

Amnesty scheme: EPFO provides clarification in the form of FAQs

January 6, 2017

In brief

The Ministry of Labour & Employment rolled out an amnesty scheme (Employees Enrolment Campaign, 2017) for employers who have missed the compliance of enrolling eligible employees in the past. For details, please refer to our [news alert on the subject dated 03 January, 2017](#).

The Employees Provident Fund Organisation (EPFO) also prescribed the declaration form which the employer has to furnish under the amnesty scheme for employees who were entitled to become members but were not enrolled as members for any reason. The form requires the employers to provide their details along with the relevant basic details of the employees with the date of eligibility for enrolment and previous employment details, if any.

We have indicated in our previous alert that EPFO may come out with frequently asked questions (FAQs) to clarify unclear aspects in relation to the said scheme. EPFO has now issued the FAQs to provide clarifications and guidelines in relation to the amnesty scheme.

In detail

Sl No.	FAQs	Answers/ Clarifications
Introduction		
1	What is Employees' Enrolment Campaign, 2017 (the scheme or the Campaign)?	This is a campaign to provide an opportunity to employers to voluntarily come forward and declare details of all such employees who were entitled for provident fund (PF) membership between 01 April, 2009 to 31 December, 2016, but could not be enrolled for any reason. The campaign aims to extend PF benefits to employees hitherto deprived of PF benefits. [FAQ No. 1]
Declaration under the scheme		
2	Who can be declared a member by the employer?	Only such an employee can be declared for membership - <ul style="list-style-type: none"> • Who is alive at the time of declaration, and • Who furnishes Form 11 to the employer, and • Who was required or entitled to become a member of Employees' PF on or after the 01 April, 2009, but before 01 January, 2017, but could not be enrolled as member for any reason. [FAQ No. 2]

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3	Can International Workers be declared under the Campaign?	No, the incentives are available for enrolment of Indian Nationals only [FAQ No. 3] .
4	Who can make a declaration?	Any employer, whether already covered or yet to be covered, can make a declaration. [FAQ No. 8]
5	Is an employer against whom a complaint has been made by employees also eligible for making the declaration?	Yes. However, the declaration shall be valid only in respect of employees who are alive, and only if no proceedings under section 7A of the Employees' PFs & Miscellaneous Provisions Act, 1952 (the Act) or under paragraph 26B of the Employees' PFs Scheme, 1952 (EPF Scheme) or under paragraph 8 of the Employees' Pension Scheme, 1995 have been initiated against their establishment/ employer to determine eligibility for membership of such employees. [FAQ No. 6]
6	Can an employer be forced to make a declaration?	No [FAQ No. 9]
7	Is there any restriction on the number of declarations that can be filed by an employer?	No [FAQ No. 15]
8	Any restriction on the number of employees that can be enrolled under a single declaration?	No [FAQ No. 16]
9	Is an online facility available for making the declaration?	Yes. However, documentary declaration can also be filed with the concerned Regional office/ Sub- Regional office. [FAQ No. 17]
10	An employee working with the establishment has left and is not traceable. Can such an employee can be enrolled under the declaration?	No, an employee can be declared under the Campaign only if he is alive on the date of making the declaration, and Form 11 duly filled with signature or thumb impression of the employee has been obtained. [FAQ No. 20]
11	Can a persons who was to be enrolled as member but died before 31 December, 2016 be enrolled as a member under the campaign?	No, an employee can be declared under the Campaign only if he is alive on the date of making the declaration. [FAQ No. 21]
Time limit under the scheme		
12	What is the time limit for making the declaration?	The declaration should be made between 01 January, 2017 and 31 March, 2017 [FAQ No. 7] .
13	What is the time limit for making the remittances of dues, interest and damages payable, once a declaration has been made?	15 days from the date of declaration. [FAQ No. 10] .
14	What happens to the declaration if, after making declaration, the employer does not make a remittance?	If the employer fails to make the remittance within 15 days of the date of making the declaration, such declaration shall be deemed to have not been made under this Campaign [FAQ No. 11] .
Interest and damages payable under the scheme		
15	Will damages be levied later on the amount remitted?	No. Damages @ Rupee 01 per annum are to be remitted upfront while remitting contribution and interest. [FAQ No. 12] .

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16	Whether interest payable is to be paid at compound interest rate or simple interest rate?	Only simple interest is to be paid @ 12% per annum. [FAQ No. 13].
17	Are any administration charges payable for EPF Scheme, 1952 or EDLI Scheme, 1976?	No [FAQ No. 14].
18	How is the amount of contribution, interest and damages to be paid after making the declaration?	Contribution is to be remitted as a supplementary Electronic Cum Challan Return for every month of the past period enrolment till December, 2016. Simple interest @ 12% per annum and damages @ Rupee 01 per annum are also to be paid through a separate ECR. [FAQ No. 18].
Inspection under Section 7A of the act		
19	Can an RPFC deny the declaration saying that they have now decided to initiate inquiry under section 7A of the Act, even though there was no such inquiry pending against the employer as on 31 December 2016?	Declaration made prior to initiation of inquiry under section 7A of the Act shall be legally valid and cannot be denied by the Regional Provident Fund Commissioner (RPFC). Once a notice under section 7A of the Act is issued, declaration cannot be made. [FAQ No. 22].
20	For the purpose of the scheme, when is an inquiry under section 7A of the Act treated as initiated?	For the purpose of the scheme, an inquiry under section 7A of the Act shall be treated to be initiated on service of notice of inquiry to the employer or his representative or at the employer's office. [FAQ No. 23].
21	An inquiry under section 7A of the Act has been initiated against the employer for the period from April, 2011 to March, 2014. Can such an employer make a declaration under the scheme?	A declaration can be made under the scheme for the period for which no inquiry under section 7A has been initiated. Therefore, the employer can make a declaration for employees whose date of joining (the date on which the employee was entitled and required to become members of the fund) is either between 01 April 2009 and 31 March 2011 or between 01 April 2014 and 31 December 2016. [FAQ No. 24].
22	The establishment has a section 7A inquiry going on in respect of 110 employees. Can the remaining employees, for whom no section 7A proceeding is being conducted, be declared and enrolled under the scheme?	Yes [FAQ No. 25].
Benefits available under the scheme and other miscellaneous clarifications		
23	What incentives are available to an employer making a declaration under the scheme?	The following incentives are available to employers: (i) The employee's share of contribution, if declared by the employer as not deducted, shall stand waived. (ii) The damages to be paid by the employer in respect of employees for whom declaration has been made under this campaign shall be @ Rupee 1 per annum. (iii) No administrative charges shall be collected from employers in respect of the contribution made under the declaration. [FAQ No. 4].
24	Would any inspection be done to confirm the genuineness of the declaration?	The declaration shall be treated <i>bona fide</i> unless proved otherwise, and no inspection for verification is contemplated. [FAQ No. 5].

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25	Is it necessary for the employer to take Form 11 from all employees?	Yes, duly filled in Form 11 should be obtained by the employer from all employees being declared under the Campaign. A declaration to this effect is included in the Declaration Form to be signed by the employer. The declaration given in the Declaration Form may be accepted if it is duly filled in and signed by the employer. [FAQ No. 19] .
26	Have the interests of employees been protected under the scheme?	Yes, employees will get all eligible benefits based on the contributions. [FAQ No. 26] .

The takeaways

Providing clarifications regarding the scheme is a welcome step taken by the EPFO. One of the significant clarifications provided is that the scheme is not

applicable to international workers. In other words, if an employer has missed enrolling any international worker in the past, they cannot use the scheme to enroll them.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor.

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