

FREQUENTLY

ASKED

QUESTIONS

ON

ESI SCHEME

This booklet is only for awareness purpose and can't be referred/ quoted as legal document

Index

Pages

EMLOYER & EMPLOYEE RELATED	2-14
DEFINITIONS/KEY WORDS	15-24
LIST OF ESI BENEFITS & CONTRIBUTORY CONDITIONS	25-29

EMPLOYER & EMPLOYEE RELATED

1. What is ESI Scheme?

Employees' State Insurance Scheme of India is a multi-dimensional Social Security Scheme tailored to provide Socio-economic protection to the 'employees' in the organized sector against the events of sickness, maternity, disablement and death due to employment injury and to provide medical care to the insured employees and their families.

2. How does the scheme help the employees?

The scheme provides full medical care to the employee registered under the ESI Act, 1948 during the period of his incapacity, restoration of his health and working capacity. It provides financial assistance to compensate the loss of his/ her wages during the period of his abstention from work due to sickness, maternity and employment injury. The scheme provides medical care to his/her family members also.

3. Who administers the ESI Scheme?

The ESI Scheme is administered by a statutory corporate body called the Employees' State Insurance Corporation (ESIC), which has members representing Employers, Employees, the Central Government, State Government, Medical Profession and the Hon'ble Members of Parliament.

Director General is the Chief Executive Officer of the Corporation and is also an ex-officio member of the Corporation.

4. What are the other bodies of the ESI Corporation?

At the National level, the Standing Committee (a representative body of the Corporation) for administering the affairs of the Corporation, and the Medical Benefit Council, a specialized body that advises the Corporation on administration of Medical Benefit, are functioning.

At the Regional Level, the Regional Boards and Local Committees have been constituted to review the functioning of the scheme and make suggestions for its improvement. In addition to above, Hospital Development Committees have been set up for improvement of hospital and State Executive Committee for monitoring the performance of ESIS Hospitals and Dispensaries in a given State/UT.

5. How the Scheme is funded?

The ESI scheme is a self financing scheme. The ESI funds are primarily built out of contribution from employers and employees payable monthly at a fixed percentage of wages paid. The State Governments also bear 1/8th share of the cost of Medical Benefit.

6. Implemented Area

ESI Scheme is implemented in phases in different part of the country through Gazette notification after making the infrastructure available towards dispensation of medical as well as other benefits provided under the provisions of the Act to the prospective beneficiaries.

7. What are the establishments that attract coverage under ESI? In an area notified u/s 1(3) by Central Govt.?

In an area notified u/s 1(3) by Central Govt. all factories where 10 or more persons are employed attract coverage under Section 2(12) of ESI Act. Further, according to the notification issued by the appropriate Government (Central/State) under Section 1(5) of the Act, the following establishments employing 10 or more persons attract ESI coverage.

- (i) Shops
- (ii) Hotels or restaurants not having any manufacturing activity, but only engaged in 'sales'.
- (iii) Cinemas including preview theaters;
- (iv) Road Motor Transport Establishments;
- (v) News paper establishments.(that is not covered as factory under Sec.2(12));
- (vi) Private Educational Institutions (those run by individuals, trustees, societies or other organizations and Medical Institutions (including Corporate, Joint Sector, trust, charitable, and private ownership hospitals, nursing homes, diagnostic centers, pathological labs).

In some states coverage is still for 20 or more persons employed under sec 1(5). A few State Governments have not extended scheme to Medical & Educational Institutions.

REGISTRATION PROCEDURE

8. What is registration of Factory/ Establishment?

Registration is the process, by which every factory/ establishment, to which the Act applies, gets itself registered online for compliance. Otherwise when a factory/ establishment is identified by ESIC, it is asked to get itself registered under the Act.

9. Is it mandatory for the Employer to register under the scheme?

Yes, it is the statutory responsibility of the employer under Section 2A of the Act read with Regulation 10-B, to register their Factory/ Establishment under the ESI Act within 15 days from the date of its applicability to them.

10. What is the procedure for Registration of an employer?

The Factory or Establishment to which the Act applies is to be registered by logging into

ESIC Portal i.e. www.esic.in within 15 days from the date of its applicability to them. The employer is supposed to sign up, providing factory/Establishment name, Address *Principal* employer's name, Bank Account, PAN, use of power in case of of factory ,State and region as well as e mail address. The employer trying to register would get a user ID and a password through his mail ID. The employer can log in to www.esic.in. His mail ID can also be used as user ID and the password received has to be accessed from the mail box can be used to register his unit by providing information in the Portal. Automatically a 17 digit code number is generated after successful registration.

11. What is a Code number?

It is a 17 digit unique identification number allotted to each of the factory/establishment registered under the provisions of the Act. Such a number is generated through ESIC portal on submission of the pertinent information by the employer. It can also be generated on receipt of Survey Report from the Social Security Officer.

12. What is a Sub-code number?

This is also a unique identification number allotted to a sub-unit, branch office, sales office or Registered Office of a covered factory or establishment located in the same State or different State. The employer can register any Branch or Sales Office through ESIC Portal using his credentials and his unique primary registration code number.

13. Can a factory or establishment once covered go out of coverage if the number of persons employed therein goes down to the minimum limit prescribed?

Once a factory or an Establishment is covered under the Act, it continues to be covered notwithstanding the fact that the number of persons/ coverable employees employed therein at any time falls below the required limit or there is a change in the manufacturing activity.

14. Is there any provision for 'exemption of a factory or establishment' from ESI coverage?

Yes, of course the exemption is permissible from operation of provisions of the Act subject to the condition that the employees in a covered factory or establishment are other-wise in receipt of benefits substantially similar or superior to those provided under the ESI Act.

The appropriate Government may grant exemption to such factory or establishment for a period of one year at a time prospectively in consultation with ESI Corporation. An exempted application unit has to apply for renewal three months before the date of expiry of the prior exemption.

15. If the wages of an employee exceeds Rs. 21,000 in a month, can he be treated as not covered and deduction of contribution from his wages is stopped?

If the wages of an employee (excluding remuneration for overtime work) exceeds the wage limit prescribed by the Central Government after start of contribution period, he continues to be an employee till the end of that contribution period and the contribution is to be deducted and paid on the total wages earned by him.

16. What is the effect of increase in wages from a retrospective date?

In case the wages of an employee is increased from a retrospective date resulting in crossing the wage limit prescribed, its effect on coverage of that employee is only after expiry of the Contribution period during the currency of which such increase is announced or declared. The contribution on

enhanced wages is also payable from the month in which such increase is announced. There is no need to pay the contribution on the arrears for the period prior to the month of declaration/ announcement/ agreement.

17. Why contribution should be paid on the total wages beyond the wage ceiling limit when an employee crosses the wage limit prescribed by the Central Government?

An employee who crosses the prescribed ceiling limit in any month at any time after commencement of the contribution period, he/she would continue to be an employee till the end of that contribution period. The Rule position in this regard is mentioned as under:-

“As per Rule-50 of the Employee's State Insurance (Central) Rule 1950 any employee whose wages (excluding remuneration for overtime work) exceed (fifteen thousand) rupees a month 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.”

18. Why over-time is to be excluded for wage ceiling limit for coverage of an employee?

Overtime is not a regular and continuous payment, but it is of an occasional nature. If overtime is also taken for wage limit for coverage of an employee, he may be going out of coverage for some time and again coming within the ambit of the scheme, when overtime is not there. However, it is included for payment of contribution to cover the risk during the period he was on overtime work, and to enable him to draw cash benefits at an enhanced rate also.

19. Is there any provision for exemption from payment of Employer's contribution?

With effect from 1-4-2008, the wage ceiling limit for coverage of employees with disability (PWDs) had been raised to rupees twenty five thousand a month. To encourage the employers to employ more employees with disability there is no wage ceiling for availing the ESI benefits w.e.f. 01.04.2016. The employer is exempted from payment of Employer's share of contribution on the wages paid to the employees with disability for a maximum period of **10** years from the date of commencement of the contribution period in which such employee with disability is employed. The Ministry of Social Justice & Empowerment, GOI, shall reimburse this Employer's contribution to the ESI Corporation.

20. What is the time limit for contribution?

Contribution shall be paid in respect of an employee in a bank duly authorized by the Corporation within 15 days of the last day of the calendar month in which the contribution falls due for any wage period (Reg. 29 & 31).

21. What is the manner of calculation and payment of contributions?

The employer needs to file monthly contributions online through ESIC portal on a monthly basis in respect of all its employees after duly registering them. Through this exercise, the employer has to file employee wise number of days for which wages paid & the amount of wages paid respectively to ascertain the amount of contributions payable.

ESIC has facilitated payment of ESI contribution online by Employer via the payment gateway of 58 banks in addition to SBI.

The total amount of contribution (both the shares) in respect of all the employees for each month is to be deposited in any branch of SBI by ONLINE generation of a challan through ESIC portal using his credentials. ESIC has facilitated payment of ESI Contribution online by employer via the payment gateway of 58 banks in addition to SBI.

22. What are consequences of non / late payment of employees' contribution deducted but not paid?

Any sum deducted by the Principal employer from wages under the ESI Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted **as per Section** 40 (4) of the ESI Act, 1948. Non-payment or delayed payment of the Employee's contribution deducted from the wages of the employee amounts to 'Breach of trust' and is punishable under IPC 406, 409 *and also an offence u/s 85 of ESI Act.*

23. Will the delayed payment attract any interest?

An employer who fails to pay the contribution within the limit prescribed under Regulation 31, shall be liable to pay simple interest at the rate of 12% per annum in respect of each day of delay or default in payment of contribution (Regulation 31-A).

24 What are the penal provisions for non-payment or delayed payment of contribution?

The Corporation may levy and recover damages under Reg. 31C at the following rates, not exceeding the amount of contribution payable for default or delay in payment of the contribution.

Period of delay	Rate of damages in % p.a.
i) Less than 2 months	5 %
ii) 2 to 4 months	10 %
iii) 4 to 6 months	15 %
iv) 6 months and above	25 %

The employer is liable for prosecution under Section 85(a) for the first time, Whoever, having been convicted by a court of an offence punishable under the Act, commits the same offence shall, for every such subsequent offence, liable for enhanced punishment under section 85 A of the Act.

MAINTENANCE OF RECORDS

25. What are the records to be maintained for ESI purpose?

For ESI compliance the employer has to maintain following records:

1. Muster roll, wage record and books of Account maintained under other laws.
2. Accident Register in new Form-11 and
3. An inspection book.
4. The immediate employer is also required to maintain the Employees' Register for the employees deployed to the principal employer.

26 What are the returns/ reports to be submitted by the employer?

The Employer has to submit following records:

- 1 Accident Report: Notice of Accident to the concerned Branch office in Form -12 should be submitted on-line within 24 hours.

2 Abstention verification Report: It is required to be submitted to the Branch office as and when it is sought by the Branch Manager in respect of any IP.

3. Records including attendance, wages and books of accounts etc. in respect of principal employer and records of immediate employer as required by the Labour Laws.

REGISTRATION OF EMPLOYEES

27. What is Registration of an Insured Person?

Registration is the process of obtaining and recording information about the entry of an employee into 'insurable employment', for the purpose of his identification under the Act. The Employer before taking into employment shall register the insurable employee on-line. The employer will generate Temporary Identification Certificate (TIC).The TIC is valid only for 30 days. If Aadhar number is seeded in TIC, it will become e-pehchan (Permanent Identification Certificate).

28. Why Registration of an Insured Person is necessary?

Registration of employee is the process of his entry in the insurable employment for identification to provide the benefits under the Act which are related to the contributions paid by the employer on behalf of each of the insured persons.

29. How are the employees registered under the Scheme?

At the time of joining the insurable employment, an employee is required to provide his and his family details to the employer along with a family photo so that the employer can register the employee on-line. This exercise of registering an employee is a one time exercise for entire insurable employment of an employee. The insurance number generated **On-line** on the first occasion of registration is to be used throughout his life time irrespective of change of employment including change of place.

30. What is an identity card?

After On-line registration of an employee under the scheme, the employer can take a print out of the Temporary Identity Certificate (TIC). On linking of Aadhar with IP insurance number, TIC will automatically be converted into a Permanent Identity Card (PIC). With PIC the IP and his family members can avail benefits under the ESI Scheme, without any hitch. If Aadhar number of IP/family is

not available, then employer will ensure to affix the IP photo along with the family members on TIC duly authenticated with his stamp & signature. This TIC will be valid for a period of one month only.

As soon as possible but not later than a month, the insured person along with his entire family should link their Aadhar number using the web site www.esic.in for availing medical benefit at dispensary/ hospital and availing cash benefits at the ESI branch Office. Any changes in his residence/ dispensary/ employment can be carried out by the employer in the ESIC Portal as and when arises.

MEDICAL BENEFIT

31. What is Medical Benefit?

Medical benefit means the medical attendance and treatment to the insured persons covered under the Act and their families as and when needed. This is the only benefit provided in kind through the State Governments including Model Hospitals run by ESI Corporation (except in Delhi), and uniformly to all as per their requirement without linking it to their wages and contributions.

32. What is the scale of Medical Benefit?

Full range of Medical, surgical & obstetric treatment consisting of out-door treatment, in-patient treatment, supply of all drugs and dressings, pathological and radiological investigations, prenatal and post-natal care, super specialty consultation & treatment, ambulance services, provision of artificial appliances etc.

33. How long is Medical benefit available?

The insured person and his family are entitled to the Medical Benefit from the very first day of his/her joining the insurable employment. A person who is just covered under the scheme for the first time is eligible for *primary and secondary* medical care for self and family for three months. If he/she continues in insurable employment for three months or more, the benefit is admissible till the beginning of the corresponding benefit period. If the insured person is in ESI coverage for at least 2 years *from the date of* Online Registration, contributed for not less than 156 days and IP is eligible for Sickness Benefit in any one of the contribution period and is suffering from any of the 34 specified long term diseases, the medical benefit is admissible till the incapacity lasts or up to 730 days during a period of 3 years for self and family.

Further, If the insured person is in ESI coverage for at least 2 years *from the date of* Online Registration, contributed for not less than 156 days before the date of diagnosis and IP/IW is eligible for Sickness Benefit in at least two contribution period then he along with his family members will be eligible for getting super specialty treatment. In case of an Accident in respect of IP/**IW himself or his/her family member** this contributory condition shall not be applicable for SST treatment.

34 If the insured person's family is residing in another place in the same State or another State, how the family can avail the medical benefit?

If the family is residing in any other place either in the same State or a different State, based on the declaration of the insured person and certified by the employer, the family is provided with a 'Family Identity Card' for receiving medical benefit from ESI Dispensary in the area in which they are residing. After the commencement date of operation of IT Roll Out w.e.f. 9.6.2011 the 'Family' is also issued a separate 'Pehchan card'. By producing this *Aadhar based* Pehchan card, the family can avail the medical benefit from any ESI Dispensary/ Hospital either at their place of residence or in any other part of the country. There is also provision to opt two dispensaries to avail medical facility for IP himself at work place and family members at their native place or *other* place.

35 How to get medical benefit when an insured person is leaving for another station for a temporary period?

Through seeding “On-line Aadhar Card and Card number” in respect of self and his/her family members, the employee would be able to get medical benefit across the country in any of the ESIC/ESIS dispensaries subject to entitlement. However, for getting this facility with ease, it is necessary to keep Form-105 duly filled up and signed by their employers..

36. How long Dependent Benefit is paid and at what rate?

The rate of dependants' benefit is 90% of standard benefit rate of the wages of the deceased insured person. It is *apportioned* among the dependants as follows:

- 1) Widow: Till death or remarriage at 3/5th of the full rate.
- 2) Widowed mother till death @2/5th of the full rate,
- 3) to each child @ 2/5th of the full rate each till he attains the age of twenty –five years.
- 4) Unmarried daughters @2/5th of the full rate till they get married.

- 5) If the son or daughter is infirm and wholly dependent on the earnings of the insured person at the time of his death, they continue to receive the benefit even after attaining the age of 25 years/ marriage as the case may be.

If the total dependants' benefit for all the dependents worked out as above exceeds at any time, the full rate, the share of each of the dependents shall be proportionately reduced, so that the total amount payable to them does not exceed the amount at full rate. In case deceased Insured person does not leave behind any of the dependents referred above, then his parents will get 3/10 share or if no parent is alive then alive his paternal grant parent will get 3/10 share of Full rate of dependent benefit.

37. Whether the TDB/PDB/DB is also admissible in the case a casual or temporary employee meets with an employment injury on the very first day or on any day before he completes his first contribution period?

There is no qualifying conditions or contributory conditions are attached for payment of temporary disablement benefit, permanent disablement benefit or Dependants benefit. Even if he/she meets with an employment injury on the very first day of his/her joining the insurable employment at workplace, the benefit is admissible.

BENEFIT TO FAMILY

38 What is the benefit admissible to the family members?

- (i) Family members are also entitled to full medical care as and when needed
- (ii) The Family members are also entitled to artificial limbs, artificial appliances as a part of Medical treatment.
- (iii) The medical benefit is also admissible to the family during the period the insured person is in receipt of unemployment allowance. In case he/she dies during the period, his/her family continues to receive the medical benefit till receipt of unemployment allowance.
- (iv) In case of the death of the insured employee due to employment injury, the widow, widowed mother and children are entitled to Dependants' benefit.
- (v) The Funeral Expenses upto Rs. 10000/- are defrayed to any family member or person who actually incurs the above expenditure on funeral.

BENEFIT AFTER RETIREMENT TO THE IPs under Rule 61

39. What is the benefit admissible after retirement of an employee?

An Insured person who superannuates or retires under a voluntary Retirement Scheme or takes premature retirement, after being an insured person for not less than 5 years, shall be eligible to receive medical benefit for himself and his spouse subject to production of proof thereof, and payment of a nominal contribution of rupees one hundred and twenty for one year. In case the insured person expires his spouse shall continue to receive medical benefit under Rule 61 on payment of contribution as mentioned above

40. What is the benefit admissible to an Insured Person who ceases to be in an insurable employment on account of permanent disablement?

(a) An Insured person who ceases to be in insurable employment on account of permanent disablement caused due to an employment injury shall eligible to receive medical benefit for himself and his spouse on payment of rupees one hundred and twenty for one year till the date on which he would have vacated the employment on attaining the age of superannuation, had he not sustained such permanent disablement.

Vocational Rehabilitation programme, under Rule 60 is also undertaken for Insured Persons age below 45 years and disability not less than 40% due to employment injury whereby the training to IPs is imparted in Govt. or Govt. accredited Institutions as per the norms of Vocational Rehabilitation centre. The IP is entitled to get the expenditure reimbursed as per the rate of the Centre or Rs. 123/- per day whichever is more in addition to the conveyance charges at a normal rate /second class Railway/bus fare as applicable to attend such training programme.

41. Does the Widow who is in receipt of Dependent Benefit is eligible for medical care under the ESI Scheme?

Yes, The Corporation in its 161st meeting held on 28.1.2014 & 14.2.2014 has passed the resolution to provide the medical care (excluding SST) to the widow for self, who is in receipt of dependent benefit on payment of contribution of rupees one hundred and twenty for one year.

42 What is Rajiv Gandhi Shramik Kalyan Yojana?

Rajiv Gandhi Sharmik Kalyan Yojana (RGSKY) was introduced w.e.f. 01.04.2005 to provide unemployment allowance to the Insured Persons who have been rendered unemployed due to (a)

Retrenchment as defined in the Industrial Dispute Act, 1947 (b) Closure of the factory/Establishment as defined in the Industrial Dispute Act, 1947 and (c) Permanent invalidity not less than 40% arising out of non employment injury. The invalidity should be duly certified by a Medical Board constituted by the Central or State Government.

According to this scheme the IP would be entitled to unemployment allowance subject to two years of insurable employment with 78 days contribution in each contribution period. The un-employment allowance is payable for 24 months in life time. For the first 12 months the allowance will be paid @ 50% of the last average daily wages and thereafter @ 25% from 13 to 24 months.

The IP/ IW has to secure admission as per the entry norms of the Government or Government accredited Institutions as per the norms of vocational Rehabilitation centre. The corporation will pay the entire Fee charged and will also reimburse second class to and fro Rail / Bus fare for the IP /IW who has to travel for attending the training programme at AVTI. The duration of such training programme will be upto one year only for IP. IP and their family member shall be eligible for medical care excluding Super Specialty Treatment.

DEFINITIONS (KEY WORDS)

1. What is the definition of a Factory for coverage under ESI Act?

Factory is defined under section 2(12) as “any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which, a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of Mines Act 1952 (35 of 1952), or a railway running shed.”

2. Whether the persons employed who are not coverable under the Act are also counted for the purpose of coverage of factory/ establishment?

Yes. All persons employed in the premises including the precincts thereof irrespective of their wages including trainees, casual and contract employees are counted for the purpose of coverage of the factory / establishment. Even the Directors rendering service and receiving remuneration are to be counted.

3. Persons who are not be counted for coverage of a factory?

The following persons are not to be counted

- a) A proprietor or a partner whether drawing salary or not;
- b) A contractor lending the services of his employees;
- c) An apprentice engaged under the Apprentice Act, 1961;
- d) Persons employed on contract for service, e.g. legal, technical, tax consultants etc;

4. What is meant by 'premises'?

The terms 'Premises' and 'Precincts' used under section 2(12) of the Act have not been defined adequately. According to the definition assigned to the 'premises' under Section 2(m) of the Factories Act, 1948, it is a generic building, or shed. Accordingly, the word 'precincts', thereof 'separate buildings' located apart or at a distance when used for one continuous manufacturing process shall also constitute the 'Premises'. Moreover the area adjacent to the building/shed which is ordinarily accessible would constitute 'premises'. The 'premises' however need not be in a single unit. A number of buildings or even an open space or a shed might constitute premises.

5. What is Manufacturing Process?

Manufacturing process shall have the meaning assigned to it in the Factories Act, as per Section 2(14-AA) of the Act. It is defined in section 2(k) of the Factories Act as "any process for:-

- (I) Making, altering repairing, ornamenting, finishing, packing, Oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adopting any article or substance with a view to its use, sale, transport, delivery, or disposal; or
- (ii) Pumping of oil water, or sewages, or any other; or
- (iii) Generating, transforming, or transmitting power; or
- (iv) Composing types for printing, by letter press, lithography, photogravure or other similar processes, or book binding; or
- (v) Constructing, reconstruction, repairing, refitting, finishing, or breaking up ships or vessel; or

(vi) Preserving or storing an article in cold storage; and

(vii) Tapping, collecting, cross matching and keeping in bottles, the blood, or whole human blood.

6. Who are the persons to be counted for coverage of an establishment?

The words 'premises' and 'precincts' used in the definition of 'factory' have not been used in the notifications issued by the State Governments, while extending the provisions of the

Act to the establishments under Sec. 1(5) of the Act. So long as the establishment employs a minimum prescribed number of persons it will stand covered under the Act whether these employees are employed at one place or at places away from each other, as they are engaged in the organized activity of the same establishment. Thus, all the persons including those working in branches, regd. office, and sales office etc. whether situated in implemented area or not, are to be counted.

7. Who is a Principal Employer?

U/S 2(17) Principal Employer means

(A) In the case of a factory, any of the following:-

- (i) Owner;
- (ii) Occupier;
- (iii) Managing Agent of the owner or occupier;
- (iv) Legal representative of a deceased owner or occupier;
- (v) Manager of the factory under the Factories Act, 1948.

(B) In the case of Establishments belonging to or under the control of Government of India:

- (i) The Specified Authority
- (ii) The Head of the Department (In the absence of specified Authority).

(C) In the case of other establishments: Person responsible for the supervision and control of the establishment.

- (D) In case of shop – i)(a) Owner II) Proprietor III) Partners IV) Directors
(b) Management of the Owner

8. Who is an Immediate Employer?

Under Section 2(13), an Immediate Employer can be any or all of the following:-

- (i) One who executes any work inside the premises of the principal employer of a factory or an establishment to which this Act applies or under the supervision of Principal Employer or his agent if the whole or any part of any work which is ordinary part of the work of the factory or Establishment of the Principal Employer or preliminary to the work carried on in or incidental to the purpose of, any such factory or establishment and include a person by whom the services of an employee who has entered into a contract of services with him or let on hire to the Principal Employer (and include a contractor).
- (ii) One who executes the work of a factory or establishment outside the premises under the supervision of its principal employer or his agent;
- (iii) One who lets on hire the services of his employees to the principal employer of a factory or establishment; and
- (iv) A contractor under Section 2(13) of ESI Act.

9. Who are the persons to be covered as "Employees"?

Under Section 2(9) Any person employed for wages in or in connection with the work of a covered factory or establishment, and:

Directly employed by the Principal employer, on any work of the Factory or establishment within the premises or elsewhere, or in any part, department or branch dealing with administration, purchase of raw materials, sale or distribution of the products of the factory or establishment.

Employees of the immediate employer:

Employed in the premises on any work of the factory or establishment;

Employed outside the premises on any work of the factory or establishment under the supervision of the Principal employer or his agent;

Employees lent or let on hire to the principal employer on any work of the factory, or employees/ professional on contract of service.

Paid Directors of a company.

Exclusions: (1) An Apprentice engaged under the Apprentice Act 1961 and (2) An employee drawing wages above the ceiling for coverage prescribed by the Central Government. Employees/ Professionals rendering services for contract for service.

10. What is the wage ceiling limit prescribed for coverage of an employee?

The wage ceiling prescribed for coverage of an employee is Rs. 21,000 per month w.e.f 01.01. 2017.

However, *there is no* wage ceiling for coverage of an employee with 'disability' 01.04.2016.

11. What is 'Average Daily Wages'?

Average daily wages (Central Rule):

1(A) "Average daily wages means the aggregate amount of wages payable to IP/IW during that period divided by the number of days for which such wages were payable.

12. Who is an 'Exempted Employee'?

An employee who is not required to pay employees' contribution is called an exempted employee. The exemption limit with effect from 14.6.2016 is Rs. 137/- per day. However, employer's contribution is payable on these wages.

13. What are the contribution periods and benefit periods?

The financial year from April to March has been divided in to two halves six monthly contribution periods i.e. first half from 1st April to 30th September and second half from 1st October to 31st March of next year. The relevant benefit period corresponding to each contribution period commences three months after the end of the that contribution period i.e. Jan to June and July to December.

(The calendar year from January to December has been divided in to two six monthly benefits periods).

WAGES

14. How wages are computed for payment of contribution?

The following wage components are taken into account for computation of wages for payment of contribution.

- a) Basic Pay,/Wages/Salary;
- b) D.A/ HRA/ CCA/ Overtime/ officiating allowance/ Night shift allowance/ efficiency allowance/ Heat, Gas, Dust allowance/ Education allowance/ Food & Tea allowance/ conveyance allowance; Overtime *wages (but not to be taken into account for determining the coverage).*
- c) Wages/ salary/ pay for weekly off and public holidays;
- d) Commission paid to sales staff;
- e) Subsistence allowance paid to an employee during the period of suspension;
- f) Attendance Bonus or incentive or exgratia in lieu of Attendance Bonus or production incentive;
- g) Regular Honorarium or salary or remuneration paid to a Director;
- h) Collection Bhatta paid to running staff. Production incentive, Bonus other than statutory bonus, night shift. Heat, Gas & Dust Allowance, Meal/Food Allowance.
- i) Actual payments made towards leave salary, lay off compensation, or wages for strike period.
- j) Any other remuneration paid or payable in cash to an employee if the terms of contract of employment, expressed or implied were fulfilled.

The above are only indicative.

15. What is 'Contribution'?

Contribution is the sum of money payable to the Corporation by the Principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of the Act (Section2(4)).

16 What is the Present Rate of Contribution?

Employer's contribution: A sum equal to 4.75% of the wages payable to an employee, rounded off to the next higher rupee;

b) Employee's contribution: A sum equal to 1.75% of the wages payable to an employee, rounded to the next higher rupee;

As per the Notification published in the Gazette of India dated 6.10.2016, in respect of the areas where the Act is implemented for the first time the rates of employer's and employee's contribution for the initial twenty-four months from such date will be under :-

(a) Employer's contribution-A sum (rounded to the next higher rupee) equal to three percent of the wages payable to an employee; and

(b) Employee's contribution- A sum (rounded to the next higher rupee) equal to one percent of the wages payable to an employee.

17. What is 'Sickness Benefit'?

If an insured person requires medical treatment and attendance and needs abstention from work on medical grounds, Sickness benefit is paid for the period of abstention duly certified by the Authorized Medical Officer, for a period not exceeding 91 days in two consecutive benefit periods (say one year) @ 70% of standard benefit rate, subject to payment of contribution for not less than 78 days in the corresponding contribution periods.

18. What is Extended Sickness Benefits?

This is an additional sickness benefit provided by the Corporation in exercise of its powers under Section 99 of the Act. An insured person who has completed two years of insurable employment and contributed for not less than 156 days during this period is entitled to extended sickness benefit for a period of 309 days for the 34 specified long term diseases. This period can be extended up to 730 days or till the insured person attains the age of 60 years whichever is earlier. The insured person and his family are also entitled to Medical Benefit during this extended period. The daily rate of extended sickness benefit shall be equal to eighty percent of the standard benefit rate.

19. What is 'Enhanced Sickness Benefit'?

To promote small family norms, this cash benefit is paid to the insured person for undergoing vasectomy / tubectomy operation. This is paid for a period of 7 days for vasectomy operation and for 14 days for tubectomy operation. This period can be extended in case of any post operative complications. The daily rate of enhanced sickness benefit shall be equal to the standard benefit rate.

20. What is Disablement?

Disablement is a condition resulting from employment injury, which may render the insured person temporarily incapable of doing his work and necessitating medical treatment

(temporary disablement). It may reduce his earning capacity (permanent partial disability)

or it may totally deprive the insured person from the capacity of doing any work (permanent total disability).

21. What is 'Employment Injury'?

It is a personal injury to an employee caused by an accident or occupational disease arising out of and in the course of his insurable employment within or outside territorial limits of India.

22. What is Occupational Disease?

Contracting any disease, while in employment for a specified period in any of the industries listed in Part A, B, or C of Schedule III to the Act is called Occupational disease. Occupational health hazards can be of two main types. Short term and high dose with acute onset, synonymous with acute poisoning, included by large dose of a toxic substance in an industrial environment, and the other one is chronic onset, which is the result of repeated or continuous exposure of small doses of substances.

23. What is 'Temporary Disablement Benefit'?

It is a periodical payment to an insured person suffering from Disablement as a result of 'Employment injury' for the period of abstention from work duly certified by an Authorized Medical Officer. This is paid @ 90% of standard benefit rate till the temporary disability lasts and the employee is able to resume his normal duties.

24. What is Permanent Disablement Benefit?

If there is any residual disability of permanent nature due to employment injury, the insured person is examined by a Medical Board to assess the loss of his earning capacity, if any, and its percentage. The insured person is paid monthly periodical payments of permanent disablement for life from the date following the date of termination of temporary disablement at that percentage out of full daily rate of disablement benefit. Periodical increase in the benefit is also *granted* due to erosion in the cost of living. The benefit can be paid through ECS in the bank Account of IP or by Money Order at the cost of the Corporation. The insured person can also opt for the payment in lump sum if his daily rate of PDB does not exceed rupees ten or even if it exceeds ten per day, *and* the commuted value does not exceed Rupees 60000.

25. What is Dependants' Benefit?

Dependants' Benefit is a monthly pension payable to the eligible dependants of an insured person who dies as a result of an employment injury or occupational disease. The first benefit payment is made from the Branch Office. Subsequent periodical payments are made through direct bank transfer (DBT) to the beneficiaries.

26. What is Maternity Benefit?

Maternity benefit is periodical payment(s) to an insured woman for specified period of abstention from work, due to confinement, miscarriage or sickness arising out of pregnancy, pre-mature birth of child or miscarriage or confinement. The rate of maternity benefit shall be equal to the standard benefit rate.

W.e.f. 20.1.2017 Maternity Benefit has also been extended to a "commissioning mother" (who as biological mother wishes to have a child and prefers to get embryo implanted in any other woman) and a insured woman who legally adopts a child of upto three months of age.

27 What is confinement? How long is the maternity benefit admissible in case of confinement?

Confinement means labour resulting in the issue of a living child or labour after 26 weeks of pregnancy resulting in the issue of a child whether alive or dead.

Maternity benefit is payable for 26 weeks to the IW up to two surviving children and 12 weeks for subsequent surviving child, subject to payment of contribution for not less than 70 days in the immediately preceding one or two contribution period. The benefit can be claimed at any time prior to

eight weeks before the expected date of confinement or from the date of confinement as per the condition and requirement of the insured woman.

These Rules are applicable to cases where the Insured Woman delivers a child on or after 20.1.2017 or her expected date of confinement falls on or after 20th January, 2017.

In case of Commissioning mother or adoptive mother, the Insured woman will be paid maternity benefit for 12 weeks from the date the child is handed over to the commissioning mother or adopting mother as the case may be.

28. What is 'miscarriage' and how long is the benefit admissible?

'Miscarriage' means the expulsion of the contents of a pregnant uterus at any time prior to or during the 26th week of pregnancy, but does not include a miscarriage, the cause of which is punishable under the Indian penal code. Maternity benefit is payable for miscarriage for a period of 6 weeks (42 days) from the date following the date of miscarriage subject to fulfillment of the contributory condition prescribed.

29. What is sickness arising out of pregnancy etc? How long the Maternity benefit is admissible for it?

If the insured woman needs medical treatment and attendance and abstention from work due to sickness arising out of pregnancy, miscarriage, premature child birth or confinement, duly certified by an authorized Medical Officer, Maternity Benefit at is payable for a period one month.

30. What is Confinement Expenses?

Confinement Expenses is lump sum payment made to an insured woman or an insured person in respect of his wife if the confinement occurs at a place where necessary facilities under the ESI Scheme are not available. At present the confinement expenses paid is Rs. 5000/- w.e.f. 1.10.2013 per confinement. It is admissible for two confinements only.

31. What are funeral expenses? Who is to be paid?

A lump sum payment not exceeding Rs. 10000/-is paid towards expenditure on the funeral of a deceased insured person to the eldest surviving member of the family. If the Insured Person did not have family or was not residing with his family at the time of death, *funeral expenses are paid* to the person who actually performs the funeral.

32. What is Standard Benefit Rate?

Standard Benefit Rate means average daily wages obtained by dividing the total wages paid during the contribution period by the number of day for which these wages were paid.

List of Benefits provided by ESIC with its terms and conditions;-

Sl.No.	Name of the benefit (s)	Contributory conditions	Duration of Benefit	Rate/type of benefit/Remarks
1	Medical Benefit	One should be an insured person under ESI Act. Insured persons/families eligible from the date of entry into insurable employment.	From day one of entering into insurable employment to till date in insurable employment and during the corresponding benefit period.	Reasonable medical care, comprehensive medical care & clinical investigation for IP and his family members.
1(a)	Medical care to retired Insured persons under Rule 60	To an IP who ceases to be in an insurable employment on account of permanent disablement caused due to an employment injury on payment of Rs. 120/- for self & spouse.	On yearly basis	Medical facility for primary and secondary care (excluding SST) within ESI Medical institutions to IP and his spouse till the date of superannuation.
1(b)	Medical care to retired Insured persons under Rule 61	To an IP who leaves the insurable employment (on attaining the age of superannuation, or retires under a VRS or takes premature retirement after being insured for not less than five years on payment of Rs. 120/- for self & spouse.	On yearly basis	Medical facility for primary and secondary care (excluding SST) within ESI Medical institutions to IP & his spouse for whole life. This benefit is also provided to the widow of deceased IP who had enrolled for this benefit

2	Sickness Benefit	On payment of contribution for not less than 78 days in relevant contribution period	Upto 91 days in any two consecutive Benefit Period in the event of sickness	70% of the average daily wages
2(b)	Enhanced Sickness Benefit	As of Sickness Benefit	7 days to an IP for vasectomy & 14 days for IW for Tubectomy	100% of the average daily wages
3	Extended Sickness Benefit	156 days in 4 contribution periods with eligibility of sickness benefit in one of them.	124 to 309 days which may be extended upto two years (730 days) on medical advise specified for long term diseases till the age of 60 years.	80% of average daily wages.
4	Disablement Benefit			
4 a)	Temporary Disablement Benefit	No condition From day one of entering into insurable employment in case of employment injury sustained during the course & out of insurable employment.	1. Not payable if disability lasts for less than 3 days (excluding the day of accident). 2. Otherwise payable for the entire period, so long as the temporary disability lasts.	90% of average daily wages payable during the contribution period/month/day of accident, as the case may be
4 b)	Permanent Disablement Benefit	1. No contributory condition are there. 2. Paid for permanent disablement, whether total or partial, caused by accident or an occupational disease arising out of and in the course of insurable employment	Periodical payments equal to the percentage of the loss of earning capacity caused by the employment injury, as assessed by a duly constituted ESI Medical Board.	1. Percentage of the total rate of disablement benefit which is equal to the full rate of TDB. 2. This can be commuted into lumpsum in case the daily rate benefit is upto Rs.10 or the total commuted value does not exceed Rs. 60,000/-

5(a)	Dependant Benefit	No condition. From day one of entering into insurable employment and during the insurable employment	Paid to the dependents of the Insured person who dies as a result of employment injury as defined in Rule 58. For life to the widow or until her re-marriage and to each legitimate or adopted son upto the age of 25 years. To each legitimate or adopted unmarried daughter until she attains the age of 25 years or until marriage, whichever is earlier. For infirm child till infirmity lasts.	90% of average daily wages among dependents in fixed proportion.
5(b)	Medical care to the Widow in receipt of Dependant Benefit	For widow in receipt of dependant benefit	Yearly basis	Medical facility for primary and secondary care (excluding SST) within ESI Medical institutions on yearly payment of Rs. 120/ to the widow of deceased IP who is in receipt of dependent benefit
6	Maternity Benefit	70 days contributions payable in the immediately preceding 1 or 2 consecutive contribution periods.	26 weeks upto two surviving children and thereafter 12 weeks for 3 rd surviving child onwards. 6 weeks in case of miscarriage 12 weeks for the commissioning mother 12 weeks for the adopting mother	100% of the average daily wages.

7	Confinement Expenses	The insured woman and insured person in respect of his wife shall be paid medical bonus paid on account of confinement expenses at a place where necessary medical facility under the scheme is not available	Upto two confinements.	Rs.5,000/-per case upto two confinements.
8	Funeral Expenses	1. IP should have been eligible for any of the benefit under ESI Scheme. 2. On production of a death certificate by the eldest surviving member/dependents/any person who actually incurs the expenditure on funeral	One time payment defraying expenses on funeral of an Insured person.	Maximum Rs.10,000/- only.
9	Unemployment Allowance under Rajiv Gandhi Sharmik Kalyan Yojna'(RGSKY)	Insurable employment for the last 2 years with 78 days contribution paid/payable in each contribution period, involuntary unemployment rendered due to closure of Factory,./Establishment retrenchment or permanent disablement due to non-employment injury not less than 40%.	Unemployment Allowance for a maximum period of 24 months during the entire insurable employment. Vocational training for duration upto 1 year for upgrading skills of Insured person receiving unemployment allowance. Entire fee charged by Government approved/accredited institutions reimbursed by ESIC	1.Unemployment allowance at the rates of (a) 50% of last avg. daily wages for 0- 12 months (b) 25% of last avg. daily wages for 13-24 months 2. Medical care for self and family during receipt of unemployment allowance

10	Vocational Rehabilitation Allowance under Rule 60	Not more than 45 years of age and disability not less than 40% due to Employment Injury	Training in any field in a Govt. Institution or Govt. accredited Institution as per the norms of the Vocational Rehabilitation Centre/institution.	1.Conveyance charges at normal rate/second class railway/bus fare as applicable. 2.Expenditure charged by the center or Rs.123/- per day, whichever is more,
----	--	---	--	---
