

EMPLOYEES STATE INSURANCE ACT, 1948

E-content developed for MBA (HR) – Sem IV by:

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OBJECTIVE OF THE ACT

- To provide certain benefits like maternity benefit, sickness benefit, disablement benefit, funeral benefits, etc., to the employees all over India.
- To ensure social and economic justice to all the levels of workers in any industrial undertaking.
- To provide social and economic welfare and security to all the workers of the establishments.

CHAPTER - I

Sec 1: COMMENCEMENT, EXTENT AND APPLICABILITY OF THE ACT:

- It extends to whole of India.
- Came into effect on the date 1948 as notified by the Central government to the official gazette.
- Applies to all factories other than seasonal factories having 20 or more workers (not using power) and 10 or more workers (using power) having wages not exceeding INR 21,000.
- Rate of contribution by employer is 3.25% and by employee is 0.75% (*a total of 4%*).
- The act can be extended by the Central government to any establishment – industrial, agricultural or otherwise with consultation and giving one month's prior notice

Sec 2: DEFINITIONS

- **Appropriate government** – shall be central government for major ports ,oil fields, mines and railways and for other cases, the state government.
- **Dependent** : a widow, widowed mother, unmarried daughter, legitimate son, minor brother, widowed sister, widowed daughter-in-law, unmarried sister.
- **Employee** : any person directly employed by the principal employer or employed through an immediate employer or on contract basis
- **Factory** : any premise including 10 or more employees on any day in the preceding 12 months for carrying out ordinary processes.
- **Permanent partial disablement** : disablement is permanent in nature and reduces the working capacity of the worker
- **Permanent total disablement** : disablement is permanent in nature which incapacitates him from all work.
- **Temporary disablement** : an injury which makes the worker temporarily incapable of working .
- **Wages**: any remuneration paid in cash but does not include gratuity, travelling allowances, special expenses, employer's contributions to provident fund or pension.

CHAPTER II : CORPORATION, STANDING COMMITTEE & MEDICAL BENEFIT COUNCIL

- **Sec 3** : Establishment of the Employee State Insurance Corporation by the Central Government
- **Sec 4**: Constitution of the Corporation: The corporation is a Statutory body and shall consist of :
 - Chairman
 - Vice-chairman
 - 5 persons appointed by central government
 - One person appointed by central government as union territory representative
 - 10 employers representative
 - 10 employees representative
 - 2 medical professionals
 - 3 members of parliament (2 from Lok Sabha & 1 from Rajya Sabha)
- Term of office of members of Council : For term of 4 years
- Eligibility for re-appointment : Shall be eligible for re-appointment as the case maybe

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- **Sec 8:** Constitution of Standing Committee: A Standing committee shall be constituted comprising of :
 - ❑ A chairman
 - ❑ 3 members of the corporation appointed by the Central government
 - ❑ 3 members from corporation representing State governments
 - ❑ 8 members elected by corporation in which 3 employer's representative, 3 employee's representative, 1 from medical profession and 1 from parliament
- **Sec 9 :** Term of Office: Shall be two years from date of election
- **Sec 10:** Medical Benefit Council: A Medical Benefit Council shall be constituted comprising:
 - ❑ Director General, ESIC
 - ❑ Director General, Health services
 - ❑ Medical commissioner of corporation
 - ❑ 1 member representing each state and Union Territory
 - ❑ 3 representatives of employers, 3 representatives of employees appointed by the central government
 - ❑ 3 members representing medical profession , out of which one shall be a woman

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- **Sec 11:** Resignation of Membership: Any member of these bodies can resign by giving in writing to the Central Government
- **Sec 13:** Disqualifications: A member may be disqualified if he is of unsound mind or an undischarged insolvent or convicted for moral turpitude or having substantial interest in the corporation.
- **Sec 15 :** Fees and Allowances: Fees to the members are give as prescribed by the central government.
- **Sec 17 :** Staff: Additional staff maybe employed with the approval of the central government for carrying out routine work
- **Sec 18 :** Powers of Standing Committee: General superintendence and control of corporation ,administer the affairs of the corporation.
- **Sec 22:** Duties of Medical Benefit Council:
 - Advise the corporation and standing committee on matters related to administration of medical benefits, grant of certification
 - Investigate matters related to complaints against the practitioners
 - Duties related to medical treatment

CHAPTER – III : FINANCE & AUDIT

- **Sec 26:** Employees State Insurance Fund: All the contributions and monies received by way of grants , donations and gifts from the central or state government or local bodies or any individuals shall be paid in the fund called employees state insurance fund .
- **Sec 28:** Purpose for which fund maybe expended: Payments of medical benefits, fees and allowances, salaries, pensions, gratuities, establishment and maintenance of hospitals , dispensaries and other institutions.
- **Sec 34:** Audit : The accounts of the corporation shall be audited annually by the CAG of India.
- **Sec 35:** Annual Report : To be submitted by the corporation to the central government.
- Valuation of assets and liabilities : To be assessed every three years by a valuer appointed by central government.

CHAPTER – IV : CONTRIBUTIONS

- **Sec 39-44:** Contributions to be made comprises of employer's portion and employee's portion to be made in the fund at a rate prescribed by the government. The manner , nature and mode of payment of contribution to be made is prescribe by the government. The principal employer shall maintain registers and file the returns to the corporation at a specified time.
- **Sec 45:** Social security officer, functions and duties: he is appointed for the purpose of enquiring into the correctness of the returns filed by the corporation for which the officer can carry out the investigation by interrogating, collecting evidences, etc .
- **Sec 45-B to 45-E:** Recovery of arrears: the arrears may be recovered through the issue of certificate for recovery to the Recovery Officer. The officer may recover the arrear amount of contributions within his jurisdiction in a manner prescribed.

CHAPTER – V : BENEFITS

- **Sec 46 -59:** Benefits can be claimed by insured or any dependent. The following benefits may be availed:
 - ❖ *Sickness benefit*
 - ❖ *Medical benefits*
 - ❖ *Medical treatments*
 - ❖ *Disablement benefits*
 - ❖ *For accidents while meeting emergency or commuting to place of work or breach of regulations or arising out of work*
 - ❖ *Occupational disease*
 - ❖ *Maternity benefits*
- Corporation can open up hospitals and provide various medical and para-medical amenities.

CHAPTER – VI : ADJUDICATION OF DISPUTES & CLAIMS

- **Sec 74 -77** : Constitution of Employees Insurance Courts: The State government establishes such courts to deal with matters related to the rates of wages , rate of contributions to be made, the person who shall be the principal employer, right of receiving the benefit of any person, etc. the Court shall have:
 - ❑ such numbers of judges as the state government thinks fit
 - ❑ who has been a judicial officer or has 5 years legal practice
- **Sec 78**: Powers of Employee Insurance Courts: It shall have all the powers as that of a Civil court for the purpose of summoning, enforcing of witness or can compel to produce the documents or any other evidences. The procedure to be followed is as per the rules of the State government.
- **Sec 81-83**: Appeals to the High Court: The insurance court can make an appeal to the High Court in sixty days.

CHAPTER VII : PENALTIES

SECTION	CONDITION	PENALTIES
84	False statements or false representation	<ul style="list-style-type: none">• Fine upto 2000• Imprisonment upto 6 months, or both
85	Failure to pay contributions	<ul style="list-style-type: none">• Fine of 5000 to 10,000• Imprisonment from 6 months to 3 years
85-A	For committing same offence	<ul style="list-style-type: none">• Fine of 5000• Imprisonment upto 2 years

NOTE: In addition to this , the students should refer to the bare act that has been already mailed to all.