



**Provident Fund Amnesty Scheme**  
January 2017

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**Brahmayya&co.**

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## Introduction

With the prime objective of increasing coverage and extending benefits to all employees and amnesty scheme called “Employees Enrolment Campaign, 2017” (‘the Scheme’) has been launched by the Employees Provident Fund Organisation (EPFO).

Accordingly, the EPFO has provided FAQ’s to clarify aspects related to the Scheme.

### 1. What is Employees’ Enrolment Campaign, 2017?

This is a Campaign to provide opportunity to the employers to voluntarily come forward and declare details of all such employees who were entitled for PF membership between 1st April 2009 and 31st December 2016 but could not be enrolled for any reason. The Campaign aims to extend PF benefits to employees hitherto deprived of PF benefits.

### 2. Who can be declared a member by the employer?

Under the Campaign only such an employee can be declared for membership:

- who is alive, and
- who furnishes Form 11 to the employer, and
- who was required or entitled to become member of Employees’ Provident Fund on or after the 1st April, 2009 but before the 1st January, 2017 but could not be enrolled as member for any reason.

### 3. Whether International Workers can be declared under the Campaign?

No. The incentives are available for enrolment of Indian Nationals only.

### 4. What incentives are available to the employer?

The following incentives are available to the employer:

- The employee’s share of contribution if declared by the employer as not deducted, shall stand waived.
- The damages to be paid by the employer in respect of the employees for whom declaration has been made under this campaign shall be at the rate of Rupee 1 per annum.
- No administrative charges shall be collected from the employer in respect of the contribution made under the declaration.

### 5. Whether any inspection shall be done to confirm the genuineness of the declaration?

The declaration shall be treated bonafide unless proved otherwise and no inspection for verification is contemplated.

**6. Whether an employer against whom a complaint has been made by the employees is also eligible for making 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 Act or under paragraph 26B of the Employees' Provident Funds Scheme, 1952 or under paragraph 8 of the Employees' Pension Scheme, 1995 have been initiated against their establishment/employer to determine the eligibility for membership of such employees.

**7. What is the time limit for making the declaration?**

The declaration should be made between 1st January 2017 and 31st March 2017.

**8. Who can make a declaration?**

Any employer, whether already covered or yet to be covered, can make a declaration.

**9. Can an employer be forced to make a declaration?**

No. The declarations are on voluntary basis.

**10. What is the time limit for making the remittances once a declaration has been made?**

The time limit for making the remittances once a declaration has been made is 15 days from the date of declaration.

**11. What happens to the declaration if after making declaration the employer does not make remittance?**

If the employer fails to pay within 15 days of the date of making the declaration, the dues, interest and damages payable by him in respect of the declaration made under this campaign, such declaration shall be deemed to have not been made under this Campaign.

**12. Whether damages will be levied later on the amount remitted?**

No. Damages at the rate of Rupee 1(one) per annum are to be remitted upfront while remitting contribution and interest.

**13. Whether interest payable is to be paid at compound interest rate or simple interest rate?**

Only simple interest is to be paid at the rate of 12 percent per annum.

**14. Whether any administration charges are payable for EPF Scheme, 1952 or EDLI Scheme, 1976?**

No.

**15. Is there any restriction on the number of declarations that can be filed by an employer?**

No. There is no restriction on the number of declarations that can be filed by an employer.

**16. Is there any restriction on the number of employees that can be enrolled under a single declaration?**

No. There is no restriction on the number of employees that can be enrolled under a single declaration.

**17. Whether online facility is available for making the declaration?**

Yes. Facility for making the declaration online is available. However, documentary declaration can also be filed with the concerned RO/SRO.

**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 ECRs for every month of the past period enrolment till December, 2016. Simple interest at the rate of 12% per annum and damages at the rate of Rupee one per annum are also to be paid through a separate ECR.

**19. Whether it is necessary for the employer to take Form 11 from all the employees?**

Yes. Duly filled in Form 11 should be obtained by the employer from all the 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.

**20. An employee working with the establishment has left and is not traceable?**

**Whether 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. Therefore, an employee who is not traceable cannot be declared under the Campaign.

**21. Whether such persons who were to be enrolled as member but died before 31st December 2016 can be enrolled as members under the campaign?**

No. An employee can be declared under the Campaign only if he is alive on the date of making the declaration.

**22. Whether an RPFC can deny the declaration saying that they have now decided to initiate inquiry under section 7A of EPF & MP Act, 1952 even though there was no such inquiry pending against the employer as on 31st December 2016?**

Declaration made prior to initiation of inquiry under section 7A shall be legally valid and cannot be denied by the RPFC. Once a notice under section 7A of the Act is issued, declaration cannot be made.

**23. For the purpose of Employees' Enrolment Campaign, 2017 when is an inquiry under section 7A of the Act treated as initiated?**

For the purpose of Employees' Enrolment Campaign, 2017, an inquiry under section 7A of the Act shall be treated to be initiated on service of notice of the inquiry under section 7A to the employer or his representative or at the office of the employer.

**24. 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 Campaign?**

A declaration can be made under the Campaign 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 1st April 2009 and 31st March 2011 or between 1st April 2014 and 31st December 2016.

For instance, if the employer declares one employee, Mr. A to have joined on 1st April 2010, the employer will get the benefits under the Campaign viz.

- waiver of employee's share,
  - damages at the rate of Rupee one per year, and
  - no administrative charges,
- in respect of Mr. A only for the period for which the inquiry has not been initiated, i.e. for 1st April 2010 to 31st March 2011 and for 01st April 2014 to 31st December 2016.

**25. The establishment is having 7A inquiry going on in respect of hundred and ten employees. Whether the remaining employees, for whom no 7A proceeding is being conducted, can be declared and enrolled under the Campaign?**

Yes.

**26. Whether interest of employees has been protected under the Campaign?**

Yes. The employees will be getting all eligible benefits based on the contributions.

## Provident Fund Amnesty Scheme

### **Conclusion**

The Amnesty Scheme is a welcome move which will allow the employers to rectify the compliance requirement. Employee related laws being crucial and with lot of sentimental attachment to a labour related compliance, it is expected that the scheme will be successful.

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