

## **The Employees' State Insurance Act, 1948**

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

*It applies to all factories including factories belonging to the Government other than seasonal factories. Shops, Hotels, Restaurants, Road Motor Transport establishments, Cinema including preview theatres, Newspaper establishments, establishments engaged in the Insurance Business, Non-Banking Financial Companies, Port Trust, Airport Authorities, Warehousing establishments etc.*

For new employees, the registration under the ESI scheme is determined by the eligible wages ceiling limit, which is presently set at Rs. 21,000 per month. Employees earning more than Rs. 21,000 a month at the time of joining a job are considered non-eligible. However, it is the employers' responsibility that those earning less than Rs. 21,000 a month shall be registered under the ESI scheme and pay the contribution. However, in the case of Persons with Disability, this ceiling limit is Rs.25,000 per month. It's important to note that employees who are already registered under the ESI scheme are not bound by this ceiling limit. In such cases, if the employee's wages are above Rs. 21,000 per month, it is the employer's responsibility to pay both the employer's and employee's contributions every month.

**38.** It is the responsibility of the employer that all eligible employees shall be insured under the ESI scheme.

**39. Contributions.** The employer shall contribute 3.25% of the employee's basic wages and dearness allowance to the ESI scheme, and employees shall also be required to contribute 0.75% of their wages. However, it shall be the responsibility of the employer to pay both the contribution payable by himself and the employees, per month.

**40. Principal employer to pay contributions in the first instance.** The principal employer is responsible for paying both the employer's and employee's contributions for every employee, regardless of whether they are directly employed or through an immediate employer. Neither the principal employer nor the immediate employer can deduct the employer's contribution from the employee's wages.

**41. Recovery of contributions from immediate employer.** If a principal employer has

paid contributions for an employee employed through an immediate employer, the principal employer can recover those contributions. In this regard, the immediate employer shall maintain a register of employees employed by him and submit the same to the principal employer before the settlement of any amount payable.

**42.** Employees whose average daily wages are below the limit prescribed by the Central Government are not required to make any contribution. Currently, employees in receipt of a daily average wage up to Rs. 176/- are exempted from the payment of contribution. However, employers will contribute their own share in respect of these employees.

**44. Employers to furnish returns and maintain registers.** The principal and immediate employer must provide the required information about the person they employ and the factories/establishments they oversee to the Corporation. Additionally, they are required to maintain registers or records pertaining to their factory or establishment.

**69. Liability of owner or occupier for excessive sickness benefit.** — If the insured employee gets sick due to poor conditions at the workplace or accommodations due to neglecting the health regulations, the Corporation can send the bill to the employer for extra expenses in sickness benefits.

**72. Employer not to reduce wages, etc.** — Employers falling under the scheme must not reduce the wages or overall benefits of employees due to their liability of contributions or expenses under this act.

**73. Employer not to dismiss or punish employee during period of sickness, etc.** — an employer cannot dismiss, discharge or punish an employee during the period the employee is receiving sickness, maternity, or disablement benefits. Additionally, during periods of certified illness, medical treatment, or pregnancy-related absence, the employer cannot dismiss or punish the employee, unless specified by regulations.

**93-A. Liability in case of transfer of establishment.** When a factory or establishment is transferred, whether through sale, gift, lease, or other means, both the original employer and the new owner are jointly and severally responsible for settling any outstanding contributions or amounts owed until the transfer date.