

EMPLOYEES' STATE INSURANCE ACT, 1948

Chapter I - PRELIMINARY

(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to the whole of India ¹[***].

(3) It shall come into force on such date or dates 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 ²[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:

³[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 ⁴[where the appropriate Government is a State Government, with the approval of the Central Government], after giving ⁶[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:

⁵[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. The words "except the State of Jammu and Kashmir" which were subs. for "except Part B States" by Act 53 of 1951, sec. 2, have been omitted by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971).

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

3. Ins. by Act 29 of 1989, sec. 2(i) (w.e.f. 20-10-1989).

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

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

6. Substituted by the Employees' State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010 for the following :- "six months"

Section 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;

2[***]

(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;

3[***]

(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:--

22[(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 dependant 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 23[twenty-five years] and is infirm;

(iii) if wholly or in part dependant 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;

⁷[(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 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;

⁸[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] ⁹[or any person engaged as apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), ²⁴[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 10[the Indian] naval, military or air forces; or

11[(b) any person so employed whose wages (excluding remuneration for overtime work) exceed 12[such wages as may be prescribed by the Central Government] a month:

Provided that an employee whose wages (excluding remuneration for overtime work) exceed 12[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;

13[(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 dependant upon the insured person;

(iii) a child who is wholly dependant 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 dependant on the earnings of the insured person, so long as the infirmity continues;

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

(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;]

26[(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 14[and includes a contractor];

⁴[(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;

⁴[(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;

¹⁵[(14AA) "manufacturing process" shall have the meaning assigned to it in the Factories Act, 1948 (63 of 1948);]

(14B) "miscarriage" 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, ¹⁶[1948 (63 of 1948)];

⁴[(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 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;]

¹⁷[(15C) "power" shall have the meaning assigned to it in the Factories Act, 1948 (63 of 1948);]

(16) "prescribed" means prescribed by rules made under this Act;

(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 ¹⁸[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;

17[(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 19 [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, 20 [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;

21[(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;]

11[(24) all other words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meanings respectively assigned to them in that Act.]

1. Subs, by the A.O. 1950, for "a federal railway".
2. Clause (2) omitted by Act 29 of 1989, sec. 3(i) (w.e.f. 1-2-1991).
3. Clause (5) omitted by Act 29 of 1989, sec. 3(ii) (w.e.f. 1-2-1991).
4. Ins. by Act 44 of 1966, sec. 2 (w.e.f. 28-1-1968).
5. Subs, by Act 29 of 1989, sec. 3(iii), for "daughter or a widowed mother, and" (w.e.f. 20-10-1989).
6. Ins. by Act 29 of 1989, sec. 3(iii) (w.e.f. 20-10-1989).
7. Subs, by Act 44 of 1966, sec. 2, for the original clause (w.e.f. 28-1-1968).
8. Subs. by Act 44 of 1966, sec. 2, for "but does not include" (w.e.f. 28-1-1968).
9. Subs. by Act 29 of 1989, sec. 3(iv), for "but does not include" (w.e.f. 20-10-1989).
10. Subs. by the A.O. 1950, for "His Majesty's".
11. Subs. by Act 44 of 1966, sec. 2, for the original sub-clause (w.e.f. 28-1-1968).
12. Subs. by Act 29 of 1989, sec. 3(iv), for "one thousand and six hundred rupees a month" (w.e.f. 1-2-1991).
13. Subs. by Act 29 of 1989, sec. 3(v), for clauses (11) and (12) (w.e.f. 20-10-1989).
14. Added by Act 29 of 1989 sec. 3(vi) (w.e.f. 20-10-1989).
15. Ins. by Act 29 of 1989, sec. 3(vii) (w.e.f. 20-10-1989).
16. Subs. by Act 53 of 1951, sec. 3, for "1934" (w.e.f. 6-10-1951).
17. Ins. by Act 29 of 1989, sec. 3(ix) (w.e.f. 20-10-1989).
18. Subs. by Act 53 of 1951, sec. 3, for "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934" (w.e.f. 6-10-1951).
19. Subs. by Act 44 of 1966, sec. 2, for "work" (w.e.f. 28-1-1968).
20. Subs. by Act 53 of 1951, sec. 3, for "paid at regular intervals after the last day of the wage period" (w.e.f. 6-10-1951).
21. Subs. by Act 45 of 1984, sec. 2, for clause (23) (w.e.f. 27-1-1985).

22. Substituted by the Employees' State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010 for the following :-

"(i) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted [5](#) [daughter];"

23. Substituted by the Employees' State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010 for the following :- "eighteen years"

24. Substituted by the Employees' State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010 for the following :- "or under the standing orders of the establishment;"

25. Substituted by the Employees' State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010 for the following :- "(v) dependant parents;"

26. Substituted by the Employees' State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010 for the following :-

"(12) "factory" means any premises including the precincts thereof--

(a) whereon ten or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

(b) whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power 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;]"

Section 2A - Registration of factories and establishments

[1](#)[Every factory or establishment to which this Act applies shall be registered within such time and in such manner as may be specified in the regulations made in this behalf.]

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