



**Blog by Paku Kalyanarama Sastry**  
**CEO – THE HUB / Career HUB**

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## **TRAINEES**

### **Coverage under EPF, ESIC, Minimum Wages,** **Bonus and Meternity Benefit**

#### **Trainees :-**

Trainees are those freshers, who lack specific skills and who undertake the specified training as 'trainees'. Upon completion of training, they may be absorbed into the organization if found fit. Stipend is paid during the period of training.

#### **Interns**

Interns are students undergoing their education and as part of the curriculum, undertake an internship program in an organization. An internship is a temporary position that is mandated in the course that they are undergoing. In most cases, interns do not receive any wages during the period of internship. There are, however, exemptions where interns are paid during their internship.

#### **Apprentices**

An apprentice is a person who gets trained under the supervision of a highly experienced individual or worker. The apprentices have a formal contract with the employer. The apprenticeship follows a clear plan and includes on-the-job training combined with an educational curriculum. The individual comes under the Apprentice Act, 1961. Apprentices are paid stipends ranging from Rs:9,000/- to a high of nearly Rs:21,000/-.

#### **Who is a Trainee – under PF Act?**

1. Trainees under the Apprentices Act, 1961
2. Trainees under the All India Council for Technical Education (AICTE) National Employability Enhancement Mission (NEEM)
3. Trainees under the Mandatory Training as part of a recognized educational or technical course, and receiving a stipend
4. Trainees essentially functioning as an employee, receiving Salary or wages instead of a stipend, and is not part of a mandatory training program
5. Trainees under Internship and getting paid Stipend
6. Trainees under Intership and not getting paid Stipend



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### PF coverage for Trainees under EPF Act

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 has not provided any specific information on the coverage of Trainees. EPFO vide its circular dated October 12, 2015 clarified that if an employer-employee relationship cannot be established in engaging a Student Trainee, it does not attract the provisions of EPF Act.

In case, if they are appointed as Trainees, provisions of Provident Fund deduction and payment will be applicable as per The Employees' Provident Fund and Miscellaneous Provisions Act, 1952.

### Section 2(b)

(b) "basic wages" means all emoluments which are earned by an employee while on duty or <sup>3</sup>[ on leave or on holidays with wages in either case] in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

### Section 2(e)

<sup>5</sup>[(e) "employer" means—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;]



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**Trainees will be exempted from EPF only based on the following:-**

1. Trainees as specified under the recognised Educational Institutions of the State or Central Government
2. The On-The-Job – training should be part of the educational curriculum
3. The Course for which the On-The-Job Training is provided must be recognised by the State or Central Government
4. The students must complete the course within the prescribed period of the course

### **Trainees & ESIC Coverage**

Trainees are generally paid a stipend. If the trainee satisfies Sec.2(9) of the ESIC Act, then they are considered an employee and is eligible to be subjected to ESIC contributions.

### **Section 2(9)**

(9) "employee" means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and-

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment whether such work is done by the employee in the factory or establishment or elsewhere; or

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service;

<sup>14</sup>[and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products of, the factory or establishment <sup>15</sup>for any person engaged as an apprentice, not being an



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apprentice engaged under the Apprentices Act, 1961, or under the standing orders of the establishment; but does not include ]]-

(a) any member of <sup>16</sup>[the Indian] naval, military or air forces; or

<sup>17</sup>[(b) any person so employed whose wages (excluding remuneration for overtime work) exceed <sup>18</sup>[such wages as may be prescribed <sup>136</sup>by the Central Government]]:

PROVIDED that an employee whose wages (excluding remuneration for overtime work) exceed <sup>18</sup>[such wages as may be prescribed by the Central Government] at any time after (and not before) the beginning of the contribution period, shall continue to be an employee until the end of that period;]

Accordingly:-

- Apprentice under the Apprentices Act, 1961 are exempted from ESIC
- All other Trainees, Interns if paid Stipend should be covered under ESIC

### Reference – Case Law for Trainees exempted from coverage of Provident Fund:-

The Regional Provident Fund Commissioner, Mangalore Vs. Central Aerocnut & Coca Marketing and Processing Co-Op:-

- The Supreme Court held that Trainees are Apprentices who are recruited under the Standing Order of the organisation or under the Apprentices Act and they are not subject to the provisions of the EPF Act.
- The Trainees were paid stipend for the period of Training
- They neither had right to employment nor they are under any obligation to accept employment if offered by the employer and they are specifically excluded from the definition of employee under Section 2(f) of the EPF Act, 1952.

Bharat Sanchar Nigam Limited Vs. Union of India

The Regional Provident Fund Commissioner had held the Probationer Trainees are to be treated as employees and are eligible for EPF benefits.

- Madras High Court upheld the decision of the Regional Provident Fund Commissioner



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**As per the Circular on the Trainees EPF Benefits from EPFO, Head Office**

- The 12<sup>th</sup> October 2015 Circular had clarified that no employer-employee relationship exists in respect of student-trainees who return to their respective institutions for completion of their academic course post the industrial / practical training, and as such, the stipend payable to such trainees will not attract the provisions of the EPF Act.
- For students having been placed with establishments / being appointed as employees of the establishments, the provisions of the EPF Act will be applicable even in respect of the duration of such practical training
- The count of number of such Trainees should not exceed such percentage of total work force as stipulated in the specified Training Courses
- Trainees engaged by an establishment under the All India Council for Technical Education [National Employability Enhancement Mission (NEEM)] Regulations, 2017 (NEEM Regulations) would be deemed as 'employees' under the EPF Act.




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Circular from the EPFO Head Office dated 12<sup>th</sup> October 2015

Email: [rpfc.coordination@epfindia.gov.in](mailto:rpfc.coordination@epfindia.gov.in) Tel: 011-26172672  
Fax: 011-26103100

 **Employees' Provident Fund Organisation**  
(Ministry of Labour, Govt. Of India)  
मुख्या कार्यालय / Head Office  
भविष्य निधि भवन, 14-भीकाजी कामाप्लेस, नई दिल्ली-110066  
[www.epfindia.gov.in](http://www.epfindia.gov.in); [www.epfindia.nic.in](http://www.epfindia.nic.in) **WEB CIRCULATION**

No. Coord./40(5)2015/Misc./clarification/ 2138 Dated: 12.10.2015  
To All Addl. Central P.F. Commissioners (Zone) 12 OCT 2015  
All Regional P.F. Commissioners/ OICs (Regional Office/SRO).

Sub: Clarification of status of student-trainees of educational/ technical institutes recognised by Central/ State Government or any authority constituted by them, vis-à-vis the Employees Provident Funds & Miscellaneous Provisions Act, 1952-reg.

Sir,


A reference was received in which a clarification on the status of student- trainee vis-à-vis the provision of the Employee Provident Funds & Miscellaneous Provisions Act, 1952 was sought from Head Office.

2. It is a matter of common observation that now-a-days most technical/professional educational institutes impart industrial training/ practical on the job training to their students as an integral component of academic curriculum. During such training period, student-trainees are exposed to modern technical development and hands-on-training of working on sophisticated equipments/ instruments etc. Stipend may also be provided to such student-trainees, sometime. After such industrial/ on the job training, the student-trainee goes back to his respective institution for completion of the academic course.

3. In such cases, it is made clear that employer employee relationship does not exist between the industry and student-trainee, who is on industrial on the job training as an integral component of a recognized course of an educational/ technical institute recognized by the Central/ State Government or any other authority constituted by the Central/State Government. Therefore, the payment of stipend, if any, provided by the industry to such student-trainees do not attract the provisions of the Employee Provident Funds & Miscellaneous Provisions Act, 1952. However for the students getting placement in companies and appointed as employees of establishment, Employee Provident Funds & Miscellaneous Provisions Act, 1952 will be applicable on such employees even during on the job training/induction/other trainings taken after becoming employee.

4. All concerned are advised to proceed in the matter accordingly.


(This issue with the approval of CPFC)

Yours faithfully,  
  
(K. Taneja)  
Additional Central PF Commissioner-I (Compliance)

Copy:

1. PS to CPFC.
2. CVO, FACAO & ACCs (HQ).
3. All Addl. CPFCs-I and- II, Head Office.
4. Director, NATRSS
5. All RPFCs, Head Office.
6. All DDs (Vig.) of Zonal Vigilance Directorates.
7. All RPFCs (ZTIs).
8. RPFC (Compliance) with a request to add such flags in the ECR version 2.0.
9. RPFC (NDC) - with a request to upload the circular on official website of EPFO.
10. DD (OL) Head Office for Hindi Version.
11. Guard File.

For information, please.

  
(Dr. Shiv Kumar)  
Regional PF Commissioner-II (Coord.)



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Circular from the EPFO Head Office dated 24<sup>th</sup> February 2022



24/02/2022  
ईपीएफओ, मुख्य कार्यालय  
श्रम एवं रोज़गार मंत्रालय, भारत सरकार  
भविष्य निधि भवन, 14, भीकाजी कामा प्लेस, नई दिल्ली 110066  
EPFO, HEAD OFFICE  
MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA  
BHAVISHYA NIDHI BHAWAN, 14, BHIKAJI CAMA PLACE, NEW DELHI 110066  
[www.epfindia.gov.in](http://www.epfindia.gov.in)



To

ACC (HQ)/ACC  
All ZOs

**Sub: Clarification on NEEM Trainees-Reg**

Sir/Madam,

Several representations have been received in Head Office for seeking clarification whether NEEM Trainees are exempted from the EPF & MP Act, 1952 in the light of Regulation 15.2 of the AICTE (NEEM) Regulation, 2017. The matter was examined in detail and it is clarified that:

- a. The NEEM trainees are not exempted from the definition of “employee” under section 2(f) of the EPF & MP Act, 1952 and the Regulation 15.2 of the NEEM Regulation, 2017 is *ultra vires* to the provisions of the Act.
- b. However certain criteria have been laid down in HO circular dated 12.10.2015 (copy enclosed) to distinguish a student-trainee from an employee engaged by an establishment covered under the Act. EPF Scheme, 1952 after ascertaining the facts and circumstances of each case on merit.
- c. Further a mechanism under para 26B of the EPF Scheme has already been provided whereby a Regional PF Commissioner has been vested with power to decide a question whether an employee is entitled to, or required to become a member of the scheme. after ascertaining the facts and circumstances of each case on merit.
- d. Cases of subterfuge shall be distinguished from genuine arrangements for training

2. Hence, any question whether a person is a trainee or employee may be decided as per law and considering the circular dated 12.10.2015.

(This issues with the approval of CPFC.)

Yours faithfully,

Encl: As above


  
(Jag Mohan)  
Additional CPFC (HQ)





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Circular from the EPFO Head Office dated 27<sup>th</sup> July 2022

 **ईपीएफओ, मुख्य कार्यालय**  
श्रम एवं रोजगार मंत्रालय, भारत सरकार  
भविष्य निधि भवन, 14, भिकाजी कामा प्लेस, नई दिल्ली 110066  
**EPFO, HEAD OFFICE**  
MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA  
BHAVISHYA NIDHI BHAWAN, 14, BHIKAJI CAMA PLACE, NEW DELHI 110066  
[www.epfindia.gov.in](http://www.epfindia.gov.in)

File No. Compliance/TrainingSchemesUnderStateGovt/2021-22/9503 Dated-26.07.2022  
**27 JUL 2022**

To,  
All ACCs/ACC(HQs),  
Zonal Offices.

**Subject: Clarification on status of student-trainees of educational/technical institute recognized by a competent authority vis-à-vis the Employees' Provident Funds & Miscellaneous Provisions Act, 1952- Regarding.**

Ref: H.O. Circular No. Coord /40(5)2015/Misc./clarification/27308 dated 12.10.2015.

Sir/Madam,


The Central Government has initiated several programmes for skill-imparting and skill-development to enhance the employability of youths in India. In the light of these developments, several references were received from various stakeholders to issue further clarification to the Head Office circular dated 12.10.2015 (copy enclosed for ready reference).

2. Hence, following further clarification/guidelines are prescribed to decide about the status of a student-trainees under any scheme: -

- The educational/technical institute/University and the academic course in which a student-trainee is enrolled shall be recognized by the competent authority.
- "On-the-job-training" shall be an integral component of such course.
- "On-the-job-training" shall not exceed period as may be specified in such course.
- In case a student-trainee does not complete the training within the specified time including the period of extension, if any, as may be specified in such course, s/he shall cease to be student-trainee.
- The industry shall engage a student-trainees who are pursuing the course which are relevant to the industry.
- The number of such student-trainee should not exceed such per cent. of the total workforce employed in the concerned factory/branch of an establishment as may be specified in a scheme or a similar scheme of the Central/State Government.
- The engagement of student-trainees shall not be for a purpose other than as specified in such course/scheme.
- The employer shall declare the details of such student-trainees in Electronic-challan-cum-returns (ECR) or furnish such details of student-trainees every month as may be directed by the Commissioner.

3. However, should a dispute arises regarding the eligibility of a person to become member of the Scheme, the same would be decided as per law.

(This issues with the approval of CPFC)

Yours faithfully,  
  
(Jag Mohan)  
Additional Central PF Commissioner (HQ)( Compliance)



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### **Trainees & Minimum Wages Act:-**

Trainees, especially in the private sector have to be paid the notified Minimum wages. The Minimum Wages Act contains a listing of the scheduled employment. As per the Act, temporary or probationers under scheduled employment must receive a minimum rate of wages as notified.

This minimum rate is calculated as a percentage of the salary of semi-skilled workers of the respective State or Union Territory. The percentages are as follows:

- 70% during the first year of training
- 80% during the second year of training
- 90% during the third and fourth year of training

In the event of a State or Union Territory not notifying the minimum wages then the lowest minimum wages of the scheduled employment for semi-skilled workers shall be considered for calculating the stipend.



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The Ministry of Labour and Employment, through its Notification G.S.R 680 (e) dated 22nd September 2014 notified the minimum wages to be paid to trade apprentices.

**MINISTRY OF LABOUR AND EMPLOYMENT**  
**(Directorate General of Employment and Training)**

**NOTIFICATION**

New Delhi, the 22nd September, 2014.

**G.S.R. 680(E).**—In exercise of the powers conferred by sub-section (1) of Section 37 of the Apprentices Act, 1961 (52 of 1961), the Central Government, after consulting the Central Apprenticeship Council, hereby makes the following rules further to amend the Apprenticeship Rules, 1992, namely:—

1. (1) These rules may be called the Apprenticeship (Second Amendment) Rules, 2014.—  
(2) They shall come into force on the date of their publication in the Official Gazette:—
2. In the Apprenticeship Rules, 1992, for sub-rule (1) of rule 11, the following shall be substituted, namely:—  
“(1) The minimum rate of stipend per month payable to trade apprentices shall be follows, namely:—

- |  |   |   |
|--|---|---|
| (a) During the first year of training            | : | Seventy per cent. of minimum wage of semi-skilled workers notified by the respective State or Union territory |
| (b) During the second year of training           | : | Eighty per cent. of minimum wage of semi-skilled workers notified by the respective State or Union territory  |
| (c) During the third and fourth year of training | : | Ninety per cent. of minimum wage of semi-skilled workers notified by the respective State or Union territory: |

Provided that in the case where the minimum rate of wage for a trade is not notified by the State Government or Union territory, then, the maximum of minimum wages of the Scheduled Employment notified by such State Government or Union territory for semi-skilled workers shall be taken into account for paying the stipend in respect of that trade:

Provided further that in the case of trade apprentices referred to in clause (a) of Section 6 of the Act, the period of training already undergone by them in a school or other institution recognised by the National Council, shall be taken into account for the purpose of determining the rate of stipend payable”.

[No. DGET-23(3)(3403)/2014-AP]  
ALOK KUMAR, Director General/Jt. Secy.

**Note :** The principal rules were published in the Gazette of India, Part-II, section 3, sub-section (i), dated the 1st August, 1992 vide notification number G.S.R. 356, dated the 15th July, 1992 and last amended vide notification number G.S.R. 158(E), dated the 4th March, 2014.

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### Trainees & Bonus Eligibility

- Trainees under the Apprentices Act, 1961, will not be entitled to a Bonus under Sec. 2(13) of the Payment of Bonus Act, 1965.
- The Apprentice is not considered an 'employee' and is, therefore, not eligible to receive a Bonus.
- If the trainee has not been engaged under the Apprentice Act, 1961, then the trainee is eligible for a Bonus under the Payment of Bonus Act, 1965
- Should have worked for more than 30 days as per the Section 8 of the Payment of Bonus Act, 1965.

### section 2(13)

(13) "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding <sup>1</sup>[three thousand and five hundred rupees] per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied;

### section 8

**8. Eligibility for bonus.**—Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.



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### Trainees & Maternity Benefits

- A trainee with one surviving child, engaged as an Apprentice under the Apprentices Act, 1961, may be granted maternity leave for 90 days from the date of its commencement without payment of the stipend, and the apprenticeship training period shall be extended accordingly.
- The apprentice is eligible to receive the stipend during the extended period.
- A woman trainee can also avail of the benefit under the Maternity Benefit Act, provided she satisfies Sec. 3(o) and Sec. 5(2) of the Act

### Section 3(o)

- (o) “woman” means a woman employed, whether directly or through any agency, for wages in any establishment.

### Section 5(2)

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit for a period of not less than one hundred and sixty days in the twelve months immediately preceding the date of her expected delivery:



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### Conclusion:-

- ✚ Interns and Trainees are not covered under the EPF and ESIC, provided the Course and the Institution is duly recognised by the State or Central Government.
- ✚ Unpaid Interns have nothing to be deducted from as they do not receive any remuneration.
- ✚ Trainees engaged by an establishment under the All-India Council for Technical Education [National Employability Enhancement Mission (NEEM)] Regulations, 2017 (NEEM Regulations) would be deemed as 'employees' under the EPF Act.
- ✚ Trainees shall be considered for entitlement of EPF and ESI subject to them not being apprentices under the Apprentices Act, 1961.
- ✚ Apprentices engaged under the Apprentices Act, 1961 are not treated as 'employees' under the ESIC Act, whereas a trainee can be treated as an 'employee'.
- ✚ Any Trainees who are appointed as employees and are eligible for employment on due completion of such training, will be eligible for the EPF benefits.
- ✚ Trainee women apprentices engaged under the Apprentice Act, 1961 who have one surviving child may be granted 90 days leave under the Maternity Benefit Act, 1961.
- ✚ Apprentices engaged under the Apprentices Act, 1961, or as per the Model Standing Orders, needn't be considered for EPF.
- ✚ Trade Apprentices are eligible for Minimum Wages.
- ✚ Trainees in the scheduled employment as per the schedule of the Minimum Wages Act must receive a minimum of the notified rate.