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Provident Fund – Enrolment Campaign 2017

Introduction

The Ministry of Labour and Employment, Government of India has pursuant to its notification bearing ref. no. G.S.R.1190 (E) dated 30 December 2016 notified the Employees' Provident Funds (Seventh Amendment) Scheme, 2016 (“**Enrolment Campaign 2017**”) giving an opportunity to defaulting companies to register their employees as members under the Employees' Provident Funds Scheme, 1952 (“**the EPF Scheme**”) and make provident fund contributions (“**PF Contribution**”).

Effective Date

The Enrolment Campaign 2017 shall come into effect from 1 January 2017 and shall cease to operate on the 31 March 2017.

The Enrolment Campaign 2017

In the EPF Scheme, a new paragraph 82A - *Special provision in respect of Employees' Enrolment Campaign, 2017* has been inserted as follows:

- (1) The Employees' Enrolment Campaign, 2017 is effective from 1 January 2017 until 31 March 2017.
- (2) Every employer who has failed to comply with the provisions of the EPF Scheme in relation to membership of employees and contribution thereto to the provident fund (“**Fund**”), is required to furnish to the Regional Provident Fund Commissioner (“**PF Commissioner**”), a declaration in the prescribed form, in respect of membership of the employees, who were required or entitled to become members of the Fund for the period beginning from 1 April 2009 and ending 31 December 2016 but were not enrolled as members for any reason. The employer must specify in the declaration the date of eligibility in respect of each employee for membership.
- (3) Such declaration will be valid only in respect of employees who are alive as on 1 January 2017 and no proceedings under specified provisions¹ have been initiated to determine the eligibility for membership of such employees.
- (4) Within 15 days of furnishing the declaration, the employer must remit the employer's contribution payable in accordance with the EPF Scheme and the employee's contribution deducted from the employee's wages along with interest (at 12% p.a.) payable in accordance with section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (“**the EPF Act**”) and damages (at Re 1 p.a.).
- (5) The employer is not required to pay the employee's contribution if such amount has not been deducted from the wages of the employee. A proviso has been added to paragraph 30 of the EPF Scheme clarifying that the member's contribution 2016 is waived under the Enrolment Campaign

¹ Section 7A of the EPF Act, paragraph 26B of the EPF Scheme or paragraph 8 of the Employees' Pension Scheme, 1995.

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2017 for the period 1 April 2009 to 31 December 2016 where such contribution has not been recovered from such member's wages.

- (6) Thereafter, the employer must file a return in the prescribed form to the PF Commissioner.
- (7) If the employer fails to remit the contribution, interest and damages payable by him as above, then the declaration shall be deemed to have not been made by such employer.
- (8) A declaration made by misrepresentation or suppression of facts will be void and be deemed to have not been made and the person making such declaration shall be liable to penal action.
- (9) Paragraph 39 of the EPF Scheme has been modified to clarify that there will be no administrative charges payable under the Enrolment Campaign 2017 for the period 1 April 2009 to 31 December 2016 under paragraph 38(1).

To summarise and conclude:

Employers who have defaulted in enrolling their employees under the EPF Act and making PF contributions for the period 1 April 2009 to 31 December 2016 have been given a 3 month window to make good such default (i.e. prior to 31 March 2017). They are required to file a declaration and make the payments within 15 days of filing such declaration. Whilst, the employer will need to pay interest at 12%, they will be entitled to the following benefits:

- (i) the employer will be exempt from paying the employees' contribution if such amount was not deducted from the employee's salary;
- (ii) the damages payable for such default under the Enrolment Campaign 2017 are negligible i.e. only Rupee 1 per annum); and
- (iii) there are no administrative charges payable under the Enrolment Campaign 2017.

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For further clarification and details on the above, you may write to the Labour & Employment team comprising of Kruti Desai (Partner) at kdesai@almtlegal.com, and Shruti Tandon (Associate) at standon@almtlegal.com.