

THE EMPLOYEES' STATE INSURANCE ACT, 1948

ACT NO. 34 OF 1948¹

[19th April, 1948.]

An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.

WHEREAS it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to the whole of India ^{2***}.

(3) It shall come into force on such date or dates³ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and ⁴[for different States or for different parts thereof].

✓(4) It shall apply, in the first instance, to all factories (including factories belonging to the Government) other than seasonal factories:

⁵[Provided that nothing contained in this sub-section shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.]

(5) The appropriate Government may, in consultation with the Corporation and ⁶[where the appropriate Government is a State Government, with the approval of the Central Government], after giving ⁷[one month's] notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise:

⁸[Provided that where the provisions of this Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishments within that part if the provisions have already been extended to similar establishment or class of establishments in another part of that State].

⁵[(6) A factory or an establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below the limit specified by or under this Act or the manufacturing process therein ceases to be carried on with the aid of power.]

1. This Act has been extended to Jaunsar Bawar Parganas in the Dehra Dun District and the areas of South of Kaimpur range in the Mirzapur District of the State of Uttar Pradesh by Schedule IV of Act 20 of 1954; to Pondicherry by Reg. 7 of 1963, s. 3 and Schedule and to Goa, Daman and Diu by Reg. 11 of 1963, s.3 and the Schedule (w.e.f. 1-8-1965).

2. The words "except the State of Jammu and Kashmir" omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).

3. For dates *see* Annexure.

4. Subs. by Act 53 of 1951, s. 2, for "for different States" (w.e.f. 6-10-1951).

5. Ins. by Act 29 of 1989, s. 2 (w.e.f. 20-10-1989).

6. Subs. by Act 53 of 1951, s. 2, for "with the approval of the Central Government" (w.e.f. 6-10-1951).

7. Subs. by Act 18 of 2010, s. 2, for "six month's" (w.e.f. 1-6-2010).

8. Ins. by Act 29 of 1989, s. 2 (w.e.f. 16-5-1990).

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) “appropriate Government” means, in respect of establishments under the control of the Central Government or ¹[a railway administration] or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;

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(3) “confinement” means labour resulting in the issue of a living child or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

✓(4) “contribution” means 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 this Act;

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(6) “Corporation” means the Employees’ State Insurance Corporation set up under this Act;

⁴[(6A) “dependant” means any of the following relatives of a deceased insured person, namely:—

⁵[(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter,]

⁶[(ia) a widowed, mother;]

(ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of ⁷[twenty-five years] and is infirm;

(iii) if wholly or in part dependent on the earnings of the insured person at the time of his death,—

(a) a parent other than a widowed mother,

(b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,

(c) a minor brother or an unmarried sister or a widowed sister if a minor,

(d) a widowed daughter-in-law,

(e) a minor child of a pre-deceased son,

(f) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(g) a paternal grand-parent if no parent of the insured person is alive;]

(7) “duly appointed” means appointed in accordance with the provisions of this Act or with the rules or regulations made thereunder;

⁸[(8) “employment injury” means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable

1. Subs. by the A.O. 1950, for “a federal railway”.

2. Omitted by Act 29 of 1989, s. 3 (w.e.f. 16-5-1990).

3. Omitted by s. 3, *ibid.* (w.e.f. 1-2-1991).

4. Ins. by Act 44 of 1966, s. 2 (w.e.f. 28-1-1968).

5. Subs. by Act 18 of 2010, s. 3, for sub-clause (i) ((w.e.f. 1-6-2010).

6. Ins. by Act 29 of 1989, s. 3 (w.e.f. 20-10-1989).

7. Subs. by Act 18 of 2010, s. 3, for “eighteen years” (w.e.f. 1-6-2010).

8. Subs. by Act 44 of 1966, s. 2, for clause (8) (w.e.f. 28-1-1968).

employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;]

✓(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;

¹[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 ²[or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or ³[and includes such person engaged as apprentice whose training period is extended to any length of time] but does not include—

(a) any member of ⁴[the Indian] naval, military or air forces; or

⁵[(b) any person so employed whose wages (excluding remuneration for overtime work) exceed ⁶[such wages as may be prescribed by the Central Government]:

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Provided that an employee whose wages (excluding remuneration for overtime work) exceed ⁶[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;]

(10) "exempted employee" means an employee who is not liable under this Act to pay the employee's contribution;

⁷[(11) "family" means all or any of the following relatives of an insured person, namely:—

(i) a spouse;

(ii) a minor legitimate or adopted child dependent upon the insured person;

(iii) a child who is wholly dependent on the earnings of the insured person and who is—

(a) receiving education, till he or she attains the age of twenty-one years,

(b) an unmarried daughter;

(iv) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the insured person, so long as the infirmity continues;

⁸[(v) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;

1. Subs. by Act 44 of 1966, s. 2, for "but does not include" (w.e.f. 28-1-1968).
2. Subs. by Act 29 of 1989, s. 3, for "but does not include" (w.e.f. 20-10-1989).
3. Subs. by Act 18 of 2010, s. 3, for "or under the standing orders of the establishment;" (w.e.f. 1-6-2010).
4. Subs. by the A.O. 1950, for "His Majesty's".
5. Subs. by Act 44 of 1966, s. 2, for sub-clause (b) (w.e.f. 28-1-1968).
6. Subs. by Act 29 of 1989, s. 3, for "one thousand and six hundred rupees a month" (w.e.f. 1-2-1991).
7. Subs. by s. 3, *ibid.*, for clauses (11) and (12) (w.e.f. 20-10-1989).
8. Subs. by Act 18 of 2010, s. 3, for sub-clause (v) (w.e.f. 1-6-2010).

(vi) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;]

¹[(12) “factory” means 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 the Mines Act, 1952 (35 of 1952) or a railway running shed;]

(13) “immediate employer”, in relation to employees employed by or through him, means a person who has undertaken the execution, on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole, or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer; ²[and includes a contractor];

³[(13A) “insurable employment” means an employment in a factory or establishment to which this Act applies;]

(14) “insured person” means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is by reason thereof, entitled to any of the benefits provided by this Act;

³[(14A) “managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person’s trade or business, but does not include an individual manager subordinate to an employer;

⁴[(14AA) “manufacturing process” shall have the meaning assigned to it in the Factories Act, 1948 (63 of 1948);]

(14B) “mis-carriage” means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860);]

(15) “occupier” of the factory shall have the meaning assigned to it in the Factories Act, ⁵[1948 (63 of 1948)];

³[(15A) “permanent partial disablement” means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

Provided that every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement;

(15B) “permanent total disablement” means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Second Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent. or more;]

⁴[(15C) “power” shall have the meaning assigned to it in the Factories Act, 1948 (53 of 1948);]

(16) “prescribed” means prescribed by rules made under this Act:

1. Subs. by Act 18 of 2010, s. 3, for clause (12) (w.e.f. 1-6-2010).

2. Added by Act 29 of 1989 s. 3 (w.e.f. 20-10-1989).

3. Ins. by Act 44 of 1966, s. 2 (w.e.f. 28-1-1968)

4. Ins. by Act 29 of 1989, s. 3 (w.e.f. 20-10-1989).

5. Subs. by Act 53 of 1951, s. 3, for “1934” (w.e.f. 6-10-1951).

(17) "principal employer" means—

(i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under ¹[the Factories Act, 1948 (63 of 1948)], the person so named;

✓(ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the department;

(iii) in any other establishment, any person responsible for the supervision and control of the establishment;

(18) "regulation" means a regulation made by the Corporation;

(19) "Schedule" means a Schedule to this Act;

²[(19A) "seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year—

(a) in any process of blending, packing or repacking of tea or coffee; or

(b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify;]

(20) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds;

(21) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of ³[doing the work which he was doing prior to or at the time of the injury];

✓(22) "wages" means all remuneration paid or payable, in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes ⁴[any payment to an employee in respect of any period of authorised leave, lock-out, strike which is not illegal or lay-off and] other additional remuneration, if any, ⁵[paid at intervals not exceeding two months], but does not include—

(a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;

(b) any travelling allowance or the value of any travelling concession;

(c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(d) any gratuity payable on discharge;

✓⁶[(23) "wage period" in relation to an employee means the period in respect of which wages are ordinarily payable to him whether in terms of the contract of employment, express or implied or otherwise;]

1. Subs. by Act 53 of 1951, s. 3, for "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934" (w.e.f. 6-10-1951).
2. Ins. by Act 29 of 1989, s. 3 (w.e.f. 20-10-1989).
3. Subs. by Act 44 of 1966, s. 2, for "work" (w.e.f. 28-1-1968).
4. Ins. by s. 2, *ibid.* (w.e.f. 28-1-1968).
5. Subs. by Act 53 of 1951, s. 3, for "paid at regular intervals after the last day of the wage period" (w.e.f. 6-10-1951).
6. Subs. by Act 45 of 1984, s. 2, for clause (23) (w.e.f. 27-1-1985).

of the budget for the approval of the Central Government before such date as may be fixed by it in that behalf. The budget shall contain provisions adequate in the opinion of the Central Government for the discharge of the liabilities incurred by the Corporation and for the maintenance of a working balance.

33. Accounts.—The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

¹**[34. Audit.**—(1) The accounts of the Corporation shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Corporation to the Comptroller and Auditor-General of India.

(2) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Corporation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Corporation.

(3) The accounts of the Corporation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Corporation which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General.]

35. Annual report.—The Corporation shall submit to the Central Government an annual report of its work and activities.

36. Budget, audited accounts and the annual report to be placed before Parliament.—The annual report, the audited accounts of the Corporation ²[together with the ³[the report of the Comptroller and Auditor-General of India thereon and the comments of the Corporation on such report] under section 34] and the budget as finally adopted by the Corporation shall be placed before ⁴[Parliament] ⁵***.

37. Valuation of assets and liabilities.—The Corporation shall, at intervals of ⁶[three years], have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Central Government:

Provided that it shall be open to the Central Government to direct a valuation to be made at such other times as it may consider necessary.

CHAPTER IV

CONTRIBUTIONS

38. All employees to be insured.—Subject to the provisions of this Act, all employees in factories, or establishments to which this Act applies shall be insured in the manner provided by this Act.

✓ **39. Contributions.**—(1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

→ Rule 51, ESI Rules.

⁷[(2) The contributions shall be paid at such rates as may be prescribed by the Central Government;

Provided that the rates so prescribed shall not be more than the rates which were in force immediately before the commencement of the Employees' State Insurance (Amendment) Act, 1989 (29 of 1989).]

1. Subs. by Act 29 of 1989, s. 10, for section 34 (w.e.f. 20-10-1989).

2. Ins. by Act 44 of 1986, s. 13 (w.e.f. 17-6-1967).

3. Subs. by Act 29 of 1989, s. 11, for "auditor's report thereon" (w.e.f. 20-10-1989).

4. Subs. by the A.O. 1950, for "the Central Legislature".

5. The words "and published in the Gazette of India" omitted by Act 29 of 1989, s. 11 (w.e.f. 20-10-1989).

6. Subs. by Act 18 of 2010, s. 7, for "five years" (w.e.f. 1-6-2010).

7. Subs. by Act 29 of 1989, s. 12, for sub-section (2) (w.e.f. 1-2-1991).

✓(3) The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each ²[wage period] shall ordinarily be due on the last day of the ²[wage period] and where an employee is employed for part of the ²[wage period] or is employed under two or more employers during the same ²[wage period] the contribution shall fall due on such days as may be specified in the regulations.

✓³(5) (a) If any contribution payable under this Act is not paid by the principal employer on the date on which such contribution has become due, he shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the regulation till the date of its actual payment:

Provided that higher interest specified in the regulations shall not exceed the lending rate of interest charged by any scheduled bank.

(b) Any interest recoverable under clause (a) may be recovered as an arrear of land revenue or under section 45C to section 45-I.

Explanation.—In this sub-section, “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).]

✓**40. Principal employer to pay contributions in the first instance.**—(1) The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.

(2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise:

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the employee's contribution for the period.

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(4) Any sum deducted by the principal employer from wages under this 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.

✓(5) The principal employer shall bear the expenses of remitting the contributions to the Corporation.

41. Recovery of contribution from immediate employees.—(1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

⁴[(1A) The immediate employer shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the principal employer before the settlement of any amount payable under sub-section (1).]

1. Subs. by Act 45 of 1984, s. 4, for sub-section (3) (w.e.f. 27-1-1985).

2. Subs. by s. 4, *ibid.*, for “week” (w.e.f. 27-1-1985).

3. Ins. by Act 29 of 1989, s. 12 (w.e.f. 20-10-1989).

4. Ins. by s. 13, *ibid.* (w.e.f. 1-2-1991).

(2) In the case referred to in sub-section (1), the immediate employee shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the proviso to sub-section (2) of section 40.

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42. General provisions as to payment of contributions.—(1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages ²[during a wage period are below ³[such wages as may be prescribed by the Central Government]]].

Explanation.—The average daily wages of an employee shall be calculated ⁴[in such manner as may be prescribed by the Central Government.]

(2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each ⁵[wage period] ⁶[in respect of the whole or part of which wages are payable to the employee and not otherwise].

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43. Method of payment of contributions.—Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for—

(a) the manner and time of payment of contributions;

(b) the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at and under which, such stamps are to be affixed or impressed;

⁹[(bb) the date by which evidence of contributions having been paid is to be received by the Corporation;]

(c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate; and

(d) the issue, sale, custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

¹⁰**44. Employers to furnish returns and maintain registers in certain cases.**—(1) Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any factory or establishment in respect of which he is the principal or immediate employer as may be specified in regulations made in this behalf.

(2) Where in respect of any factory or establishment the Corporation has reason to believe that a return should have been submitted under sub-section (1) but has not been so submitted, the Corporation may require any person in charge of the factory or establishment to furnish such particulars as it may consider necessary for the purpose of enabling the Corporation to decide whether the factory or establishment is a factory or establishment to which this Act applies.

1. The *Explanation* omitted by Act 44 of 1966, s. 14 (w.e.f. 28-1-1968).

2. Subs. by Act 45 of 1984, s. 5, for "are below one rupee and fifty paise" (w.e.f. 27-1-1985).

3. Subs. by Act 29 of 1989, s. 14, for "six rupees" (w.e.f. 1-2-1991).

4. Subs. by s. 14, *ibid.*, for "in such manner specified in the First Schedule" (w.e.f. 1-2-1991).

5. Subs. by Act 45 of 1984, s. 5, for "week" (w.e.f. 27-1-1985).

6. Subs. by Act 44 of 1966, s. 15, for "during the whole or part of which an employee is employed" (w.e.f. 28-1-1968).

7. Omitted by Act 45 of 1984, s. 5 (w.e.f. 27-1-1985).

8. Omitted by Act 44 of 1966, s. 15 (w.e.f. 28-1-1968).

9. Ins. by s. 16, *ibid.* (w.e.f. 28-1-1968).

10. Subs. by Act 53 of 1951, s. 12, for section 44 (w.e.f. 6-10-1951).

THE EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1950

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 22nd June, 1950

S.R.O. 212. — In exercise of the powers conferred by section 95 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely : —

RULES

CHAPTER I

PRELIMINARY

1. Short title and extent. — (1) These Rules may be called the Employees' State Insurance (Central) Rules, 1950.

(2) They extend to the whole of India.

2. Definitions. — In these rules, unless there is anything repugnant in the subject or context, —

(1) "the Act" means the Employees' State Insurance Act, 1948 (Act XXXIV of 1948) ;

(1-A) "average daily wages during a contribution period" in respect of an employee, means the aggregate amount of wages payable to him during that period divided by the number of days for which such wages were payable ;

(1-B) "Average daily wages during a wage period" means —

(a) in respect of an employee who is employed on time-rate basis, the amount of wage which would have been payable to him for the complete wage period had he worked on all the working days in that wage period, divided by 26 if he is monthly rated, 13 if he is fortnightly rated, 6 if he is weekly rated and 1 if he is daily rated ;

(b) in respect of an employee employed on any other basis, the amount of wages earned during the complete wage period in the contribution period divided by the number of days in full or part for which he has worked for wages in that wage period :

Provided that where an employee receives wages without working on any day during such wage period, he shall be deemed to have worked for 26, 13, 6 or 1 days or day if the wage period be a month, a fortnight, a week or a day respectively.

Explanation. — Where any night shift continues beyond midnight, the period of the night shift after midnight shall be counted for reckoning the day worked as part of the day preceding ;

(1-C) "benefit period" means the period not exceeding six consecutive months corresponding to the contribution period, as may be specified in the regulations ;

(2) "Chairman" means the Chairman of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be ;

(2-A) "Contribution period" means the period not exceeding six consecutive months, as may be specified in the regulations ;]

(3) "Form" means a form appended to these Rules ;

(4) the "Fund" means the Employees' State Insurance Fund ;

(5) "Government Securities" means Government Securities as defined in the Indian Securities Act, 1920 ;

(6) "immovable property" includes land, benefits to arise out of land, things attached to the earth, or permanently fastened to anything attached to the earth ;

or within such longer period as may be allowed by the Central Government ; any such sum, if not so paid, shall be recovered as if it were an arrear of land revenue.

(2) Any sum or part of a sum so paid or recovered, the certificate in respect of which is set aside or modified, shall, as the case may require, be wholly or partly refunded to the person who paid it.

CHAPTER VI

47. Establishment of Provident Fund. — The Corporation shall establish, maintain and contribute to a Provident Fund called the Employees' State Insurance Corporation Provident Fund (hereinafter referred to as the Provident Fund) in respect of its employees other than those whose services are placed at the disposal of the Corporation by the Central or State Government.

48. Administration of the Provident Fund. — The Provident Fund shall be administered by the Standing Committee of the Corporation or by any other Committee approved by it for the purpose and subject to such conditions as it may deem fit to impose.

49. Framing of Provident Fund Regulations. — The Corporation may, subject to the previous approval of the Central Government, make regulations to provide for all other matters incidental to or necessary for the Provident Fund.

50. Wage limit for coverage of an employee under the Act. — The wage limit for coverage of an employee under sub-clause (b) of clause (9) of Section 2 of the Act shall be twenty one thousand rupees a month :

Provided that an employee whose wages (excluding remuneration for overtime work) exceed twenty one 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.

Provided further that the wage limit for coverage of an employee who is a person with disability under the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) respectively, shall be twenty-five thousand rupees per month.

51. Rate of contribution. — The amount of contribution for a wage period shall be in respect of —

- (a) employer's contribution, a sum (rounded to the next higher rupee) equal to four and three-fourth per cent. of the wages payable to an employee ; and
- (b) employee's contribution, a sum (rounded to the next higher rupee) equal to one and three-fourth per cent. of the wages payable to an employee.

51A. Employer's contribution in respect of certain employees. — (1) In respect of an employee who is a person with disability under the Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999), the employer shall not be required to pay employer's share of contribution upto a maximum period of three years from the date of commencement of the contribution period.

(2) The employer's share of contribution in respect of such employees and for such period under sub-section (1) shall be reimbursed to the Corporation by the Central Government.

51B. In 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 of implementation, shall be as under :-

- (a) Employer's contribution – A sum (rounded to the next higher rupee) equal to three per cent of the wages payable to an employee; and
- (b) Employee's contribution – A sum (rounded to next higher rupee) equal to one per cent of the wages payable to an employee:

Provided that on completion of twenty-four months from the date of implementation of the Act, the rate of contribution as provided under rule 51 shall be applicable.

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 13th June, 2019

G.S.R. 423 (E).—Whereas a draft containing certain rules further to amend the Employees' State Insurance (Central) Rules, 1950 were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (i), vide number G.S.R. 121(E), dated the 15th February, 2019, as required by sub-section (1) of the section 95 of the Employees' State Insurance Act, 1948 (34 of 1948), inviting objections or suggestions from all persons likely to be affected thereby before the expiry of a period of thirty days from the date on which the copies of the Official Gazette containing the said notification was published were made available to the public;

And whereas, the copies of the said Official Gazette were made available to the public on the 15th February, 2019;

And whereas, objections or suggestions received from the public in respect of the said draft rules within the period specified above have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 95 of the said Act, the Central Government, after consultation with the Employees' State Insurance Corporation, hereby makes the following rules further to amend the Employees' State Insurance (Central) Rules, 1950, namely:-

1. (1) These rules may be called the Employee's State Insurance (Central) Amendment Rules, 2019;
- (2) They shall come into force on the 1st day of July, 2019.
2. In the Employees' State Insurance (Central) Rules, 1950, in rule 51, —

(a) in clause (a), for the words "equal to four and three-fourth per cent of the wages", the words "equal to three and one-fourth per cent. of the wages" shall be substituted;

3.25 %

(b) in clause (b), for the words "equal to one and three-fourth per cent of the wages", the words "equal to three-fourth per cent. of the wages" shall be substituted.

0.75 %

[F. No. S-38012/01/2016-SS-I]

VIBHA BHALLA, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Part-II, Section 3, Sub-section (i), vide number S.R.O. 212, dated the 22nd June, 1950, and last amended by notification number G.S.R. 605 (E), dated 3rd July, 2018.