



**SIRC of ICAI**

## **Virtual Programme on Other Laws**

**June 15, 2023**

**Labour Laws  
Audit Considerations**

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# Coverage

- **List of Key Labour Laws**
- **Compliance Requirements**
- **Accounting Aspects**
- **Auditing Aspects**
- **Disclosures in financial statements**
- **Reporting Requirements**
- **Observations by the reviewers**

**Note:**

**New Labour laws are not covered, as the effective dates for the relevant rules are yet to be notified.**

# List of Key Labour Laws

S.No	Name
1	Employees Provident Fund and Miscellaneous Provisions Act, 1952
2	Employees State Insurance Act, 1948
3	Payment of Bonus Act, 1965
4	Payment of Gratuity Act, 1972



# Compliance Requirements

Act	Key Compliance Requirements
<p>a. Employees Provident Fund and Miscellaneous Provisions Act, 1952;</p> <p>and</p> <p>b. Employees State Insurance Act, 1948</p>	<ol style="list-style-type: none"> <li> <p>A. Applicability – Every factory and other establishment. Number of employees 20 or more for PF and 10 or more for ESI;</p> <p>B. Employee includes contract employees and apprentice, other covered under the Apprentices Act, 1961;</p> <p>C. Employees getting wages up to : Rs.15,000/- for PF &amp; Rs. 21,000/- for ESI.</p> <p>D. Continuous compliance required, even though the number of employees fall below the statutory minimum.</p> </li> <li>Monthly contributions both employer and employee contributions share and filing of returns; Payment within due dates;</li> </ol>

## **The Apprentices Act, 1961:**

- 'Apprentice' means a person who is undergoing apprenticeship training in a designated trade in pursuance of a contract of apprenticeship.
- "designated trade" means any trade or occupation or any subject field in engineering or non-engineering] or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of this Act.

# Compliance Requirements contd.

Act	Key Compliance Requirements
c. Payment of Bonus Act, 1965	<ol style="list-style-type: none"> <li>1. Applicability – Every factory and other establishment; Number of employees 20 or more; Wages up to Rs. 21,000/-</li> <li>2. Employees worked for not less than 30 days are eligible for bonus.</li> <li>3. Minimum bonus to be paid even in the year of losses.</li> <li>4. Continuous compliance required, even though the number of employees fall below the statutory minimum.</li> <li>5. Minimum bonus - 8.33% of salary, Maximum Bonus – 20%, Available surplus, Allocable surplus , Set on and set off – 4 years.</li> <li>6. Deductions: Customary festival bonus paid; Financial loss caused by misconduct of the employee.</li> <li>7. New establishments – Relaxation up to 5 years / year of profit; Set on and off from 5<sup>th</sup> year.</li> </ol>
d. Payment of Gratuity Act, 1972	<ol style="list-style-type: none"> <li>1. Applicability – Every factory and other establishment; Number of employees 10 or more.</li> <li>2. Continuous compliance required, even though the number of employees fall below the statutory minimum.</li> <li>3. Eligibility – Rendered continuous service for not less than 5 years of service.</li> <li>4. Maximum limit Rs. 20,00,000/-</li> <li>5. The liability may be either funded or unfunded. It is recommended to fund the liability to avoid cashflow issues on settlement.</li> </ol>

# Accounting Aspects

## PF and ESI Acts

- a. Employee contribution, deducted from salary and hence Liability;
- b. Employer contribution and charges– Expenses debited with corresponding liability account and
- c. To be squared off on payment. - CTC concept.

## Payment of Bonus Act, 1965

Providing for statutory bonus at the end of the year.

## Payment of Gratuity Act, 1972 – As per Ind AS 19 / AS 15

- a. To estimate and provide for the liabilities.
- b. All employees to be considered not only those who have completed five years.
- c. Liability needs to be estimated and accounted based on accrual. (Actuarial Valuation)

## General

Review of completeness of provision, communication from authorities (notices / demands etc.,) and adequate provision /presentation / disclosure in the financials.

# Auditing Aspects

- Obtain the list of labour laws applicable to the client
- Understand the process and controls in place w.r.t compliance
- Review reconciliation between books and returns / payments
- History of payment of interest / penalty etc.
- Check for communications from authorities and company's response to the same.
- Review of internal audit report
- Audit Report / CARO Report of earlier years.
- Opinion from legal counsel w.r.t on going cases and its evaluation.
- Use of management expert - Data sent to actuary; assumptions; professional competency etc.

# Disclosures in financial statements

- **Accounting Standards / Ind AS / Schedule III:**

- Disclosure of accounting policies
- Employee Benefit Expenses disclosures in P&L
- Defined Contribution Plan – PF & ESI
- Defined Benefit plan – Gratuity
- Provisions
- Contingent Liabilities
- Claims against the company not acknowledged as debts

Schedule III Disclosure
Employee benefits expense:
Salaries and wages
Contribution to provident and other funds
Share based payment to employees
Staff welfare expense



# Reporting Requirements

- **True and Fair view**

- Adequacy of provision.

- **CARO Reporting**

- Regularity
- Undisputed statutory dues
- Disputed Statutory Dues

- **IFC, if applicable**

- Design & Operating efficiency of controls

- **Tax Audit**

- Employee contribution – Payment within due dates.
- Employer contribution – Payment details – Before due date for filing return.
- Gratuity provision for payment to employees – Allowed in the year of payment to employee.
- Gratuity provision for payment to fund - Before due date for filing return.

CARO Reporting Clause - (vii (a) &(b))
(a) whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;
(b) where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned

## Observations by the reviewers - QRB

- Accounting policy with respect to defined contribution and defined benefit plan is not appropriately disclosed.
- Non-compliance with Schedule III – Contribution to PF & ESI included in staff welfare.
- Current and non-current portion of gratuity liability not appropriately disclosed.
- In case of funded gratuity plans, liability is presented as current and non-current, instead of presenting fully as current.
- Disclosure as per AS / Ind AS with respect of Gratuity Liability, Asset and movements not disclosed.

## Observations by the reviewers - FRRB

- In case of provident fund administered through trust, the company has an obligation to fund the shortfall, if any. But disclosed as defined contribution plan.

- Extract of definition:

Classification of Plans - AS 15 / Ind AS 19
Defined contribution plans are post-employment benefit plans under which an entity pays fixed contributions into a separate entity (a fund) and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods.
Defined benefit plans are post-employment benefit plans other than defined contribution plans.

- Auditor has not covered all applicable dues in reporting in CARO.

# Q & A

# Thank You

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