
INSTITUTIONALIZING SOCIAL SECURITY IN INDIA: A LEGAL AND POLICY ANALYSIS OF THE EPF & MP ACT, 1952

Nandana S Menon, Law Centre-II, Faculty of Law, University of Delhi

ABSTRACT

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act) represents a pivotal step in India's journey toward institutionalized social security for industrial workers. Rooted in the Directive Principles of State Policy ethos, the Act aims to ensure financial stability and dignity for workers post-employment through a mandatory contributory framework. This paper traces the historical genesis of the EPF & MP Act, beginning with the promulgation of the Employees' Provident Fund Ordinance in 1951 and leading to the development of a comprehensive regulatory regime managed by the Central Board of Trustees under the Ministry of Labour and Employment. It provides an overview of the key schemes under the Act—Provident Fund, Pension Scheme, and Deposit Linked Insurance—and analyses their significance in the broader context of worker welfare.

Special emphasis is placed on the Act's provision for exemptions under Sections 16 and 17, allowing certain statutory bodies and compliant establishments to formulate their own provident fund mechanisms. Drawing from legal precedents and administrative guidelines, the paper explores the criteria, governance responsibilities, and revocation procedures applicable to exempted entities. Further, the essay critically examines the challenges in extending EPF coverage to contractual and informal sector workers, highlighting systemic issues such as administrative gaps, ambiguous employment relationships, and cost-related employer resistance. The paper underscores the pressing need for reforms to ensure universal, equitable access to social security in India's evolving labour market.

Genesis of Employees Provident Fund and Miscellaneous Provisions Act,1952

The EPF & MP Act,1952, was enacted as a pivotal instrument to enhance social welfare legislation in conformity with the Directive Principles of State Policy as enshrined in the Constitution of India. A worker/employee is a source of social security protection for themselves and their family. This legislative social security measure aims to ensure a life of dignity and financial security for workers and their dependents upon cessation of employment due to resignation, retirement or death, hence formulating a non-withdrawable financial benefit.

The administration of the act is overseen by a tripartite statutory body comprising the Central Body of Trustees, Employees Provident Fund (CBT-EPF), which includes representatives from the Central Government, State Governments and their employers and employees to ensure balanced representation and oversight in the implementation of various welfare schemes under the Act. It is one of the world's largest organisations in terms of clientele and the volume of financial transactions, consisting of offices at 122 locations across the country under the administrative control of the Ministry of Labour and Employment, Government of India.¹

The schemes enumerated under the EPF & MPAct,1952 include:

1. Employees' Provident Fund Scheme, 1952

It is payable at retirement or cessation of service based on compound interest. The employer is permitted to remit the employee's share of contribution along with their own for the current wage period during which the employee was employed. This was affirmed in *District Exhibitors Association, Muzaffarnagar & Others v. Union of India* (1991) II LLJ 115 (SC).²

2. Employees' Pension Scheme, 1995

Under the Employees' Pension Scheme, 1995, 8.33% of the employer's contribution is allocated towards the pension fund. The scheme ensures a monthly pension to eligible

¹Ministry of Labour and Employment, Government of India, Employees Provident Fund Organisation, India
Ministry of Labour and Employment, Government of India,
https://www.epfindia.gov.in/site_en/AboutEPFO.php (May 02, 2025)

²*Muzaffarnagar & Others v. Union of India* (1991) II LLJ 115 (SC)

employees upon retirement, provided they have completed a minimum qualifying service period, which is presently stipulated as 10 years.

3. Employees' Deposit Linked Insurance Scheme, 1976

This scheme ensures death benefit coverage without requiring individual underwriting or premium payments by the employee in the unfortunate event of an employee's demise during the period of employment, the nominee or legal heir is entitled to receive an amount as an insurance payout, calculated based on the employee's last drawn salary.

These schemes collectively offer benefits such as an accumulated corpus with interest in the event of retirement, resignation or death, partial withdrawals for specific contingencies such as housing, higher education, medical treatment, marriage, etc and life insurance coverage under the Deposit Linked Insurance Scheme.

The key components of Provident Fund statutory compliance are:

As per the statutory obligations, the employee is required to contribute 12% of the basic salary plus dearness allowance to the EPF account.

The employer matches this contribution with 12%, further bifurcated as-

-3.67% towards the Employees' Provident Fund (EPF)

-8.33% towards the Employees' Pension Scheme (EPS).³

Certain establishments, such as those employing fewer than 20 employees or those operating in specified labour-intensive sectors, are eligible for a reduced contribution rate of 10%, subject to the fulfilment of the criteria notified by the government:

-In a situation where the industry has been declared sick by the Board for Industrial and Financial Reconstruction (BIFR).

-If an industry operating in the brick, jute, beedi, gaur and coir industries.

³ *Income Tax on PF(Provident Fund) for various types of PF Account*, Cleartax, May 08,2025
<https://cleartax.in/s/tax-on-pf-provident-fund>

-If an organisation operates on a wage limit of Rs 6,500

-If an organisation has seen an annual loss which is more than its net value.⁴

Legal Consequences of Non-Compliance under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952

Non-compliance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act) entails significant legal and financial ramifications for defaulting employers. Under Section 7A of the Act, quasi-judicial powers are conferred upon the Central Provident Fund Commissioner and other designated authorities to ensure enforcement and adjudicate disputes arising under the Act.

These quasi-judicial functions include:

- Determining whether a particular establishment falls within the ambit of the EPF & MP Act, 1952;
- Assessing and quantifying the statutory contributions payable by the employer under the Employees' Provident Fund Scheme, the Employees' Pension Scheme, and the Employees' Deposit-Linked Insurance Scheme;
- Conducting inquiries with powers akin to those of a civil court, such as summoning witnesses, demanding production of documents, and recording evidence.

In instances where the employer or concerned party fails to appear or cooperate during such proceedings, the adjudicating authority is empowered to pass *ex parte* orders based on the material available on record. Such orders may, however, be set aside if the defaulting party subsequently establishes sufficient cause for non-appearance, provided that no appeal has been adjudicated on the same matter.⁵

⁴ Rules for ESI and PF Deduction to Calculate Employee & Employer Contribution, Empxtrack, <https://empxtrack.com/blog/esi-pf-statutory-compliance/>

⁵ Adyatan' Monthly Legal Bulletin of EPFO (Sept 2023-Oct 2024), Employees Provident Fund Organisation, Nov 15, 2024, https://www.epfindia.gov.in/site_docs/PDFs/Study_Report/Adyatan_Compndim_PDF_15112024.pdf

Further, employers who default in remitting contributions are liable to pay **damages** under Section 14B and **interest** under Section 7Q of the EPF & MP Act. ⁶The damages are punitive in nature and are levied at the following rates, depending on the duration of the delay:

- 5% per annum for delays not exceeding 2 months;
- 10% per annum for delays exceeding 2 months but not more than 4 months;
- 15% per annum for delays exceeding 4 months but not more than 6 months;
- 25% per annum for delays exceeding 6 months (subject to a ceiling of 100% of the arrears).⁷

These provisions reflect the legislative intent to ensure strict compliance with the social security obligations imposed upon employers and to safeguard the provident fund entitlements of employees.

Autonomous formulation of EPF Schemes by Government agencies under the EPF & MP Act, 1952

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act) provides specific exemptions to certain establishments under **Section 16**, thereby excluding them from the purview of the Act. These include:

- (a) Co-operative societies registered under law, employing fewer than 50 individuals and operating without the use of electrical power;
- (b) Government-owned or government-controlled establishments where employees are already beneficiaries of a contributory provident fund scheme formulated by either the Central or State Government;

⁶ Shreya Kulkarni, *EPFO Update: What happens to EPFO account's interest if employer fails to deposit contribution*, (Feb 17, 2023, 12:52 P.M.) <https://economictimes.indiatimes.com/wealth/save/epfo-update-what-happens-to-epf-accounts-interest-if-employer-fails-to-deposit-contribution/articleshow/98003791.cms?from=mdr>

⁷ Mayashree Acharya, *Penalty on Employers for Delaying Payment of EPF Contributions*, ClearTax Chronicles, (Feb 20, 2023) <https://news.cleartax.in/penalty-on-employers-for-delaying-payment-of-epf-contributions/8990/>

(c) Statutory bodies constituted under a Central, State, or Provincial Act, wherein employees receive benefits comparable to those under the EPF Act through rules applicable to such entities.⁸

Further, **Section 16A** provides for the establishment of independent provident fund schemes by certain employers. This is subject to a proven track record of statutory compliance and requires a joint application supported by a majority of the employees. Such authorization is conditional and may be rescinded in case of non-compliance or breach of stipulated terms.

Section 17 empowers the appropriate government—typically the Central Government, to grant exemptions to establishments capable of offering provident fund benefits that are, in substance, not less favourable than those under the EPF & MP Act. These exemptions apply where employees are already covered under equivalent schemes, such as pension or gratuity, that meet or exceed the standards set by the EPF framework.

Under **Section 17(1A)**, employers of exempted establishments must adhere to certain conditions, including maintaining accurate and transparent accounts of contributions, prudent management of fund investments, timely submission of statutory returns to the Employees' Provident Fund Organisation (EPFO), and ensuring cooperation during audits and inspections.

In accordance with **Section 17(1B)**, any exemption granted can be revoked if the employer fails to comply with these obligations, in which case the establishment will again become subject to the EPF & MP Act.

Section 17(2) deals with the procedural aspects of cancellation or voluntary surrender of exemption. Upon such cancellation, all existing accumulations in the exempted provident fund must be transferred to the statutory EPF scheme administered by the EPFO.

Moreover, **Section 17(3)** permits exemptions from the Employees' Pension Scheme and the Employees' Deposit Linked Insurance Scheme, while **Section 17(4)** authorizes the competent authority to enforce the regulatory conditions related to continuation or cancellation of such exemptions. The EPFO, as the regulatory body, monitors compliance by recognized provident fund trusts and retains the authority to cancel exemptions when the foundational conditions are

⁸ *The Employees' Provident Fund and Miscellaneous Provisions Act, 1952, Employees Provident Fund Organisation, https://www.epfindia.gov.in/site_docs/PDFs/Downloads_PDFs/EPFAct1952.pdf*

no longer met. Importantly, only the authority that originally granted the exemption is empowered to revoke it.

Standard Operating Procedure for Exempted Establishments

The Standard Operating Procedure lays down the compliance terms of the exempted establishments managing their own PF Trust and further describes EPFO's methodology to monitor and regulate the compliance of the exempted/relaxed Establishments. It provides for:

- (a) Standardisation of the administrative procedures for the grant of exemption,
- (b) Prescribes the documents, the formats, the channel, and timelines for various scenarios of the grant of exemption,
- (c) Defines a mechanism for monitoring, feedback, and stakeholder engagement.

The overarching objective remains the protection of employee interests through the provision of retirement and social security benefits that are at least equivalent, if not superior, to those available under the statutory EPF framework.

The honourable Patna High Court observed that "Section 17 is thus only an extension of the scheme under the Act, whereby, in order to avoid duplication, if the appropriate Government is satisfied that the scheme framed by the concerned establishment, in regard to the rules of its provident fund regarding the rates of contribution, etc. are not less favourable than those specified in Section 6 of the Act or as available in any other establishment of like nature, authorizes the establishment to substitute its own scheme in place of a scheme framed by the appropriate Government. ⁹Both schemes are, however, schemes under the Act." [Tata Iron and Steel Co. Ltd. v Bir Singh and another-1983(63) FJR.32; Patna High Court.]¹⁰

In Pawan Hans Limited & Others V. Aviation Karamchari Sanghatana & Others¹¹, Pawan Hans Limited is a government-owned company in which the government holds 51% stakes. The company employed 840 individuals, out of which 270 were employed on a casual/contractual

⁹ Ministry of Labour and Employment, Government of India, *Standard Operating Procedure, Cancellation of EPF Exemption*, www.epfindia.gov.in, (Dec 04,2023)

https://www.epfindia.gov.in/site_docs/exmpted_est/SOP_Cancellation_Exemption_04122023.pdf

¹⁰ Tata Iron and Steel Co. Ltd. v Bir Singh and another-1983(63) FJR.32

¹¹ Pawan Hans Limited & Others V. Aviation Karamchari Sanghatana & Others (2020) 13 SCC 506

basis. The company autonomously established its own provident fund mechanism by the name of Pawan Hans Provident Fund Trust Regulations, but this internal provident fund scheme was implemented only for the regular employees.

In 2001, the Central Government issued a notification under Section 1(3)(b) of the EPF Act, extending its enforcement over “an establishment of aircraft or airlines other than the aircraft airlines owned or controlled by the Central or State Government.” The respondent Union directly engaged in the services by the company, requested the extension of applicability of the PF trust benefits to all its employees, further filing a writ petition requesting the honourable court to direct the company to either extend the PF Trust benefits or enforce the provisions of the EPF & MP Act,1952. The petitioner company contended that the notification excluded government-controlled airlines from the purview of the EPF & MP Act,1952 and challenged the application of the Act extending over casual/contractual employees, as many of them had superannuated, resigned or passed away.

The Supreme Court referred to *RPFC V. Sanatan Dharm Secondary School*¹² applying a twin test to determine whether the applicability of the EPF Act could be extended to the said establishment. The court held that the company cleared the first test, as the company came under the purview of a government-owned company, as the government held shares worth 51% shares. However, the company did not meet the second criterion as its internal provident fund mechanism was implemented only for its regular employees, thus excluding the casual/contractual employees. Moreover, the Provident Fund Scheme formulated by the company was not framed as per Section 16 of the EPF & MP Act,1952, which could bring the company under exclusion as per the purview of the EPF Act.

The court held that casual/contractual employees also come under the definition of an “employee” as per the EPF & MP Act,1952, and such employees would be beneficiaries under the company-made internal provident fund mechanism and also under the EPF Act, thus ensuring uniformity for service conditions for all the employees.

Challenges in extending EPF coverage over casual/contractual employees:

Courts across various jurisdictions in India have consistently emphasised that the determination

¹² *RPFC V. Sanatan Dharm Secondary School* (2007) 1 SCC 268

of Employees' Provident Fund (EPF) liabilities must be based on proper identification of the employees entitled to such benefits. In *Regional Provident Fund Commissioner v. Faridabad Thermal Power Station & Anr* [2015 LLR 269]¹³, the Punjab and Haryana High Court held:

- Any assessment made under Section 7-A of the EPF & MP Act is legally unsustainable if it does not specifically identify the employees for whom the EPF dues are being determined.
- Authorities under Section 7-A are not permitted to impose liability on an employer without first establishing the identity of the actual beneficiaries.
- Failure to follow the prescribed legal procedure for identifying the beneficiaries

amounts to non-application of mind, rendering such orders invalid in law.¹⁴

A significant issue arises from the nature of employment arrangements involving contractual labour. These workers are frequently recruited through third-party contractors, making it unclear whether the primary responsibility for EPF compliance rests with the principal employer or the contractor. Although Section 2(f) of the EPF & MP Act includes within its ambit workers engaged through a contractor, enforcement mechanisms often fall short in practice.

Administrative and documentation-related barriers further compound the problem. Many casual or contractual employees lack formal identification documents such as an Aadhaar Card or official employment records. These deficiencies contribute to short-term employment, high attrition, and challenges in processes such as filing returns, generating Universal Account Numbers (UANs), and completing Know Your Customer (KYC) requirements. The absence of a robust administrative framework exacerbates non-compliance in such cases.

Moreover, the statutory obligation requiring employers to contribute 12% of wages towards the EPF can substantially raise labour costs. As a result, both contractors and principal employers may be disincentivised from formalising employment relationships. On the other

¹³ In *Regional Provident Fund Commissioner v. Faridabad Thermal Power Station & Anr*, 2015 LLR 269

¹⁴ Jeevan Ballav Panda, Meher Tandon and Dhriti Mehta, *Regulation of Inquiries under Section 7-A of the EPF Act- The Need of the Hour?* SCC Online Times, (June 01, 2022) <https://www.sconline.com/blog/post/2022/06/01/regulation-of-inquiries-under-section-7-a-of-the-epf-acttheneed-of-the-hour/>

hand, workers in low-income brackets often resist EPF deductions due to the perceived reduction in immediate take-home pay, leading to reluctance from both parties to participate in the formal social security framework.

The Imperative for Inclusive and Holistic Social Security Reform

India's evolving labour market structure highlights the pressing need to broaden the scope of the Employees' Provident Fund (EPF) coverage. While workers in the organised sector are protected under statutory frameworks such as the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and the Employees' State Insurance Act, 1948, efforts have been made through legislation like the Unorganised Workers' Social Security Act to extend similar safeguards to workers outside the formal economy.

Despite these initiatives, data from the Periodic Labour Force Survey (PLFS) 2021–22 reveals that nearly 75% of India's workforce is employed in enterprises with fewer than ten workers, and approximately 90% are engaged in informal sector activities—typically operating outside the formal wage and payroll systems.¹⁵

Even within the formal economy, the quality of employment remains a significant policy challenge. Payroll statistics from August 2023 show that over half of formal sector jobs are concentrated in just two major categories: 'expert services' (such as staffing agencies) and 'trading and commercial establishments.' These industries heavily rely on contractual labour, which is frequently characterised by low wages, precarious job conditions, and limited social security.¹⁶

The dual challenge of integrating existing beneficiaries with newly enrolled contractual workers has led to a rapid expansion of EPF registrations. This development calls for a more refined approach to policy formulation—one that accounts for the complex and shifting nature of labour relations in contemporary India and aims to strengthen social security in both form and function.

¹⁵ Ministry of Statistics and Programme Implementation In India, *Periodic Labour Force Survey (PLFS) 2021-22*, https://www.mospi.gov.in/sites/default/files/publication_reports/AnnualReportPLFS2021-22F1.pdf

¹⁶ Ministry of Finance, *Social Infrastructure and Employment: Big Tent*, India Budget, <https://www.indiabudget.gov.in/budget2023-24/economicsurvey/doc/eschapter/echap06.pdf>