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**STANDING COMMITTEE ON  
LABOUR AND WELFARE**

**(1997-98)**

**ELEVENTH LOK SABHA**

**THE EMPLOYEES' PROVIDENT FUNDS AND  
MISCELLANEOUS PROVISIONS  
(AMENDMENT) BILL, 1997**

**NINTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*November, 1997 / Kartika, 1919 (Saka)*

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NINTH REPORT  
STANDING COMMITTEE ON  
LABOUR AND WELFARE  
(1997-98)

(ELEVENTH LOK SABHA)

MINISTRY OF LABOUR

THE EMPLOYEES' PROVIDENT FUNDS AND  
MISCELLANEOUS PROVISIONS  
(AMENDMENT) BILL, 1997

20 NOV 1997

*Presented to Lok Sabha on .....*

*Laid in Rajya Sabha on .....*



LOK SABHA SECRETARIAT  
NEW DELHI

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COMPOSITION OF THE STANDING COMMITTEE ON  
LABOUR AND WELFARE  
(1997-98)

Shri Madhukar Sirpotdar—*Chairman*

MEMBERS  
*Lok Sabha*

2. Shri Hansraj Ahir
3. Shri Chandula Ajmeera
4. Shri Illiyas Azmi
5. Dr. Amrit Lal Bharti
6. Shri Narendra Budania
7. Shri Jai Sinh Chauhan
8. Shri Ajoy Chakraborty
9. Smt. Bhagwati Devi
10. Smt. Shubhawati Devi
11. Shri Louis Islary
12. Shri Murli Dhar Jena
13. Shri Harbhajan Lakha
14. Shri Bheru Lal Meena
15. Shri Ajoy Mukhopadhyay
16. Shri Rupchand Murmu
17. Shri Kameshwar Paswan
18. Shri Mangalram Premi
19. Shri Ashok Pradhan
20. Shri K. Pradhani
21. Smt. Kamal Rani
22. Smt. M. Parvati
23. Shri N.J. Rathwa

24. Shri Ram Shakal
25. Shri Laxman Singh
26. Shri Shibu Soren
27. Smt. Purnima Verma
28. Shri Rammurti Singh Verma
29. Shri Virendra Kumar
30. Shri Lal Babu Prasad Yadav

*Rajya Sabha*

31. Shri Brahmakumar Bhatt
32. Shri Sanatan Bisi
33. Shri Debabrata Biswas
34. Shri Mohinder Singh Kalyan
35. Shri Bangaru Laxman
36. Shri S. Muthu Mani
37. Smt. Urmilaben C. Patel
38. Shri Abdul Gaiyur Qureshi
39. Shri Jibon Roy
40. Shri Jagannath Singh
41. Shri Karma Topden
42. Shri Janardan Yadav
43. Shri Mohd. Azam Khan

SECRETARIAT

1. Shri G.C. Malhotra — *Additional Secretary*
2. Shri J.P. Sharma — *Deputy Secretary*
3. Shri R.S. Misra — *Under Secretary*

## INTRODUCTION

I, the Chairman of the Standing Committee on Labour and Welfare (1997-98) having been authorised by the Committee to submit the report on their behalf present this Ninth Report on "The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1997".

2. The Bill was introduced in Rajya Sabha on 7 August, 1997. It was referred to the Committee by the Hon'ble Speaker, Lok Sabha on 1 October, 1997 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and Report.

3. The Committee considered the Bill clause-by-clause at their sitting held on 4 November, 1997.

4. The Committee wish to express their thanks to the officers of the Ministry of Labour for placing before them detailed written notes on the subject and for furnishing the information the Committee desired in connection with the examination of the Bill.

5. The Report was considered and adopted by the Committee on 12 November, 1997.

NEW DELHI;  
12 November, 1997  
21 Kartika, 1919 (Saka)

MADHUKAR SIRPOTDAR,  
*Chairman,*  
*Standing Committee on*  
*Labour and Welfare.*

## CHAPTER I

### INTRODUCTORY

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for the institution of Compulsory Provident Fund, Pension Fund and Deposit-Linked Insurance Fund for the benefit of the employees in the factories and other establishments. The Act is at present applicable to 177 industries and classes of establishments employing twenty or more persons. As on 31.3.97 about 2.81 lakh establishments with 2.03 crores subscribers were covered under the Act. In pursuance of the recommendations made by the Standing Committee on Labour and Welfare in their report on Demands for Grants for the year 1995-96, and also on the suggestions made by the Central Board of Trustees of the Employees Provident Fund, the Central Government has proposed to carry out certain amendments in sections 6, 7D, 7F and 16 of the Act.

1.2 In a note furnished to the Committee, it was stated that the Act was last amended in August, 1996 and a comprehensive pension scheme was introduced for the EPF subscribers. There were representations/suggestions for further amendment of the Act. Based on the suggestions received, the EPF & MP (Amendment) Bill, 1997 was got prepared and introduced in the Rajya Sabha on 7.8.1997. The Bill proposes to carry out the following amendments in the Act:—

**(i) Rate of Provident Fund Contribution (Clause 2) :** At present the PF contribution payable by the employer and the employee to the Fund is eight and one third percent of the wages. The Central Government is also empowered to enhance the rate of PF contribution in respect of any establishment from 8.33% to 10%. In order to promote saving and ensure availability of higher retiral benefits to the employees, the minimum rate of provident fund contribution is being raised from 8.33 per cent to 10 per cent and the maximum rate from 10 per cent to 12 per cent of the monthly wage;

**(ii) Qualification of the Presiding Officer of the Employees Provident Fund Tribunal (Clause 3) :** At present, a person who is or has been or is qualified to be a judge of a High Court is eligible for appointment as the Presiding Officer of the EPF



Appellate Tribunal. Experience of appointing P.O.s for Tribunal under the Industrial Dispute Act shows that persons who are judges of High Courts or are qualified to be High Court judges are more often reluctant to opt for being Presiding Officer of Tribunals. In order to have wider zone of consideration a provision is being made so as to make a person who is, or has been, or is qualified to be a judge of a District Court also eligible for appointment as the Presiding Officer of the EPF Appellate Tribunal;

(iii) **Removal of Presiding Officer (Clause 4)** : Under the EPF and MP Act, there is no provision for removal of Presiding Officer in the case of proved misbehaviour or incapacity. Accordingly clause 4 of the Bill seeks to amend section 7F of the Act and a new provision is being made for removal of Presiding Officer in the case of proved misbehaviour or incapacity. A proper detailed enquiry into the charges made against the Presiding Officer will be held by a judge of High Court before invoking the proposed provision; and

(iv) **Abolition of Infancy Period (Clause 5)** : At present, the EPF & MP Act is not applicable to factories/establishments which have not completed three years of their existence after registration/establishment. Some employers have tendency to misuse the provision of infancy period and delay/avoid coverage under the Act. This is against the interest of the employees particularly the unfortunate ones who die prematurely during infancy period. In order to remove these difficulties clause 5 of the Bill seeks to omit clause (d) of Section 16 and make the factories/establishments coverable under the Act from the date they are set up. Other amendments proposed through clause 5 of the Bill are of consequential nature.

1.3 The Committee have been further informed that as delay in passing the Bill was adversely affecting the interest of employees and the Parliament was not in session, it was considered necessary and expedient by the President to promulgate an ordinance so as to bring the provisions of the EPF & MP (Amendment) Bill, 1997 into force w.e.f. 22.9.1997. The Bill under consideration of the Committee will replace the EPF & MP (Amendment) Ordinance, 1997.

1.4 The observations of the Committee in regard to changes recommended in the Bill are detailed in succeeding Chapter.

## CHAPTER II

### REPORT

#### Clause 2 of the Bill

2.1 Clause 2 of the Bill seeks to amend Section 6 of the principal Act with a view to enhance the minimum rate of Provident Fund contribution from 8.33% to 10% and the maximum rate from 10% to 12% of the monthly wage.

2.2 The Ministry of Labour in pursuance of first proviso to Section 6 of the Act issued a notification on 9th April, 1997 prescribing the minimum rate of contribution at 10% in 5 industries namely Jute, Bidi, Brick, Coir and Gaur Gum and 12% in the remaining establishments. The Members of the Committee desired to know the need and rationale behind keeping the lower rate of contribution in those 5 industries. The Labour Secretary informed the Committee that the criteria for keeping low rate of contribution i.e. 10% in the aforementioned industries has been laid down in the notification dated 9th April, 1997, which reads as under :—

- (i) Any establishment in which less than twenty persons are employed.
- (ii) Any sick industrial company as defined in clause (o) of sub-section (1) of Section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and which has been declared as such by the Board of Industrial and Financial Re-construction established under Section 4 of that Act, for the period commencing on and from the date of registration of the reference in the Board and ending either on the date by which the net worth of the said company becomes positive in terms of the orders passed under sub-section (2) of Section 17 of that Act or on the last date of implementation of the scheme sanctioned under section 18 of that Act.
- (iii) Any establishment which has at the end of any financial year accumulated losses equal to or exceeding its entire

networth that is, the sum total of paid up capital and free reserves and has also suffered cash losses in such financial year and the financial year immediately preceding such financial year.

2.3 The Committee deliberated the clause in detail. Members were of the view that by restricting the minimum contribution to 10% in establishments which are sick or the industries which have been referred to BIFR, the employees of those industries will be deprived of the higher retiral benefits simply because of no fault of theirs. The Committee are of the view that there should be no discrimination in the matter of contribution between the employees of sick industries and the employees of other establishments. The Committee, therefore, recommend that the Ministry of Labour, in consultation with concerned Ministries, should review and explore the possibility of having uniform rate of PF contribution at 12 per cent in all kinds of establishments covered under the Act.

Clause 5 of the Bill.

2.4 Clause 5 of the Bill seeks to amend section 16 of the principal Act by omitting clause (d) and Explanation thereto in sub-section (1). By way of this amendment the provision of three years infancy period is being abolished so as to bring the factories/establishments within the scope of the Act from the date of their establishment/registration. The Committee are happy to note that this amendment has been brought forward in pursuance of their earlier recommendations on Demands for Grants for the year 1995-96 and thus approve this clause in its entirety.

2.5 The Committee approve the remaining clauses of the Bill without any comment.

NEW DELHI;  
12 November, 1997  
21 Kartika, 1919 (Saka)

MADHUKAR SIRPOTDAR,  
Chairman,  
Standing Committee on  
Labour and Welfare.

MINUTES OF THE SIXTH SITTING OF THE STANDING  
COMMITTEE ON LABOUR AND WELFARE HELD  
ON 12 NOVEMBER, 1997

The Committee met from 14.30 hrs. to 15.30 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Madhukar Sirpotdar — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Chandulal Ajmeera
3. Shri Illiyas Azmi
4. Shri Narendra Budania
5. Shri Jai Singh Chauhan
6. Shri Murli Dhar Jena
7. Shri Bheru Lal Meena
8. Shri Ajoy Mukhopadhyay
9. Shri Rupchand Murmu
10. Shri Kameshwar Paswan
11. Shri Ashok Pradhan
12. Smt. Kamal Rani
13. Shri Rammurti Singh Verma

*Rajya Sabha*

14. Shri Brahmakumar Bhatt
15. Shri Mohinder Singh Kalyan
16. Shri Bangaru Laxman

17. Shri Abdul Gaiyur Qureshi
18. Shri Jibon Roy
19. Shri Jagannath Singh
20. Shri Mohd. Azam Khan

## SECRETARIAT

1. Shri J.P. Sharma — *Deputy Secretary*
2. Shri R.S. Misra — *Under Secretary*

2. The Committee considered and adopted their Eighth and Ninth Reports on "The Payment of Gratuity (Amendment) Bill, 1997" and "The Employees Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1997" without any amendments.

3. The Committee authorised the Chairman to finalise and present the Reports to the House on the first day of the Winter Session.

*The Committee then adjourned.*

## APPENDIX

### *Summary of Recommendations/Conclusions*

Sl. No.	Para No.	Summary of Recommendations/Conclusions
1	2	3
1.	2.3	<p>The Committee deliberated the clause in detail. Members were of the view that by restricting the minimum contribution to 10% in establishments which are sick or the industries which have been referred to BIFR, the employees of those industries will be deprived of the higher retiral benefits simply because of no fault of theirs. The Committee are of the view that there should be no discrimination in the matter of contribution between the employees of sick industries and the employees of other establishments. The Committee, therefore, recommend that the Ministry of Labour, in consultation with concerned Ministries, should review and explore the possibility of having uniform rate of PF contribution at 12 per cent in all kinds of establishments covered under the Act.</p>
2.	2.4	<p>Clause 5 of the Bill seeks to amend section-16 of the principal Act by omitting clause (d) and Explanation thereto in sub-section (1). By way of this amendment the provision of three years infancy period is being abolished so as to bring the factories/establishments within the scope of the Act from the date of their establishment/registration. The Committee are</p>

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**1****2****3**

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happy to note that this amendment has been brought forward in pursuance of their earlier recommendations on Demands for Grants for the year 1995-96 and thus approve this clause in its entirety.

**3.****2.5**

The Committee approve the remaining clauses of the Bill without any comment.

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