

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. 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.

5. 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.

6. 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.

- Shops
- Hotels or restaurants not having any manufacturing activity, but only engaged in ‘sales’.
- Cinemas including preview theaters;
- Road Motor Transport Establishments;
- News paper establishments.(that is not covered as factory under Sec.2(12));
- 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

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.”

16. 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.

17. 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.

18. 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).

19. 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.

20. 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.*

21. 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

22. 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.

23. 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

24. 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).

25. 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.

26. 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.

27. 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

28. 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.

29. 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.

30. 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.

31. 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*.

32. 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..

33. 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:

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

34. 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 condition or contributory conditions are attached for payment of temporary disablement benefit, permanent disablement benefit or Dependents 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.