structure
 - Grass-root Infrastructure for Registration
 - Municipal Boards and Panchayats
 - Universalization Outcome
 - One: registration, return, contribution, inspectorate
 - Reduced compliance costs

Draft Labour Code

- Administrative Structure
 - Flow
 - Consolidated contribution made to State S.S. Fund
 - Contributions of each worker tracked in VIKAS Account
 - Appropriate amounts - Dr. from VIKAS and Cr. to Schemes
 - Funds Envisaged
 - National Stabilization Fund
 - Unclaimed balances used for bailing out any State Scheme in distress
 - Reparation Fund
 - Compensation to worker over and above benefits due
 - Funding source penalties and damages for various defaults

Draft Labour Code



- Coverage (The First Schedule)
 - Exclusion – Establishments
 - Any establishment of Central/ State Government (Fully)
 - Institutions under Govt. authority/control (Extent certified)
 - Authorities
 - Boards
 - Public Sector Undertakings
 - Local Bodies
 - Exclusion – Workers
 - Int'l worker contributing to SS in home country (with SSA)
 - Indian national working in foreign country with SSA
 - Foreign national intern in Indian Co./ Ed Inst./ NGO

Draft Labour Code

- Registration
 - One-time activity with use of Aadhar
 - Employer's prime responsibility
 - Self-registration for own account workers
 - Collecting socio-economic data (OSH standards)
 - Merging systems like UAN, IP, UWIN
 - Special registration/ Social Assistance (old, infirm)
 - Municipal bodies, Panchayats given this task
 - State Boards to provide financial assistance

Draft Labour Code



- Contribution

- Worker (Employee/ Non-employee) Contribution

- Section IV envisages no contribution
 - Employee (I, II, III) – 12.5% of lower of wage/ w. ceiling
 - Non-employee (III) – 20% of national min. wage
 - Non-employee (I,II) – Higher of: (i) 20% of lower of wage/ w. ceiling OR (ii) 20% of national min. wage

- Employer

- Max. of 17.5% of wage plus 2% of wage towards GR
 - Govt. may reduce/ waive for a particular industry

- Observations

- Income cut-offs to balance S.S. needs vs. ability to save
 - Broader definition of “wage” could more dip into CTC

THANK YOU