

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. How the Scheme is funded?

The ESI scheme is a self financing scheme. The State Governments also bear 1/8th share of the cost of Medical Benefit.

4. Implemented Area

5. 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.

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

6. 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. It is to be done within 15 days. Otherwise when a factory/

establishment is identified by ESIC, it is asked to get itself registered under the Act.

7. Procedure & What is a Code number?

8. What is a Sub-code number?

9. 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?

1. 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) An apprentice engaged under the Apprentices Act, 1961;
- c) Persons employed on contract for service, e.g. legal, technical, tax consultants etc;

2. 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.

3. 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.

4. 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
(a) Management of the Owner

5. Who is an Immediate Employer?

6. 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.

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.

7. 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.

8. 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.

9. 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.

10. 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

11. 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.

10. 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?

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

12. What if , employer has failed to make the payment.

13. 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?

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

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

16. What is the time limit for contribution?

17. 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).

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.

MEDICAL BENEFIT

27. What is the scale of Medical Benefit?

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?

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.

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 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.

(iii) In case of the death of the insured employee due to employment injury, the widow, widowed mother and children are entitled to Dependents' benefit.

(iv) 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?

(b) An Insured person who ceases to be in insurable employment on account of permanent disablement caused due to an employment injury shall be 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.

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?

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.

28. 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.

29. 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	<p>Paid to the dependents of the Insured person who dies as a result of employment injury as defined in Rule 58.</p> <p>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.</p>	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.	<p>26 weeks upto two surviving children and thereafter 12 weeks for 3rd surviving child onwards.</p> <p>6 weeks in case of miscarriage</p> <p>12 weeks for the commissioning mother</p> <p>12 weeks for the adopting mother</p>	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.	<p>1. Conveyance charges at normal rate/second class railway/bus fare as applicable.</p> <p>2. Expenditure charged by the center or Rs.123/- per day, whichever is more,</p>
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