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## THE EMPLOYEES' STATE INSURANCE ACT, 1948

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(34 OF 1948)<sup>1</sup>

(19<sup>th</sup> 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 <sup>2</sup>[\*\*\*].

(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 <sup>3</sup>[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.

<sup>4</sup>[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 <sup>5</sup>[where the appropriate Government is a State Government, with the approval of the Central Government], after giving <sup>6</sup>[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.

<sup>7</sup>[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

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1 For Statement of Objects and Reasons, see Gazette of India; 1946, Pt.V.pp. 319 to 357 and for Report of the Select Committee, see Gazette of India, 1948, Pt.V.pp.124 to 159. 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 Regulation 7 to 1963, sec. 3 and Sch., and to Goa, Daman and Diu by Regulation 11 of 1963,s.3 and Sch.

2 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 Schedule (w.e.f. 1.9.71.)

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

4 Ins. by Act No.29 of 1989 sec.2(i) (w.e.f. 20.10.89)

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

**6 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

7 Ins by Act No.29 of 1989 (sec. 2(ii) (w.e.f. 16.5.1990).

already been extended to similar establishment or class of establishments in another part of that State.]

<sup>1</sup>[(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.]

**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 <sup>2</sup>[a railway administration] or a major port or a mine or oil field, the Central Government, and in all other cases, the <sup>3</sup>[State] Government;

<sup>4</sup>[\*\*\*]

(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;

<sup>5</sup>[\*\*\*]

(6) "Corporation" means the Employees' State Insurance Corporation set up under this Act;

<sup>6</sup>[(6A) "dependent" means any of the following relatives of a deceased insured person, namely:-

<sup>7</sup>[(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter];

<sup>8</sup>(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 <sup>9</sup>[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,

1 Ins. by Act No.29 of 1989 sec. 2(iii) (w.e.f. 20.10.1989).

2 Subs. by the A.O. 1950, for "a federal railway".

3 Subs. by Act 53 of 1951.

4 Clause (2) omitted by Act No.29 of 1989, sec. 3(i) (w.e.f. 1.2.1991)

5 Clause (5) omitted by Act No.29 of 1989, sec. 3(ii) (w.e.f. 1.2.1991)

6 Ins. by Act No.44 of 1966, s.2 (w.e.f. 28.1.68)

**7 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

8 Ins. by Act No.29 of 1989, sec. 3(iii) (w.e.f. 20.10.1989).

**9 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

- (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;

<sup>1</sup>[(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;

<sup>2</sup>[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; <sup>3</sup>[or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961, (52 of 1961) <sup>4</sup>[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 <sup>5</sup>[the Indian] naval, military or air forces; or
- <sup>6</sup>[(b) any person so employed whose wages (excluding remuneration for overtime work) exceed <sup>7</sup>[such wages as may be prescribed by the Central Government] a month:

Provided that an employee whose wages (excluding remuneration for overtime work) exceed <sup>8</sup>[such wages as may be prescribed by the Central Government] a month at any time after (and not before) the beginning of the

1 Subs. by Act No.44 of 1966, sec.2, for the original clause (w.e.f.28.1.1968).

2 Subs. by Act No.44 of 1966, sec.2, for "but does not include" (w.e.f.28.1.1968).

3 Subs. by Act No.29 of 1989, sec.3(iv), for "but does not include" (w.e.f.20.10.1989).

**4 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

5 Subs. by the A.O.1950, for "His Majesty's".

6 Subs. by Act 44 of 1966 sec.2 for the original sub-clause (w.e.f. 28.1.1968).

7 Subs. by Act 29 of 1989 sec.3(iv), for "one thousand and six hundred rupees a month" (w.e.f. 1.2.1991)

8 Subs. by Act 29 of 1989 sec.3(iv), for "one thousand and six hundred rupees a month" (w.e.f. 1.2.1991)

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;

(11) <sup>1</sup>["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;
- <sup>2</sup>[(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;]

<sup>3</sup>[(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 <sup>4</sup>[and includes a contractor];

<sup>5</sup>[(13-A) "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;

<sup>1</sup>(14A) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other

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1 Subs. by Act No.29 of 1989 sec. 3(v), for clauses (11) and (12) (w.e.f. 20.10.1989)

2 **Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

3 **Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

4 Added by Act No.29 of 1989 (sec. 3(vi)) (w.e.f. 20.10.1989)

5 Ins. by Act 44 of 1966, sec 2 (w.e.f. 28.1.68)

person's trade or business, but does not include an individual manager subordinate to an employer;

<sup>2</sup>[(14AA) "manufacturing process" shall have the meaning assigned to it in the Factories Act, 1948 (63 of 1948);]

<sup>3</sup>[(14B) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-six 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, <sup>4</sup>[1948]; (63 of 1948);

<sup>5</sup>[(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;]

<sup>6</sup>[(15B) "permanent total disablement" means such disablement of a permanent nature at 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.]

<sup>7</sup>[(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 <sup>8</sup>[the Factories Act, 1948, (63 of 1948)] the person so named;
- (ii) in any establishment under the control of any department of any Government of 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;

1 Ins. by Act 44 of 1966, sec 2 (w.e.f. 28.1.68)

2 Ins. by Act No.29 of 1989, sec. 3(vii) (w.e.f. 20.10.1989).

3 Ins. by Act No.44 of 1966 (w.e.f. 28.1.1968)

4 Subs. by Act 53 of 1951, sec. 3, for "1934" (w.e.f. 6-10-1951).

5 Ins. by Act 44 of 1966, sec 2 (w.e.f. 28.1.68)

6 Ins. by Act No.44 of 1966 (w.e.f.28.1.68)

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

8 Subs. by Act No.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).

<sup>1</sup>[(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 <sup>2</sup>[doing the work which he was doing prior to or at the time of 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 <sup>3</sup>[any payment to an employee in respect of any period of authorised leave, lockout, strikes which is not illegal or layoff and] other additional remuneration, if any, <sup>4</sup>[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;

<sup>5</sup>[(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;

<sup>6</sup>[(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.]

**<sup>7</sup>[2A. Registration of factories and establishments.-** 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.]

## CHAPTER II

### CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL

**3. Establishment of Employees' State Insurance Corporation.-** (1) With effect from such date<sup>8</sup> as the Central Government may, by notification in the

1 Ins. by Act No.29 of 1989, sec. 3(ix) (w.e.f. 20.10.1989)

2 Subs. by Act 44 of 1966, s.2, for "work" (w.e.f. 28.1.1968)

3 Ins. by Act 44 of 1966, s.2. (w.e.f. 28.1.1968)

4 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).

5 Subs. by Act No. 45 of 1984, s.2, for clause(23) (w.e.f.27.1.1985)

6 Subs. by Act No. 44 of 1966, sec. 2 for the original clause (w.e.f. 28.1.1968)

7 Ins. by Act No.44 of 1966, sec. 3 (w.e.f. 28.1.1968)

8 1st October, 1948, vide Gazette of India, 1948, Extra., p. 1441.

Official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

**4. Constitution of Corporation.-** The Corporation shall consist of the following members, namely:-

- <sup>1</sup>[(a) a Chairman to be <sup>2</sup>[appointed] by the Central Government;]
- (b) a Vice-Chairman to be <sup>3</sup>[appointed] by the Central Government;]
- (c) not more than five persons to be <sup>4</sup>[appointed] by the Central Government <sup>5</sup>[\*\*\*];
- (d) one person each, representing each of the <sup>6</sup>[States] in which this Act is in force to be <sup>7</sup>[appointed] by the State Government concerned;
- (e) one person to be <sup>8</sup>[appointed] by the Central Government to represent the <sup>9</sup>[Union territories];
- (f) <sup>10</sup>[ten] persons representing employers to be <sup>11</sup>[appointed] by the Central Government in consultation with such organisation of employers as may be recognised for the purpose by the Central Government.
- (g) <sup>12</sup>[ten] persons representing employees to be <sup>13</sup>[appointed] by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government.
- (h) two persons representing the medical profession to be <sup>14</sup>[appointed] by the Central Government in consultation, with such organisations of medical practitioners as may be recognised for the purpose by the Central Government; <sup>15</sup>[\*\*\*]
- <sup>16</sup>[(i) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States; and

1 Subs. by Act 44 of 1966, s.4, for the original clauses (a) and (b) (w.e.f. 28.1.1968)

2 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

3 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

4 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

5 The words "of whom at least three shall be officials of the Central Government" omitted by Act 44 of 1966, s.4 (w.e.f.17-6-1967).

6 Subs. by the A.O. (No.3) 1956, for Part A States and B States".

7 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

8 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

9 Subs. by the A. O. (No. 3) 1956, for "Part C States".

10 Subs. by Act No.29 of 1989 sec. 4, for "five" (w.e.f. 20.10.1989)

11 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

12 Subs. by Act No.29 of 1989 sec. 4, for "five" (w.e.f. 20.10.1989)

13 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

14 Subs. by Act 29 of 1989, sec 4, for "nominated" (w.e.f. 20-10-1989).

15 The word "and" omitted by Act 44 of 1966, sec. 4 (w.e.f. 28.1.1968).

16 Subs. by Act, 44 of 1966, sec. 4, for clause (i), (w.e.f. 17.6.1967)

(j) the Director General of the Corporation, ex-officio.]

**5. Term of office of members of the Corporation.-** (1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation, other than <sup>1</sup>[the members referred to in clauses (a), (b), (c), (d), and (e) of Section 4 and the ex-officio member] shall be four years commencing from the date on which their <sup>2</sup>[appointment] or election is notified:

Provided that a member of the Corporation shall, notwithstanding the expiry of the said period of four years, continue to hold office until the <sup>3</sup>[appointment] or election of his successor is notified.

(2) The members of the Corporation referred to in clauses <sup>4</sup>[(a), (b), (c), (d) and (e)] of Section 4 shall hold office during the pleasure of the Government <sup>5</sup>[appointing] them.

**6. Eligibility for <sup>6</sup>[re-appointment] or re-election.-** An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for <sup>7</sup>[re- appointment] or re-election as the case may be.

**<sup>8</sup>[7. Authentication of orders, decisions, etc.-** All orders and decisions of the Corporation shall be authenticated by the signature of the Director General of the Corporation and all other instruments issued by the Corporation shall be authenticated by the signature of the Director General or such other officer of the Corporation as may be authorised by him.]

**8. Constitution of Standing Committee.-** A Standing Committee of the Corporation shall be constituted from among its members, consisting of-

- (a) a Chairman, <sup>9</sup>[appointed] by the Central Government;
- (b) three members of the Corporation, <sup>10</sup>[appointed] by the Central Government
- <sup>11</sup>[(bb) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time;]
- (c) <sup>12</sup>[eight] members elected by the Corporation as follows:-
  - (i) <sup>13</sup>[\*\*\*]
  - (ii) <sup>14</sup>[three] members from among the members of the Corporation representing employees;
  - (iii) <sup>15</sup>[three] members from among the members of the Corporation representing employers;

1 Subs. by Act, 44 of 1966, sec. 5, for certain words (w.e.f. 17.6.1967).

2 Subs. by Act No.29 of 1989, sec. 4, for "nomination" (w.e.f. 20.10.89)

3 Subs. by Act No.29 of 1989, sec. 4, for "nomination" (w.e.f. 20.10.89)

4 Subs. by Act No.44 of 1966, sec. 5, for "(c), (d) and (e)" (w.e.f. 17.6.1967)

5 Subs. by Act No.29 of 1989 "re-nomination" (w.e.f. 20.10.89)

6 Subs. by Act No.29 of 1989 "re-nomination" (w.e.f. 20.10.89)

7 Subs. by Act No.29 of 1989, sec. 4, for "re-nomination" (w.e.f. 20.10.89)

8 Subs. by Act No.44 of 1966, sec. 6, for section 7 (w.e.f. 17.6.1967).

9 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.89)

10 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.89)

11 Ins. by Act No. 53 of 1951, s.5, (w.e.f. 6-10-1951).

12 Subs. by Act No.44 of 1966, sec.7, for "six" w.e.f. 17.6.1967).

13 Sub-clause (i) omitted by Act No.53 of 1951, s.5.

14 Subs. by Act No.44 of 1966, sec. 7, for "two" (w.e.f. 17.6.1967)

15 Subs. by Act No.44 of 1966, sec. 7, for "two" (w.e.f. 17.6.1967)



- (iv) one member from among the members of the Corporation representing the medical profession; and
  - (v) one member from among the members of the Corporation elected by <sup>1</sup>[Parliament];
- <sup>2</sup>[(d) the Director General of the Corporation, ex-officio].

**9. Term of office of members of Standing Committee.-** (1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or <sup>3</sup>[clause (b) or clause (bb)] of section 8, shall be two years from the date on which his election is notified:

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

(2) A member of the Standing Committee referred to in clause (a) or <sup>4</sup>[clause (b) or clause (bb)] of section 8 shall hold office during the pleasure of the Central Government.

**10. Medical Benefit Council.-** (1) The Central Government shall constitute a Medical Benefit Council consisting of-

- <sup>5</sup>[(a) the Director General, the Employees' State Insurance Corporation, ex officio as Chairman;
- (b) the Director General, Health Services, ex officio as Co-chairman;]
- (c) the Medical Commissioner of the Corporation, ex officio;
- (d) one member each representing each of the <sup>6</sup><sup>7</sup> [State (other than Union territories)] in which this Act is in force] to be <sup>8</sup>[appointed] by the State Government concerned;
- (e) three members representing employers to be <sup>9</sup>[appointed] by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (f) three members representing employees to be <sup>10</sup>[appointed] by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government; and
- (g) three members, of whom not less than one shall be a woman, representing the medical profession, to be <sup>11</sup>[appointed] by the Central Government in consultation with such organisations of

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

2 Ins. by Act No.44 of 1966, s.7 (w.e.f. 17.6.1967)

3 Subs. by Act No.53 of 1951, sec.6, for "clause (b)"

4 Subs. by Act No.53 of 1951, sec.6, for "clause (b)" (w.e.f. 6-10-1951).

**5 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

6 Subs. by Act No.53 of 1951, sec.7, for "Part A States" (w.e.f. 6-10-1951).

7 Subs. by the A.O. (No.3) 1956, for "Part A States or Part B States".

8 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

9 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

10 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

11 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

Subs. by Act No.29 of 1989 (w.e.f. 20.10.89)

medical practitioners as may be recognised for the purpose by the Central Government.

(2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a member referred to in any of the clauses (a) to (d) of sub-section (1), shall be four years from the date on which his <sup>1</sup>[appointment] is notified:

<sup>2</sup>[Provided that a member of the Medical Benefit Council shall, notwithstanding the expiry of the said period of four years continue to hold office until the <sup>3</sup>[appointment] of his successor is notified].

(3) A member of the Medical Benefit Council referred to in clauses (b) and (d) of sub-section (1) shall hold office during the pleasure of the Government <sup>4</sup>[appointing] him.

**11. Resignation of membership.-** A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

**12. Cessation of membership.-** <sup>5</sup>[(1)] A member of the Corporation, the Standing Committee or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof:

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may subject to rules made by the Central Government in this behalf, restore him to membership.

<sup>6</sup>[(2) Where in the opinion of the Central Government any person <sup>7</sup>[appointed] or elected to represent employers, employees or the medical profession on the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, has ceased to represent such employers, employees or the medical profession, the Central Government may, by notification in the Official Gazette, declare that with effect from such date as may be specified therein such person shall cease to be a member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be.]

<sup>8</sup>[(3) A person referred to in clause (i) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament.]

**13. Disqualification.-** A person shall be disqualified for being chosen as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council-

- (a) if he is declared to be of unsound mind by a competent Court; or
- (b) if he is an undischarged insolvent; or
- (c) if he has directly or indirectly by himself or by his partner any interest in subsisting contract with, or any work being done for,

1 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

2 Added by Act No.44 of 1966, sec. 8 (w.e.f. 17.6.1967)

3 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

4 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

5 Section 12 re-numbered as sub-section (1) thereof by Act 53 of 1951, sec. 8 (w.e.f. 6-10-1951).

6 Ins. by Act No.53 of 1951, sec.8 (w.e.f. 6-10-1951).

7 Subs. by Act No.29 of 1989, sec. 4, for "nominated" (w.e.f. 20.10.1989).

8 **Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

- the Corporation except as a medical practitioner or as a shareholder (not being a Director) of company; or
- (d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

**14. Filling of vacancies.-** (1) Vacancies in the office of <sup>1</sup>[appointed] or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by <sup>2</sup>[appointment] or election, as the case may be.

(2) A member of the Corporation, the Standing Committee or the Medical Benefit Council <sup>3</sup>[appointed] or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is <sup>4</sup>[appointed] or elected would have been entitled to hold office if the vacancy had not occurred.

**15. Fees and allowances.-** Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

**16. Principal Officers.-** <sup>5</sup>[(1) The Central Government may, in consultation with the Corporation, appoint a Director General and a Financial Commissioner.

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) <sup>6</sup>[The Director General and the Financial Commissioner] shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government <sup>7</sup>[and of the Corporation.]

(4) <sup>8</sup>[The Director General or Financial Commissioner] shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing <sup>9</sup>[Director General or Financial Commissioner] shall be eligible for reappointment if he is otherwise qualified.

(5) <sup>10</sup>[The Director General or the Financial Commissioner] shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being <sup>11</sup>[The Director General or the Financial Commissioner] if he is subject to any of the disqualifications specified in Section 13.

(7) The Central Government may at any time remove <sup>12</sup>[The Director General or the Financial Commissioner] from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

**17 Staff.-** (1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business,

1 Subs. by Act No.29 of 1989 sec. 4, for "nominated" (w.e.f. 20.10.1989)

2 Subs. by Act No.29 of 1989 sec. 4, for "nominated" (w.e.f. 20.10.1989)

3 Subs. by Act No.29 of 1989 sec. 4, for "nominated" (w.e.f. 20.10.1989).

4 Subs. by Act No.29 of 1989 sec. 4, for "nominated" (w.e.f. (w.e.f. 20.10.1989).

5 Subs. by Act No.29 of 1989, s.6 for sub-section (1) (w.e.f. 20.10.89)

6 Subs. by Act No.29 of 1989, s.6 for "The Principal Officers" (w.e.f. 20.10.89)

7 Ins. by Act No.44 of 1966, S.10 (w.e.f. 17.6.1967)

8 Subs. by Act No.29 of 1989, s.6 for "The Principal Officers" (w.e.f. 20.10.89)

9 Subs. by Act No.29 of 1989, s.6 for "The Principal Officers" (w.e.f. 20.10.89)

10 Subs. by Act No.29 of 1989, s.6 for "The Principal Officers" (w.e.f. 20.10.89)

11 Subs. by Act No.29 of 1989, s.6 for "The Principal Officers" (w.e.f. 20.10.89)

12 Subs. by Act No.29 of 1989, s.6 for "A Principal Officer" (w.e.f. 20.10.89)

provided that the sanction of the Central Government shall be obtained for the creation of any post <sup>1</sup>[the maximum monthly salary of which <sup>2</sup>[exceeds such salary as may be prescribed by the Central Government].

<sup>3</sup>[(2)(a) The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government:

<sup>4</sup>[Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.]

(b) In determining the corresponding scales of pay of the members of the staff under clause (a), the Corporation have regard to the educational qualifications, methods of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.]

(3) Every appointment to <sup>5</sup>[posts <sup>6</sup>[other than medical posts] corresponding to <sup>7</sup>[Group A and Group B] posts under the Central Government] shall be made in consultation with the <sup>8</sup>[Union] Public Service Commission:

Provided that this sub-section shall not apply to an officiating or temporary appointment for <sup>9</sup>[a period] not exceeding one year:

<sup>10</sup>[Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.]

<sup>11</sup>[(4) If any question arises whether a post corresponds to a <sup>12</sup>[Group A and Group B] post under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.]

**18. Powers of the Standing Committee.-** (1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

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1 Subs. by Act 38 of 1975, s.3. for, certain words (w.e.f. 1.9.75).

2 Subs. by Act No.29 of 1989, s.7, for "exceeds two thousand and two hundred fifty rupees" (w.e.f. 1.2.89).

3 Subs. by Act No.29 of 1989, s.7, for sub-section (2) (w.e.f. 8.11.89).

**4 Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

5 Subs. by Act No.44 of 1966, s.11, for "post carrying a maximum monthly pay to five hundred rupees and above" (w.e.f. 28.1.68)

6 Ins. by Act No.29 of 1989 sec. 7 (iii) (a) (w.e.f. 16.5.90).

7 Subs. by Act No.45 of 1984, sec. 3, for "Class I or Class II" (w.e.f. 27.1.85).

8 Subs. by the A.O. 1950, for "Federal" ..

9 Subs. by Act No.29 of 1989, sec. 7(iii), for "an aggregate period" (w.e.f. 20.10.89).

10 Subs. by Act No.29 of 1989 sec. 7(ii) (w.e.f. 20.10.89)

11 Ins. by Act No.44 of 1966 (w.e.f. 17.6.67)

12 Subs. by Act No.45 of 1984, sec. 3, for "Class I or Class II" (w.e.f. 27.1.85).

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

**19. Corporation's power to promote measures for health, etc. of insured persons.-** The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and incur in respect of such measure expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

**20. Meetings of Corporation, Standing Committee and Medical Benefit Council.-** Subject to any rules made under this Act, the Corporation, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.

**21. Supersession of the Corporation and Standing Committee.-** (1) If in the opinion of the Central Government, the Corporation or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may, by notification in the Official Gazette, supersede the Corporation, or in the case of the Standing Committee supersede, in consultation with the Corporation, the Standing Committee:

Provided that before issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Corporation or the Standing Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objection, if any, of the Corporation or the Standing Committee, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Corporation or the Standing Committee, all the members of the Corporation or the Standing Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

(3) When the Standing Committee has been superseded, a new Standing Committee shall be immediately constituted in accordance with Section 8.

(4) When the Corporation has been superseded, the Central Government may-

- (a) immediately <sup>1</sup>[appoint] or cause to be <sup>2</sup>[appointed] or elected new members to the Corporation in accordance with section 4 and may constitute a new Standing Committee under Section 8.
- (b) in its discretion, appoint such agency, for such period as it may think fit, to exercise the powers and perform the functions of the Corporation and such agency shall be competent to exercise all the powers and perform all the functions of the Corporation.

(5) The Central Government shall cause a full report of any action taken under this Section and the circumstances leading to such action to be laid before <sup>3</sup>[Parliament] at the earliest opportunity and in any case not later than three

1 Subs. by Act No.29 of 1989 sec. 4, for "nominate" (w.e.f. 20.10.1989).

2 Subs. by Act No.29 of 1989 sec. 4, for "nominated" (w.e.f. 20.10.1989).

3 Subs. by the A.O. 1950 for "the Central Legislature".

months from the date of the notification superseding the Corporation or the Standing Committee, as the case may be.

- 22. Duties of Medical Benefit Council.-** The Medical Benefit Council shall-
- (a) advise <sup>1</sup>[the Corporation and the Standing Committee] on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters;
  - (b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance; and .
  - (c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

**23. Duties of <sup>2</sup>[Director General and the Financial Commissioner].-** The <sup>3</sup>[Director General and the Financial Commissioner] shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

**24. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.-** No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his <sup>4</sup>[appointment] or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

**25. Regional Boards, Local Committees, Regional and Local Medical Benefit Councils.-** The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations.

### CHAPTER III

#### FINANCE AND AUDIT

**26. Employees' State Insurance Fund.-** (1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any State Government, <sup>5</sup>[\*\*\*] local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

<sup>6</sup>(3) Subject to the other provisions contained in this Act and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be

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1 Subs. by Act No.53 of 1951, s.9, for "the Corporation, the Standing Committee and the Medical Commissioner" (w.e.f. 6-10-1951).

2 Subs. by Act 29 of 1989, sec. 8 for "Principal Officers" (w.e.f. 20-10-1989).

3 Subs. by Act 29 of 1989, sec. 8 for "Principal Officers" (w.e.f. 20-10-1989).

4 Subs. by Act No. 29 of 1989 sec. 4, for "nomination" (w.e.f. 20.10.89).

5 The words "Part B State", omitted by Act 53 of 1951, s.10. (w.e.f. 6-10-1951).

6 Subs. by Act No.53 of 1951. s.10, for sub-section (3) (w.e.f. 6-10-1951).

approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund].

(4) Such account shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

**27. [Grant by the Central Government.]**- Repealed by the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966). S.12 (w.e.f. 17.6.1967).

**28. Purposes for which the Fund may be expended.**- Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:-

- (i) payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families the provision of such medical benefit to their families, in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;
- (ii) payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards Local Committees and Regional and Local Medical Benefit Councils;
- (iii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of officers and other services set up for the purpose of giving effect to the provisions of this Act;
- (iv) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families, their families;
- (v) payment of contributions to any State Government, <sup>1</sup>[\*\*\*] local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;
- (vi) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;
- (vii) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act;
- (viii) payment of any sums under any contract entered into for the purposes of this Act by the Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;
- (ix) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;

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1 The words "Part B State", omitted by Act 53 of 1951, s.11. (w.e.f. 6-10-1951).

- (x) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;
- (xi) defraying expenditure, within the limits prescribed, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured; and
- (xii) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

**1[28A. Administrative expenses.-** The types of expenses which may be termed as administrative expenses and the percentage of the income of the Corporation which may be spent for such expenses shall be such as may be prescribed by the Central Government and the Corporation shall keep its administrative expenses within the limit so prescribed by the Central Government.]

**29. Holding of property, etc.-** (1) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(2) Subject to such conditions as may be prescribed by the Central Government the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Act and may, subject as aforesaid from time to time re-invest or realise such investments.

(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(4) The Corporation may constitute for the benefit of its staff or any class of them, such provident or other benefit fund as it may think fit.

**30. Vesting of the property in the Corporation.-** All property acquired before the establishment of the Corporation shall vest in the Corporation and all income derived and expenditure incurred in this behalf shall be brought into the books of the Corporation.

**31. [Expenditure by Central Government to be treated as a loan.]**- Repealed by the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966) S.12 (w.e.f. 17.6.1967).

**32. Budget estimates.-** The Corporation shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit the copy 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 the 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.

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1 Ins. by Act No.29 of 1989, sec. 9, (w.e.f. 1.5.97)



**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, <sup>2</sup>[together with <sup>3</sup>[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 <sup>4</sup>[Parliament] <sup>5</sup>[\*\*\*].

**37. Valuation of assets and liabilities.-** The Corporation shall, at intervals of <sup>6</sup>[three years], have a valuation of its assets and liabilities made by the 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 the employees in factories, or establishments to which this Act applies shall be insured in the manner provided by this Act.

**39. Contributions.-** (1) The contributions 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.

<sup>7</sup>(2) The contribution shall be paid at such rates as may be prescribed by the Central Government:

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1 Subs. by Act No.29 of 1989, sec. 10, for section 34 (w.e.f. 20.10.89)

2 Ins. by Act 44 of 1966, s.13 (w.e.f. 17.6.1967)

3 Subs. by Act No.29 of 1989 sec. 11, for "auditor's report thereon" (w.e.f. 20.10.1989)

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

5 The words "and published in the Gazette of India" omitted by Act No.29 of 1989 sec. 11 (w.e.f. 20.10.1989)

6 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

7 Subs. by Act No.29 of 1989 se. 12, for sub-section (2) (w.e.f. 1.2.1991)

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.]

<sup>1</sup>[(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 <sup>2</sup>[wage period] shall ordinarily fall due on the last day of the <sup>3</sup>[wage period] and where an employee is employed for part of the <sup>4</sup>[wage period] or is employed under two or more employers during the same [wage period] the contributions shall fall due on such days as may be specified in the regulations.

<sup>5</sup>[(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 regulations 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 45-C 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 wage 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 employer.-** (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

1 Subs. by Act No.45 of 1984, sec. 4, for sub-section (3) (w.e.f. 27.1.1985)

2 Subs. by Act No.45 of 1984, sec. 4, for "week" (w.e.f. 27.1.1985)

3 Subs. by Act No.45 of 1984, sec. 4, for "week" (w.e.f. 27.1.1985)

4 Subs. by Act No.45 of 1984, sec. 4, for "week" (w.e.f. 27.1.1985)

5 Ins. by Act No.29 of 1989 sec. 12(ii) (w.e.f. 20.10.1989).

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.

<sup>1</sup>[(1-A) 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).]

(2) In the case referred to in sub-section (1), the immediate employer 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.

<sup>2</sup>[\*\*\*]

**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 <sup>3</sup>[during a wage period are below <sup>4</sup>[such wages as may be prescribed by the Central Government]].

*Explanation.*-The average daily wages of an employee shall be calculated <sup>5</sup>[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 <sup>6</sup>[wage period] <sup>7</sup>[in respect of the whole or part of which wages are payable to the employee and not otherwise.]

(3) <sup>8</sup>[\*\*\*]

(4) <sup>9</sup>[\*\*\*]

**43. Method of payment of contribution.-** Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contribution payable under this Act and without pre-judice 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;
- <sup>10</sup>[(bb) the date by which evidence of contributions having been paid is to be received by the Corporation;]

1 Ins. by Act No.29 of 1989, sec. 13 (w.e.f. 1.2.1991)

2 Explanation omitted by Act No.44 of 1966, s.14 (w.e.f. 28.1.1968).

3 Subs. by Act No.45 of 1984, s.5, for "are below one rupee and fifty paise" (w.e.f. 27.1.1985)

4 Subs. by Act No.29 of 1989 sec. 14, for "six rupees" (w.e.f. 1.2.1991)

5 Subs. by Act No.29 of 1989, sec. 14, for "in such manner specified in the First Schedule" (w.e.f. 1.2.1991).

6 Subs. by Act No.45 of 1984, sec. 5, for "week" (w.e.f. 27.1.1985)

7 Subs. by Act No.44 of 1966 s.15, for "during the whole or part of which an employee is employed" (w.e.f. 28.1.1968)

8 Sub-section (3) omitted. by Act No.45 of 1984, sec. 5 (w.e.f. 27.1.1985)

9 Sub-sec. (4) and (5) omitted by Act No.44 of 1966, s.15 (w.e.f. 28.1.1968)

10 Ins. by Act No.44 of 1966, s.16 (w.e.f. 28.1.1968)

- (c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured person 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.

**<sup>1</sup>[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.

(3) Every principal and immediate employer shall maintain such registers or records in respect of his factory or establishment as may be required by regulations made in this behalf.]

**45. <sup>2</sup>[Social Security Officers], their functions and duties.-** (1) The Corporation may appoint such persons as <sup>3</sup>[Social Security Officers], as it thinks fit, for the purposes of this Act, within such local limits as it may assign to them.

(2) Any <sup>4</sup>[Social Security Officer] appointed by the Corporation under sub-section (1) (hereinafter referred to as <sup>5</sup>[Social Security Officer]), or other official of the Corporation authorised in this behalf by it, may for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in Section 44 or for the purpose of ascertaining whether the any provisions of this Act has been complied with-

- (a) require any principal or immediate employer to furnish to him such information as he may consider necessary for the purposes of this Act; or
- (b) at any reasonable time enter any office, establishment, factory or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such <sup>6</sup>[Social Security Officer] or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment

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

2 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

3 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

4 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

5 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

6 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

- of wages or to furnish to him such information as he may consider necessary; or
- (c) examine with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said <sup>1</sup>[Social Security Officer] or other official, has reasonable cause to believe to be or to have been an employee;
- <sup>2</sup>[(d) make copies of, or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises;
- (e) exercise such other powers as may be prescribed.]

(3) An <sup>3</sup>[Social Security Officer] shall exercise such functions and perform such duties as may be authorised by the Corporation or as may be specified in the regulations.

<sup>4</sup>[(4) Any officer of the Corporation authorised in this behalf by it may, carry out re-inspection or test inspection of the records and returns submitted under section 44 for the purpose of verifying the correctness and quality of the inspection carried out by a Social Security Officer.]

**<sup>5</sup>45A. Determination of contributions in certain cases.-** (1) Where in respect of a factory or establishment no returns, particulars, registers, or records are submitted, furnished or maintained in accordance with the provisions of Sec.44 or any <sup>6</sup>[Social Security Officer] or other official of the Corporation referred to in sub-sec.(2) of Section 45 is <sup>7</sup>[prevented in any manner] by the principal or immediate employer or any other person in exercising his functions or discharging his duties under Section 45, the Corporation may, on the basis of information available to it, by order, determine the amount of contributions payable in respect of the employees of that factory or establishment:

<sup>8</sup>[Provided that no such order shall be passed by the Corporation unless the principal or immediate employer or the person in charge of the factory or establishment has been given a reasonable opportunity of being heard:]

<sup>9</sup>[Provided further that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable.]

(2) An order made by the Corporation under sub-section (1) shall be sufficient proof of the claim of the Corporation under Section 75 or for recovery of

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1 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

2 Ins. by Act No.53 of 1951, s.13 (w.e.f. 6-10-1951).

3 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

4 Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

5 Ins. by Act No.44 of 1966, s.17 (w.e.f. 17.6.1967)

6 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

7 Subs. by Act No.29 of 1989, s.15 for "obstructed" (w.e.f. 20.10.1989)

8 Ins. by Act No.29 of 1989, s.15 (w.e.f. 20.10.1989)

9 Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

the amount determined by such order as an arrear of land revenue under Section 45-B <sup>1</sup>[or the recovery under Section 45-C to Section 45-I.]

<sup>2</sup>**[45AA. Appellate authority.-** If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five per cent of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Provided that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.]

**45B. Recovery of contribution.-** Any contribution payable under this Act may be recovered as an arrear of land revenue.]

<sup>3</sup>**[45C. Issue of certificate to the Recovery Officer.-** (1) Where any amount is in arrear under this Act, the authorised officer may issue to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the factory or establishment or as the case may be, the principal or immediate employer by one or more of the modes mentioned below:-

- (a) attachment and sale of the movable or immovable property of the factory or establishment or, as the case may be, the principal or immediate employer;
- (b) arrest of the employer and his detention in prison;
- (c) appointing a receiver for the management of the movable or immovable properties of the factory or establishment or, as the case may be, the employer:

Provided that the attachment and sale of any property under this section shall first be effected against the properties of the factory or establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

(2) The authorised officer may issue a certificate under sub-section (1) notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

**45D. Recovery Officer to whom certificate is to be forwarded.-** (1) The authorised officer may forward the certificate referred to in Section 45-C to the Recovery Officer within whose jurisdiction the employer—

- (a) carries on his business or profession or within whose jurisdiction the principal place of his factory or establishment is situate; or
- (b) resides or any movable or immovable property of the factory or establishment or the principal or immediate employer is situate.

(2) Where a factory or an establishment or the principal or immediate employer has property within the jurisdiction of more than one Recovery Officer and the Recovery Officer to whom a certificate is sent by the authorised officer-

- (a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction; or

1 Added by Act No.29 of 1989, s.15 (w.e.f. 20.10.1989)

2 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

3 Ins. by Act 29 of 1989, s.16 (w.e.f. 1.9.1991)

- (b) is of the opinion that for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the manner prescribed by the Central Government and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the factory or establishment or the principal or immediate employer has property or the employer resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the authorised officer.

**45E. Validity of certificate and amendment thereof.-** (1) When the authorised officer issues a certificate to a Recovery Officer under Section 45-C, it shall not be open to the factory or establishment or the principal or immediate employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the authorised officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(3) The authorised officer shall intimate to the Recovery Officer any orders, withdrawing or cancelling a certificate or any correction made by him under sub-section (2) or any amendment made under sub-section (4) of Section 45-F.

**45F. Stay of proceedings under certificate and amendment or withdrawal thereof.-** (1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the authorised officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(2) Where a certificate for the recovery of amount has been issued, the authorised officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(3) Where the order giving rise to demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceedings under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of a further proceeding under this Act, the authorised officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(4) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the authorised officer shall, when the order which was the subject matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.

**45G. Other modes of recovery.-** (1) Notwithstanding the issue of a certificate to the Recovery Officer under Section 45-C, the Director General or any other officer authorised by the Corporation may recover the amount by any one or more of the modes provided in this section.

(2) If any amount is due from any person to any factory or establishment or, as the case may be the principal or immediate employer who is in arrears, the Director General or any other officer authorised by the Corporation in this behalf

may require such person to deduct from the said amount the arrears due from such factory or establishment or, as the case may be, the principal or immediate employer under this Act and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Corporation:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under Section 60 of the Code of Civil Procedure, 1908 (5 of 1908).

- (3)(i) The Director General or any other officer authorised by the Corporation in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the factory or establishment or, as the case may be, the principal or immediate employer, or any person who holds or may subsequently hold money for or on account of the factory or establishment or, as the case may be, the principal or immediate employer, to pay to the Director General either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the factory or establishment or, as the case may be, the principal or immediate employer in respect of arrears or the whole of the money when it is equal to or less than that amount.
- (ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the principal or immediate employer jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved to be equal.
- (iii) A copy of the notice shall be forwarded to the principal or immediate employer at his last address known to the Director General or, as the case may be, the officer so authorised and in the case of a joint account to all the joint-holders at their last addresses known to the Director General or the officer so authorised.
- (iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.
- (v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.
- (vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the principal or immediate employer or that he does not hold any money for or on account of the principal or immediate employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is



discovered that such statement was false in any material particular, such person shall be personally liable to the Director General or the officer so authorised to the extent of his own liability to the principal or immediate employer on the date of the notice, or to the extent of the principal or immediate employer's liability for any sum due under this Act, whichever is less.

- (vii) The Director General or the officer so authorised may, at any time or from time to time amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.
- (viii) The Director General or the officer so authorised shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section and the person so paying shall be fully discharged from his liability to the principal or immediate employer to the extent of the amount so paid.
- (ix) Any person discharging any liability to the principal or immediate employer after the receipt of a notice under this sub-section shall be personally liable to the Director General or the officer so authorised to the extent of his own liability to the principal or immediate employer so discharged or to the extent of the principal or immediate employer's liability for any sum due under this Act, whichever is less.
- (x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Director General or the officer so authorised, he shall be deemed to be a principal or immediate employer in default in respect of the amount specified in the notice and further proceeding may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in Sections 45-C to 45-F and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under Section 45-C.

(4) The Director General or the officer authorised by the Corporation in this behalf may apply to the court in whose custody there is money belonging to the principal or immediate employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

(5) The Director General or any officer of the Corporation may, if so authorised by the Central Government by general or special order, recover any arrears of amount due from a factory or an establishment or, as the case may be, from the principal or immediate employer by distraint and sale of its or his movable property in the manner laid down in the Third Schedule to the Income-Tax Act, 1961 (43 of 1961).

**45H. Application of certain provisions of the Income-Tax Act.-** The provisions of the Second and Third Schedules to the Income Tax Act, 1961 (43 of 1961) and the Income Tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications, as if the said provisions and the rules referred to the arrears of the amount of contributions, interests or damages under this Act instead of to the income-tax:

Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to a factory or an establishment or the principal or immediate employer under this Act.

**45I. Definitions.-** For the purposes of Sections 45-C to 45-H,-

- (a) "authorised officer" means the Director General, Insurance Commissioner, Joint Insurance Commissioner, Regional Director or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;
- (b) "Recovery Officer" means any officer of the Central Government, State Government or the Corporation, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act.]

#### CHAPTER V BENEFITS

**46. Benefits.**- (1) Subject to the provisions of this Act, the insured persons, <sup>1</sup>[their dependents or the persons hereinafter mentioned, as the case may be,] shall be entitled to the following benefits, namely:-

- (a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner <sup>2</sup>[or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf hereinafter referred to as sickness benefit];
- <sup>3</sup>[(b) periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);]
- (c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);
- (d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants benefit); <sup>4</sup>[\*\*\*]
- (e) medical treatment for an attendance on insured persons (hereinafter referred to as medical benefit); <sup>5</sup>[and]
- <sup>6</sup>[(f) Payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as <sup>7</sup>[funeral expenses]):]

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1 Subs. by Act 44 of 1966, s.18 for "or, as the case may be, their dependants" (w.e.f. 28.1.1968)

2 Ins. by Act No.44 of 1966, s.18 (w.e.f. 28.1.1968)

3 Subs. by Act No.44 of 1966, s.18, for original clause (b) (w.e.f. 28-1-1968).

4 The word "and" omitted. by Act No.44 of 1966 s.18 (w.e.f. 28-1-1968).

5 Ins. by Act No.44 of 1966, s.18 (w.e.f. 28.1.1968)

6 Ins. by Act No.44 of 1966, s.18 (w.e.f. 28.1.1968)

7 Subs. by Act No.29 of 1989 sec. 17, for "funeral benefit" (w.e.f. 20.10.1989)

Provided that the amount of such payment shall not exceed <sup>1</sup>[such amount as may be prescribed by the Central Government] and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer of authority authorised by it in this behalf may allow.]

(2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

**47. When person eligible for sickness benefit.**--[Rep. by the Employee's State Insurance [Amendment] Act, 1989 (29 of 1989), sec. 18 (1-2-1991)].

**48. [When person deemed available for employment.]** Repealed by the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966), S.20 (w.e.f. 28.1.1968).

**2[49. Sickness benefits.**- The qualification of a person to claim sickness benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government.

**50. Maternity benefit.**- The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government.]

**<sup>3</sup>[51. Disablement benefit.**- Subject to the provisions of this Act- <sup>4</sup>[\*\*\*]

- (a) a person who sustains temporary disablement for not less than three days (excluding the day of accident), shall be entitled to periodical payment <sup>5</sup>[at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government];
- (b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment <sup>6</sup>[at such rates and for such period and subject to such conditions as may be prescribed by the Central Government].

<sup>7</sup>[\*\*\*]

**<sup>8</sup>[51A. Presumption as to accident arising in course of employment.**- For the purposes of this Act, an accident arising in the course of <sup>9</sup>[an employee's] employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment].

1 Subs. by Act No.29 of 1989, sec. 17, for, "one hundred rupees" (w.e.f. 1.2.1991)

2 Sub. by Act 29 of 1989, sec. 19, for sections 49 and 50 (w.e.f. 1.2.1991).

3 Sub. by Act 44 of 1966, sec. 23, for the original s.51 (w.e.f. 28.1.1968)

4 The words "and the regulations, if any" omitted by Act No.29 of 1989 sec. 20 (w.e.f. 1.2.91).

5 Subs. by Act No.29 of 1989, sec. 20, for "for the period of such disablement in accordance with the provisions of the First Schedule" (w.e.f 1.2.91)

6 Subs. by Act No.29 of 1989, sec. 20, for "for the period of such disablement in accordance with the provisions of the First Schedule" (w.e.f 1.2.91)

7 Proviso omitted by Act No.29 of 1989 sec. 20 (w.e.f. 1.2.91)

8 Added by Act No.44 of 1966, s.23

9 **Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

**51B. Accidents happening while acting in breach of regulations, etc.-**

An accident shall be deemed to arise out of and in the course of <sup>1</sup>[an employee's] employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if-

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid on or without instructions from his employer, as the case may be; and
- (b) the act is done for the purpose of and in connection with the employer's trade or business.]

**51C. Accidents happening while travelling in employer's transport.-(1)**

An accident happening while an <sup>2</sup>[employee] is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if-

- (a) the accident would have been deemed so to have arisen had he been under such obligation; and
- (b) at the time of the accident, the vehicle-
  - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer, and
  - (ii) is not being operated in the ordinary course of public transport service.

(2) In this section "vehicle" includes a vessel and an aircraft.

**51D. Accidents happening while meeting emergency.-** An accident happening to an <sup>3</sup>[employee] in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succor or protect persons who are, or are thought to be, or possibly to be, injured or imperiled, or to avert or minimise serious damage to property.]

**<sup>4</sup>[51E. Accidents happening while commuting to the place of work and vice versa.-** An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.]

**<sup>5</sup>[52. Dependant's benefit.-** (1) If an insured person dies as a result of an employment injury sustained as an employee under this Act (whether or not he

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1 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

2 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

3 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

4 Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

5 Sub. by Act 44 of 1966, s.24 for the original section 52 (w.e.f. 28.1.1968)

was in receipt of any periodical payment for temporary disablement in respect of the injury) dependants' benefit shall be payable <sup>1</sup>[at such rates and for such period and subject to such conditions as may be prescribed by the Central Government] to his dependants specified in <sup>2</sup>[sub clause (i), sub-clause (i-a) and] sub-clause (ii) of clause (6-A) of Section 2.

(2) In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased <sup>3</sup>[at such rates and for such period and subject to such conditions as may be prescribed by the Central Government].

**52A. Occupational disease.-** (1) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury" arising out of and in the course of employment.

(2)(i) Where the Central Government or a State Government, as the case may be, adds any description of employment to the employments specified in Schedule III to the Workmen's Compensation Act, 1923 (8 of 1923) by virtue of the powers vested in it under sub-section (3) of Section 3 of the said Act, the said description of employment and the occupational diseases specified under that sub-section as peculiar to that description of employment shall be deemed to form part of the Third Schedule.

(ii) Without prejudice to the provisions of clause (i), the Corporation after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may by a like notification, add any description of employment to the employments specified in the Third Schedule and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of this Act shall apply, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(3) Save as provided by sub-sections (1) and (2), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(4) The provisions of Section 51-A shall not apply to the cases to which this section applies.]

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1 Subs. by Act No.29 of 1989, sec. 21, for "in accordance with the provisions of the First Schedule" (w.e.f. 1.2.1991)

2 Subs. by Act No.29 of 1989 sec. 21, for "sub-clause (i) and" (w.e.f. 1.2.1991)

3 Subs. by Act No.29 of 1989, sec. 21, for "in accordance with the provisions of the First Schedule" (w.e.f. 1.2.1991)

**<sup>1</sup>[53. Bar against receiving or recovery of compensation or damages under any other law.-** An insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen's Compensation Act, 1923 (8 of 1923) or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act.]

**<sup>2</sup>[54. Determination of question of disablement.-** Any question-

- (a) whether the relevant accident has resulted in permanent disablement; or
- (b) whether the extent of loss of earning capacity can be assessed provisionally or finally; or
- (c) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or
- (d) in the case of provisional assessment, as to the period for which such assessment shall hold good,

shall be determined by a medical board constituted in accordance with the provisions of the regulations and any such question shall hereinafter be referred to as the "disablement questions."

**54A. References to medical boards and appeals to medical appeal tribunals and Employees' Insurance Courts.-** (1) The case of any insured person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement question and if, on that or any subsequent reference, the extend of loss of earning capacity of the insured person is provisionally assessed, in shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

(2) If the insured person or the Corporation is not satisfied with the decision of the medical board, the insured person or the Corporation may appeal in the prescribed manner and within the prescribed time to-

- (i) the medical appeal tribunal constituted in accordance with the provisions of the regulations with a further right of appeal in the prescribed manner and within the prescribed time to the Employees' Insurance Court, or
- (ii) the Employees' Insurance Court directly];

<sup>3</sup>[Provided that no appeal by an insured person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefit:

Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board.]

**<sup>4</sup>[55. Review of decisions by medical board or medical appeal tribunal.-**

(1) Any decision under this Act of a medical board or a medical appeal tribunal may be reviewed at any time by the medical board or the medical appeal tribunal, as the case may be, if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or

1 Subs. by Act No.44 of 1966, s.25, for the original sec. 53 (w.e.f. 28.1.1968)

2 Subs. by Act 44 of 1966, sec. 26, for the original sec 54. (w.e.f. 28.1.1968)

3 Ins. by Act No.29 of 1989 sec. 22 (w.e.f. 20.10.1989)

4 Subs. by Act 44 of 1966, S.27 for the original sec. 55 (w.e.f. 28.1.1968).

any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

(2) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board, if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:

Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it.

(3) Except with the leave of a medical appeal tribunal, an assessment, shall not be reviewed under sub-section (2) on any application made less than five years, or in the case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(4) Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final; and the provisions of Section 54-A shall apply to an application for review under this section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under this section and to a decision of the medical board in connection with such case.

**55A. Review of dependants' benefit.-** (1) Any decision awarding dependants' benefit under this Act may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Act due to any birth or death or due to the marriage, re-marriage or cesser of infirmity of, or attainment of the age of eighteen years by claimant.

(2) Subject to the provisions of this Act, the Corporation may, on such review as aforesaid, direct that the dependants' benefit be continued, increased, reduced or discontinued.]

**56. Medical benefit.-** (1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any <sup>1</sup>[period] for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit <sup>2</sup>[or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations]:

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations:

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1 Subs. by Act No.45 of 1984, sec. 8, for "week" (w.e.f. 27.1.1985)

2 Subs. by Act No.53 of 1951, s.17, for "or as provided under the regulations, is in receipt of disablement benefit" (w.e.f. 6-10-1951).

<sup>1</sup>[Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment of contribution and such other conditions as may be prescribed by the Central Government, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement:

<sup>2</sup>[Provided also that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government.]

*Explanation.*-In this section, "superannuation", in relation to an insured person, means the attainment by that person of such age as is fixed in the contract or conditions of service as the age on the attainment of which he shall vacate the insurable employment or the age of sixty years where no such age is fixed and the person is no more in the insurable employment.]

**57. Scale of medical benefit.-** (1) An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the State Government or by the Corporation, and an insured person or, where such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim reimbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations.

**58. Provision of medical treatment by State Government.-** (1) The State Government shall provide for insured persons and (where such benefit is extended to their families) their families in the State, reasonable medical, surgical and obstetric treatment:

Provided that the State Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the State Government in such proportion as may be fixed by agreement between them:

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.

(3) The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the State Government.

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1 Ins. by Act No.29 of 1989 sec. 23 (w.e.f. 1.2.1991)

2 Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.



(4) In default of agreement between the Corporation and any State Government as aforesaid the nature and extent of the medical treatment to be provided by the State Government, and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the <sup>1</sup>[High Court <sup>2</sup>[of a State]]) appointed by the Chief Justice of India (and the award of the arbitrator) shall be binding on the Corporation and the State Government.

<sup>3</sup>(5) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Provided that any reference to the State Government in the Act shall also include reference to the organisation as and when such organisation is established by the State Government.

(6) The organisation referred to in sub-section (5) shall have such structure and discharge functions, exercise powers and undertake such activities as may be prescribed.]

### **59. Establishment and maintenance of hospitals, etc., by Corporation.-**

(1) The Corporation may, with the approval of the State Government, establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families) their families.

(2) The Corporation may enter into agreement with any <sup>4</sup>[\*\*\*] local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit extended to their families) their families, in any area and sharing the cost thereof.

<sup>5</sup>(3) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families.]

**<sup>6</sup>[59A. Provision of medical benefit by the Corporation in lieu of State Government.-** (1) Notwithstanding anything contained in any other provision of this Act, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to insured persons and where such medical benefit is extended to their families, to the families of such insured persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.

(2) In the event of the Corporation exercising its power under sub-section (1), the provisions relating to medical benefit under this Act shall apply, so far as

1 Subs. by the A.O. 1950, for "High Court of a Province"

2 Subs. by Act No.53 of 1951, s.18, for "for a Part A State" (w.e.f. 6-10-1951).

3 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

4 The words "Part B State" omitted by the A. O. (No.4) 1957.

5 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

6 Ins. by Act No.44 of 1966, s.28 (w.e.f. 17.6.1967)

may be, as if a reference therein to the State Government were a reference to the Corporation.]

<sup>1</sup>[59B. **Medical and para-medical education.**- The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employees' State Insurance Scheme.]

#### GENERAL

**60. Benefit not assignable or attachable.**- (1) The right to receive any payment of any benefit under this Act, shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

**61. Bar of benefits under other enactments.**- When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment.

**62. Persons not to commute cash benefits.**- Save as may be provided in the regulations, no person shall be entitled to commute for a lumpsum any <sup>2</sup>[disablement benefit] admissible under this Act.

<sup>3</sup>[63. **Persons not entitled to receive benefit in certain cases.**- Save as may be provided in the regulations, no person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike.]

**64. Recipients of sickness or disablement benefit to observe conditions.**- A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)-

- (a) shall remain under medical treatment at a dispensary, hospital, clinic, or other institution provided under this Act and shall carry out the instructions given by the medical officer or medical attendant in charge thereof;
- (b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;
- (c) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and
- (d) shall allow himself to be examined by any duly appointed medical officer <sup>4</sup>[\*\*\*] or other person authorised by the Corporation in this behalf.

**65. Benefits not to be combined.**- (1) An insured person shall not be entitled to receive for the same period-

- (a) both sickness benefit and maternity benefit; or
- (b) both sickness benefit and disablement benefit for temporary disablement; or

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**1** Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

**2** Subs. by Act No.29 of 1989, s.24, for "periodical payment" (w.e.f. 20.10.1989)

**3** Subs. by Act No.29 of 1989, s.25, for section 63 (w.e.f. 20.10.1989)

**4** The words "or sick visitor" omitted by Act No.29 of 1989 sec. 26 (w.e.f. 20.10.1989)

- (c) both maternity benefit and disablement benefit for temporary disablement.

(2) Where a person is entitled to more than one of the benefits mentioned in sub-section (1), he shall be entitled to choose which benefit he shall receive.

**66. Corporation's right to recover damages from employer in certain cases.-** [Repealed by the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966), S.29 (w.e.f. 17.6.1967).]

**67. Corporation's right to be indemnified in certain cases.-** [Repealed by the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966) S.29, ibid (w.e.f. 17.6.1967).]

**68. Corporation's right where a principal employer fails or neglects to pay any contribution.-** (1) If any principal employer fails to neglects to pay any contribution which under this Act he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Corporation may, on being satisfied that the contribution should have been paid by the principal employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Corporation shall be entitled to recover from the principal employer either-

- <sup>1</sup>[(i) the difference between the amount of benefit which is paid by the Corporation to the said person and the amount of the benefit which would have been payable on the basis of the contributions which were in fact paid by the employer; or]
- (ii) twice the amount of the contribution which the employer failed or neglected to pay,

whichever is greater.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue, <sup>2</sup>[or under Sections 45-C to 45-I].

**69. Liability of owner or occupier of factories, etc. for excessive sickness benefit.-** 1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of-

- (i) sanitary working conditions in a factory or establishment or the neglect of the owner or occupier of the factory or establishment to observe any health regulations enjoined on him by or under any enactment, or
- (ii) sanitary conditions of any tenements or lodgings occupied by insured persons and such in sanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactment,

the Corporation may send to the owner or occupier of the factory or establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

<sup>1</sup> Subs. by Act No.53 of 1951, s.19, for clause (i) (w.e.f.6-10-1951).

<sup>2</sup> Added by Act No.29 of 1989, s.27 (w.e.f. 20.10.1989)

(2) If the appropriate Government is of opinion that a prima facie case for inquiry is disclosed, it may appoint a competent person or persons to hold an inquiry into the matter.

(3) If upon such inquiry it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

**70. Repayment of benefit improperly received.-** (1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands.

(2) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(3) The amount recoverable under this section may be recovered as if it were an arrear of land revenue <sup>1</sup>[or under Sections 45C to 45I].

**71. Benefit payable upto and including day of death.-**<sup>2</sup>[If a person dies]during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit upto and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

**72. Employer not to reduce wages, etc.-** No employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly, reduce the wages of any employee, or except as provided by the regulations, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Act.

**73. Employer not to dismiss or punish employee during the period of sickness, etc.-** (1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall he, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

<sup>1</sup> Added by Act No.29 of 1989, s.27 (w.e.f. 20.10.1989)

<sup>2</sup> Subs. by Act No.29 of 1989, sec. 28 for "Except as provided in the provision to sub-section (2) of section 50, if a person dies" (w.e.f. 1.2.1991)

<sup>1</sup>[CHAPTER VA  
SCHEME FOR OTHER BENEFICIARIES

**73A. Definitions.-** In this Chapter,—

- (a) "other beneficiaries" means persons other than the person insured under this Act;
- (b) "Scheme" means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;
- (c) "underutilised hospital" means any hospital not fully utilised by the persons insured under this Act;
- (d) "user charges" means the amount which is to be charged from the other beneficiaries for medical facilities as may be notified by the Corporation in consultation with the Central Government from time to time.

**73B. Power to frame Schemes.-** Notwithstanding anything contained in this Act, the Central Government may, by notification in the *Official Gazette*, frame Scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges.

**73C. Collection of user charges.-** The user charges collected from the other beneficiaries shall be deemed to be the contribution and shall form part of the Employees' State Insurance Fund.

**73D. Scheme for other beneficiaries.-** The Scheme may provide for all or any of the following matters, namely:—

- (i) the other beneficiaries who may be covered under this Scheme;
- (ii) the time and manner in which the medical facilities may be availed by the other beneficiaries;
- (iii) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;
- (iv) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

**73E. Power to amend Scheme.-** The Central Government may, by notification in the *Official Gazette*, add to, amend, vary or rescind the Scheme.

**73F. Laying of Scheme framed under this Chapter.-** Every Scheme framed under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.]

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<sup>1</sup> Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

## CHAPTER VI

## ADJUDICATION OF DISPUTE AND CLAIMS

**74. Constitution of Employees' Insurance Court.-** (1) The State Government shall, by notification in the Official Gazette, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(2) The Court shall consist of such number of Judges as the State Government may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

(4) The State Government may appoint the same Court for two or more local areas or two or more Courts for the same local area.

(5) Where more than one Court has been appointed for the same local area, the State Government may, by general or special order, regulate the distribution of business between them.

**75. Matters to be decided by Employees' Insurance Court.-** (1) If any question or dispute arises as to-

- (a) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or
- (b) the rate of wages or average daily wages of an employee for the purposes of this Act, or
- (c) the rate of contribution payable by a principal employer in respect of any employee, or
- (d) the person who is or was the principal employer in respect of any employee, or
- (e) the right of any person to any benefit and as to the amount and duration thereof, or
- <sup>1</sup>[(ee) any direction issued by the Corporation under Section 55-A on a review of any payment of dependants' benefits, or-]

<sup>2</sup>[\*\*\*]

- (g) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a person and the Corporation or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act, <sup>3</sup>[or any other matter required to be or which may be decided by the Employees' Insurance Court under this Act],

such question or dispute <sup>4</sup>[subject to the provisions of sub-section (2-A)], shall be decided by the Employees' Insurance Court in accordance with the provisions of this Act.

(2) <sup>5</sup>[Subject to the provisions of sub-section (2-A), the following claims] shall be decided by the Employees' Insurance Court, namely:-

- (a) claim for the recovery of contribution from the principal employer;

<sup>1</sup> Subs. by Act No.44 of 1966, s.32 for clause (ee) (w.e.f. 28.1.1968)

<sup>2</sup> Cl. (f) omitted by Act 44 of 1966, sec. 32 (w.e.f. 28.1.1968)

<sup>3</sup> Ins. by Act 44 of 1966, sec. 32 (w.e.f. 28-1-1968).

<sup>4</sup> Sub. by Act 44 of 1966, sec. 32, for "the following claims" (w.e.f. 28-1-1968).

<sup>5</sup> Sub. by Act 44 of 1966, sec. 32, for "The following claims" (w.e.f. 28-1-1968).

- (b) claim by a principal employer to recover contributions from any immediate employer;  
1[\*\*\*]
- (d) claim against a principal employer under Section 68;
- (e) claim under Section 70 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; and
- (f) any claim for the recovery of any benefit admissible under this Act.

<sup>2</sup>[(2-A) If in any proceedings before the Employees' Insurance Court a disablement question arises and the question of a medical board or a medical appeal tribunal has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Employees' Insurance Court, that Court shall direct the Corporation to have the question decided by this Act and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the medical appeal tribunal, as the case may be, except where an appeal has been filed before the Employees' Insurance Court under sub-section (2) of Section 54-A in which case the Employees' Insurance Court may itself determine all the issues arising before it.]

<sup>3</sup>[(2-B) No matter which is in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the Court fifty per cent of the amount due from him as claimed by the Corporation:

Provided that the Court may, for reasons to be recorded in writing waive or reduce the amount to be deposited under this sub-section.]

(3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by <sup>4</sup>[a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court].

**76. Institution of proceedings etc.-** (1) Subject to the provisions of this Act and any rules made by the <sup>5</sup>[State] Government, all proceedings before the Employees' Insurance Court shall be instituted in the Court appointed for the local area in which the insured person was working at the time the question or dispute arose.

(2) If the Court is satisfied that any matter arising out of any proceeding pending before it can be more conveniently dealt with by any other Employees' Insurance Court in the same <sup>6</sup>[State], it may, subject to any rules made by the <sup>7</sup>[State] Government in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.

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1 Cl.(c) omitted by Act No.44 of 1966 sec. 32 (w.e.f. 28.1.1968).

2 Ins. by Act No.44 of 1966, s.32 (w.e.f. 28.1.1968)

3 Ins. by Act No.29 of 1989 sec. 29 (w.e.f. 20.10.1989)

4 Subs. by Act No.44 of 1966, for "the Employees' Insurance Court" (w.e.f.28.1.1968)

5 Subs. by A. O. 1950 for "Provincial".

6 Subs. by A. O. 1950 for "Provincial".

7 Subs. by A. O. 1950 for "Provincial".

(3) The <sup>1</sup>[State] Government may transfer any matter pending before any Employees' Insurance Court in the <sup>2</sup>[State] to any such Court in another State with the consent of the <sup>3</sup>[State] Government of that <sup>4</sup>[State].

(4) The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.

**77. Commencement of proceedings.-** (1) The proceedings before an Employees' Insurance Court shall be commenced by application.

<sup>5</sup>[(1-A) Every such application shall be made within a period of three years from the date on which the cause of action arose.

*Explanation.*-For the purpose of this sub-section,-

(a) the cause of action in respect of a claim for benefit shall not be deemed to arise unless the insured person or in the case of dependants' benefit, the dependants of the insured person claims or claim that benefit in accordance with the regulations made in that behalf within a period of twelve months after the claim became due or within such further period as the Employees' Insurance Court may allow on grounds which appear to it to be reasonable;

<sup>6</sup>[(b) the cause of action in respect of a claim by the Corporation for recovering contributions (including interest and damages) from the principal employer shall be deemed to have arisen on the date on which such claim is made by the Corporation for the first time:

Provided that no claim shall be made by the Corporation after five years of the period to which the claim relates;

(c) the cause of action in respect of a claim by the principal employer for recovering contributions from an immediate employer shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Corporation under the regulations.]

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by rules made by the State Government in consultation with the Corporation.

**78. Powers of Employees' Insurance Court.-** (1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such Court shall be deemed to be a Civil Court within the meaning of <sup>7</sup>[Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)].

(2) The Employees' Insurance Court shall follow such procedure as may be prescribed by rules made by the State Government.

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1 Subs. by A. O. 1950 for "Provincial".

2 Subs. by A. O. 1950 for "Provincial".

3 Subs. by A. O. 1950 for "Provincial".

4 Subs. by A. O. 1950 for "Provincial".

5 Ins. by Act No.44 of 1966, s.33 (w.e.f. 28.1.1968)

6 Subs. by Act No.29 of 1989, sec. 30, for clause (b) (w.e.f. 20.10.1989)

7 Subs. by Act No.45 of 1984 sec. 9, for "section 195 Chapter XXXV of the Code of Criminal Procedure, 1898" (w.e.f. 27.1.1985)



(3) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the State Government, be in the discretion of the Court.

(4) An order of the Employees' Insurance Court shall be enforceable as if it were a decree passed in a suit by a Civil Court.

**79. Appearance by legal practitioners, etc.-** Any application, appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of the Court, by any other person so authorised.

**80. [Benefit not admissible unless claimed in time.]**- Repealed by the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966) S.34. (w.e.f. 28-1-1968).]

**81. Reference to High Court.-** An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so, shall decide the question pending before it in accordance with such decision.

**82. Appeal.-** (1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

(4) The provisions of Sections 5 and 12 of the <sup>1</sup>[Limitation Act, 1963 (36 of 1963)] shall apply to appeals under this section.

**83. Stay of payment pending appeal.-** Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court, shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

## CHAPTER VII

### PENALTIES

**84. Punishment for false statement.-** Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorised by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to <sup>2</sup>[six months], or with fine not exceeding <sup>3</sup>[two thousand rupees], or with both:

<sup>4</sup>[Provided that where an insured person is convicted under this section, he shall not be entitled for any cash benefit under this Act for such period as may be prescribed by the Central Government.]

1 Subs. by Act No.29 of 1989, s.31, for "Indian Limitation Act, 1908 (9 of 1908) (w.e.f. 20.10.1989)

2 Subs. by Act No.29 of 1989, s. 32 (i), for "three months" (w.e.f. 20.10.1989)

3 Subs. by Act No.29 of 1989, s.32, for "five hundred" (w.e.f. 20.10.1989)

4 Ins. by Act No.29 of 1989, sec. 32(ii) (w.e.f.1.2.1991)

**85. Punishment for failure to pay contributions, etc.-** If any person-

- (a) fails to pay any contribution which under this Act he is liable to pay, or
- (b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, or
- (c) in contravention of Section 72 reduces the wages or any privileges or benefits admissible to an employee, or
- (d) in contravention of Section 73 or any regulation dismisses, discharges, reduces or otherwise punishes an employee; or
- (e) fails or refuses to submit any return required by the regulations, or makes a false return, or
- (f) obstructs any Inspector or other official of the Corporation in the discharge of his duties, or
- (g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided,

<sup>1</sup>[he shall be punishable-

- <sup>2</sup>[(i) where he commits an offence under clause (a), with imprisonment for a term which may extend to three years but-
  - (a) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of ten thousand rupees;
  - (b) which shall not be less than six months, in any other case, and shall also be liable to fine of five thousand rupees:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term;

- (ii) where he commits an offence under any of the clauses (b) to (g) (both inclusive), with imprisonment for a term which may extend to one year or with fine which may extend to four thousand rupees or with both.]]

**<sup>3</sup>[85A. Enhanced punishment in certain cases after previous conviction.-** Whoever, having been convicted by a Court of an offence punishable under this Act, commits the same offence shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to <sup>4</sup>[two years and with fine of five thousand rupees]:

Provided that where such subsequent offence is for failure by the employer to pay any contribution which under this Act he is liable to pay, he shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to <sup>5</sup>[five years but which shall not be less than two years and shall also be liable to fine of twenty five thousand rupees.]

**85B. Power to recover damages.-** (1) Where an employer fails to pay the amount due in respect of any contribution or any other amount payable under this Act, the Corporation may recover <sup>6</sup>[from the employer by way of penalty such

<sup>1</sup> Subs. by Act No.38 of 1975, s.4, for certain words (w.e.f. 1.9.1975)

<sup>2</sup> Subs. by Act No.29 of 1989, sec. 33, for clauses (i) and (ii) (w.e.f. 20.10.1989)

<sup>3</sup> Ins. by Act No.38 of 1975, s.5 (w.e.f. 1.9.1975)

<sup>4</sup> Subs. by Act No.29 of 1989, sec. 34, for "one year or with fine which may extend to two thousand rupees, or both" (w.e.f. 20.10.1989)

<sup>5</sup> Subs. by Act No.29 of 1989, sec. 34, for certain words (w.e.f. 20.10.1989)

<sup>6</sup> Subs. by Act No.29 of 1989, s.35, for certain words (w.e.f. 1.1.1992)

damages not exceeding the amount of arrears as may be specified in the regulations]:

Provided that before recovering such damages, the employer shall be given a reasonable opportunity of being heard:

<sup>1</sup>[Provided further that the Corporation may reduce or waive the damages recoverable under this section in relation to an establishment which is a sick industrial company in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) subject to such terms and conditions as may be specified in regulations.]

(2) Any damages recoverable under sub-section (1) may be recovered as an arrear of land revenue <sup>2</sup>[or under Section 45-C to Section 45-I].

**85C. Power of Court to make orders.-** (1) Where an employer is convicted of an offence for failure to pay any contribution payable under this Act, the Court may, in addition to awarding any punishment, by order, in writing, require him within a period specified in the order (which the Court may if it thinks fit and an application in that behalf, from time to time, extend), to pay the amount of contribution in respect of which the offence was committed <sup>3</sup>[and to furnish the return relating to such contributions.]

(2) Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punishable with imprisonment in respect thereof under Section 85 and shall also be liable to pay fine which may extend to <sup>4</sup>[one thousand] rupees for every day after such expiry on which the order has not been complied with.]

**86. Prosecutions.-** (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner <sup>5</sup>[or of such other officer of the Corporation as may be authorised in this behalf by the <sup>6</sup>[Director General of the Corporation]].

<sup>7</sup>[(2) No Court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence under this Act.]

(3) No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof, <sup>8</sup>[\*\*\*].

**<sup>9</sup>[86A. Offences by Companies.-** (1) If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be

1 Ins. by Act No.29 of 1989, s.35, (w.e.f. 1.1.1992)

2 Added by Act No.29 of 1989, s.35, (w.e.f. 1.1.1992)

3 Added by Act No.29 of 1989, sec. 36 (w.e.f. 20.10.1989)

4 Subs. by Act No.29 of 1989, sec. 36, for "one hundred" (w.e.f. 20.10.1989)

5 Added by Act No.53 of 1951, sec. 22 (w.e.f. 6.10.1951)

6 Subs. by Act No.44 of 1966, s.35, for "Central Government" (w.e.f. 17.6.1967)

7 Subs. by Act No.29 of 1989, sec. 37, for sub-section (2) (w.e.f. 20.10.1989)

8 Certain words omitted by Act No.29 of 1989, sec. 37 (w.e.f. 20.10.1989)

9 Ins. by Act No.29 of 1989, sec. 38 (w.e.f. 20-10-1989)

guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*- For the purposes of this section,-

- (i) "company" means any body corporate and includes a firm and other associations of individuals; and
- (ii) "director" in relation to-
  - (a) a company, other than a firm, means the managing director or a whole-time director;
  - (b) a firm means a partner in the firm.]

## CHAPTER VIII

### MISCELLANEOUS

**87. Exemption of a factory or establishment or class of factories or establishments.**- The appropriate Government may, by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment or class of factories or establishments in any specified area from the operation of this Act for a period not exceeding one year and may from time to time by like notification renew any such exemption for periods not exceeding one year at a time:

<sup>1</sup>[Provided that such exemptions may be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act:

Provided further that an application for renewal shall be made three months before the date of expiry of the exemption period and a decision on the same shall be taken by the appropriate Government within two months of receipt of such application.]

**88. Exemption of persons or class of persons.**- The appropriate Government may, by notification in the Official Gazette and subject to such conditions as it may deem fit to impose, exempt any persons or class of persons employed in any factory or establishment or class of factories or establishments to which this Act applies from the operation of the Act.

**89. Corporation to make representation.**- No exemption shall be granted or renewed under Section 87 or Section 88, unless a reasonable opportunity has been given to the Corporation to make any representation it may wish to make in regard to the proposal and such representation has been considered by the appropriate Government.

**90. Exemption of factories or establishments belonging to Government or any local authority.**- The appropriate Government may, <sup>2</sup>[after consultation with the Corporation,] by notification in the Official Gazette and subject to such

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<sup>1</sup> Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

<sup>2</sup> Ins. by Act No.44 of 1966, s.36 (w.e.f. 17.6.1967)

conditions as may be specified in the notification, exempt any factory or establishment belonging to <sup>1</sup>[\*\*\*] any local authority from the operation of this Act, if the employees in any such factory or establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

**91. Exemption from one or more provisions of the Act.-** The appropriate Government may, with the consent of the Corporation, by notification in the Official Gazette, exempt any employees or class of employees in any factory or establishment or class of factories or establishments from one or more of the provisions relating to the benefits provided under this Act.

<sup>2</sup>**91A. Exemptions to be either prospective or retrospective.-** Any notification granting exemption under Section 87, Section 88, Section 90 or Section 91 may be issued so as to take effect <sup>3</sup>[prospectively] on such date as may be specified therein.]

<sup>4</sup>**91AA. Central Government to be appropriate Government.-** Notwithstanding anything contained in this Act, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government.]

<sup>5</sup>**91B. Misuse of benefits.-** If the Central Government is satisfied that the benefits under this Act are being misused by insured persons in a factory or establishment, that Government may, by order, published in the Official Gazette, disentitle such persons from such of the benefits at it thinks fit:

Provided that no such order shall be passed unless a reasonable opportunity of being heard is given to the concerned factory or establishment, insured persons and the trade unions registered under the Trade Unions Act, 1926 (16 of 1926) having members in the factory or establishment.

**91C. Writing off of losses.-** Subject to the conditions as may be prescribed by the Central Government, where the Corporation is of opinion that the amount of contribution, interest and damages due to the Corporation is irrecoverable, the Corporation may sanction the writing off finally of the said amount.]

**92. Power of Central Government to give directions.-** <sup>6</sup>[(1)] The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

<sup>7</sup>[(2)] The Central Government may, from time to time, give such directions to the Corporation as it may think fit for the efficient administration of the Act, and if any such direction is given, the Corporation shall comply with such direction.]

**93. Corporation officers and servants to be public servants.-** All officers and servants of the Corporation shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

1 The words "the Government or" omitted by Act No.29 of 1989 (w.e.f. 20.10.1989)

2 Ins. by Act No.44 of 1966, s.37 (w.e.f. 17.6.1967)

3 **Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

4 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

5 Ins. by Act No.29 of 1989, sec. 40 (w.e.f. 20.10.1989)

6 Section 92 renumbered as sub-section (1) thereof by Act No.29 of 1989, (w.e.f. 20.10.1989)

7 Ins. by Act No.29 of 1989 sec. 41 (w.e.f. 20.10.1989)

**<sup>1</sup>[93A. Liability in case of transfer of establishment.-** Where an employer, in relation to a factory or establishment, transfers that factory or establishment in whole or in part, by sale, gift, lease or license or in any other manner whatsoever, the employer and the person to whom the factory or establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any contribution or any other amount payable under this Act in respect of the periods upto the date of such transfer:

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.]

**94. Contributions, etc., due to Corporation to have priority over other debts.-** There shall be deemed to be included among the debts which, under Section 49 of the Presidency Towns Insolvency Act, 1909 (3 of 1909) or under Section 61 of the Provincial Insolvency Act, 1920 (5 of 1920), <sup>2</sup>[or under any law relating to insolvency in force <sup>3</sup>[in the territories which, immediately before the 1st November, 1956, were comprised in a Part B State]], <sup>4</sup>[or under Section 530 of the Companies Act, 1956 (1 of 1956)] in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

**<sup>5</sup>[94A. Delegation of powers.-** The Corporation, and, subject to any regulations made by the Corporation in this behalf, the Standing Committee may direct that all or any of the powers and functions which may be exercised or performed by the Corporation or the Standing Committee, as the case may be, may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by any officer or authority subordinate to the Corporation.]

**95. Power of Central Government to make rules.-** (1) The Central Government may, <sup>6</sup>[after consultation with the Corporation and] subject to the condition of previous publication, make rules not inconsistent with this Act for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- <sup>7</sup>[(a) the limit of wages beyond which a person shall not be deemed to be an employee;
- (ab) the limit of maximum monthly salary for the purpose of sub-section (1) of Section 17;]
- <sup>8</sup>[(ac)] the manner in which <sup>9</sup>[appointments] and elections of members of the Corporation, the Standing Committee and the Medical Benefit Council shall be made;

1 Ins. by Act No.38 of 1975, s.6 (w.e.f. 1.9.1975)

2 Ins. by Act No.53 of 1951, s.23 (w.e.f. 6-10-1951).

3 Subs. by the A.O. (No.3) of 1956, for "in a Part B State"

4 Subs. by Act No.29 of 1989, sec. 42, for "or under section 230 of the Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 20.10.1989)

5 Ins. by Act No.53 of 1951, s.24

6 Ins. by Act No.44 of 1966, s.38 (w.e.f. 28.1.1968)

7 Ins. by Act No.29 of 1989 sec. 43 (w.e.f. 20.10.1989)

8 Clause (a) re-lettered as clause (ac) by Act No.29 of 1989, sec. 43 (w.e.f. 20.10.1989)

9 Subs. by Act No.29 of 1989, sec. 43, (w.e.f. 20.10.1989).

- (b) the quorum at meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the minimum number of meetings of those bodies to be held in a year;
- (c) the records to be kept of the transaction of business by the Corporation, the Standing Committee and the Medical Benefit Council;
- (d) the powers and duties of the <sup>1</sup>[Director General and the Financial Commissioner] and the conditions of their service;
- (e) the powers and duties of the Medical Benefit Council;
- <sup>2</sup>[(ea) the types of expenses which may be termed as administrative expenses, the percentage of income of the Corporation which may be spent for such expenses;
- (eb) the rates of contributions and limits of wages below which employees are not liable to pay contribution;
- (ec) the manner of calculation of the average daily wage;
- (ed) the manner of certifying the certificate to recover amount by the Recovery Officer;
- (ee) the amount of funeral expenses;
- (ef) the qualifications, conditions, rates and period of sickness benefit, maternity benefit, disablement benefit an dependant's benefit;
- <sup>3</sup>[(eff) the income of dependant parents from all sources;]
- (eg) the conditions for grant of medical benefits for insured persons who cease to be in insurable employment on account of permanent disablement;
- (eh) the conditions for grant of medical benefits for persons who have attained the age of superannuation;]
- <sup>4</sup>[(ehh) the conditions under which the medical benefits shall be payable to the insured person and spouse of an insured person who has attained the age of superannuation, the person who retires under Voluntary Retirement Scheme and the person who takes pre-mature retirement;]
- <sup>5</sup>[(ei)] the manner in which and the time within which appeals may be filed to medical appeal tribunals or Employees' Insurance Courts;
- (f) the procedure to be adopted in the execution of contracts;
- (g) the acquisition, holding and disposal of property by the Corporation;
- (h) the raising and repayment of loans;
- (i) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation;
- (j) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made;
- (k) the bank or banks in which the funds of the Corporation may be deposited, the procedure to be followed in regard to the crediting

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1 Subs. by Act No.29 of 1989, sec. 43, for "Principal Officers" (w.e.f. 20.10.1989.)

2 Ins. by Act No.29 of 1989, sec. 43 (w.e.f. 20.10.1989).

3 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

4 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

5 Clause (ee) re-lettered as clause (ei) by Act No.29 of 1989, sec. 43 (w.e.f. 20.10.1989)

of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payment may be authorised;

- (l) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited;
- (m) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged;
- (n) the preparation of budget estimates and supplementary estimates and the manner in which such estimates shall be sanctioned and published;
- (o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation; <sup>1</sup>[\*\*\*]
- <sup>2</sup>[(oa) the period of non-entitlement for cash benefit in case of conviction of an insured person];
- (p) any matter which is required or allowed by this Act to be prescribed by the Central Government.

<sup>3</sup>[(2-A) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rules so as to prejudicially affect the interest of any person other than the Corporation to whom such rule may be applicable].

(3) Rules made under this section shall be published in the Official Gazette and thereupon shall have effect as if enacted in this Act.

<sup>4</sup>[(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a period of thirty days which may be comprised in one session <sup>5</sup>[or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

**96. Power of State Government to make rules.-** (1) The State Government may <sup>6</sup>[after consultation with the Corporation and] subject to the condition of previous publication, make rules not inconsistent with this Act in regard to all or any of the following matters, namely:-

- (a) the constitution of Employees' Insurance Courts, the qualifications of persons who may be appointed Judges thereof, and the conditions of service of such Judges;

1 The word "and" omitted by Act No.29 of 1989, sec. 43 (w.e.f. 20.10.1989)

2 Ins. by Act 29 of 1989, sec. 43 (w.e.f. 20.10.1989)

3 Ins. by Act No.45 of 1984, sec. 10 (w.e.f. 27.1.1985)

4 Ins. by Act No.44 of 1966, s.38 (w.e.f. 28.1.1968)

5 Subs. by Act No.38 of 1975, sec. 7, for certain words (w.e.f. 1.9.1975)

6 Ins. by Act No.44 of 1966, s.39 (w.e.f. 28.1.1968)



- (b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts;
- (c) the fee payable in respect of applications made to the Employees' Insurance Court, the costs incidental to the proceedings in such Court, the form in which applications should be made to it and the particulars to be specified in such applications;
- (d) the establishment of hospitals, dispensaries and other institutions, the allotment of insured persons or their families to any such hospital, dispensary or other institution;
- (e) the scale of medical benefit which shall be provided at any hospital, clinic, dispensary or institution, the keeping of medical records and the furnishing of statistical returns;
- <sup>1</sup>[(e) the organisational structure, functions, powers, activities and other matters for the establishment of the organisation;]
- (f) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions;
- (g) the conditions of service of the staff employed at such Hospitals, dispensaries and institutions; and
- (h) any other matter which is required or allowed by this Act to be prescribed by the State Government.

(2) Rules made under this section shall be published in the Official Gazette and thereupon shall have effect as if enacted in this Act.

<sup>2</sup>[(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.].

**97. Power of Corporation to make regulations.**- (1) The Corporation may, <sup>3</sup>[\*\*\*] subject to the condition to previous publication, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

- (i) the time and place of meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the procedure to be followed at such meetings;
- <sup>4</sup>[(i-a) the time within which and the manner in which a factory or establishment shall be registered;]
- (ii) the matters which shall be referred by the Standing Committee to the Corporation for decision;
- (iii) the manner in which any contribution payable under this Act shall be assessed and collected;
- <sup>5</sup>[(iii-a) the rate of interest higher than twelve per cent on delayed payment of contributions;]

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**1** Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.

**2** Ins. by Act No.45 of 1984, sec. 11 (w.e.f. 27.1.1985)

**3** The words "with the prior approval of the Central Government" omitted by Act No.29 of 1989 sec. 44 (w.e.f. 20.10.1989)

**4** Ins. by Act No.44 of 1966, sec. 40 (w.e.f. 28.1.1968)

**5** Subs. by Act 29 of 1989, sec.44 for clause (iiia) (w.e.f. 20.10.1989)

- (iv) reckoning of wages for the purpose of fixing the contribution payable under this Act;
- <sup>1</sup>[(iv-a) the register of employees to be maintained by the immediate employer;
- (iv-b) the entitlement of sickness benefit or disablement benefit for temporary disablement on any day on which person works or remains on leave or on holiday and in respect of which he receives wages or for any day on which he remains on strike;]
- (v) the certification of sickness and eligibility for any cash benefit;
- <sup>2</sup>[(vi) the method of determining whether an insured person is suffering from one or more of the diseases specified in the Third Schedule;]
- (vii) the assessing of the money value of any benefit which is not a cash benefit;
- (viii) the time within which <sup>3</sup>[and the form and manner in which] any claim for a benefit may be made and the particulars to be specified in such claim;
- (ix) the circumstances in which an employee in receipt of disablement benefit may be dismissed, discharged, reduced or otherwise punished;
- (x) the manner in which and the place and time at which any benefit shall be paid;
- (xi) the method of calculating the amount of cash benefit payable and the circumstances in which and the extent to which commutation of disablement and dependants' benefits, may be allowed and the method of calculating the commutation value;
- (xii) the notice of pregnancy or of confinement and notice and proof of sickness;
- <sup>4</sup>[(xii-a) specifying the authority competent to give certificate of eligibility for maternity benefit;]
- (xii-b) the manner of nomination by an insured woman for payment of maternity benefit in case of her or her child's death;]
- (xii-c) the production of proof in support of claim for maternity benefit, or additional maternity benefit;]
- (xiii) the conditions under which any benefit may be suspended;
- (xiv) the conditions to be observed by a person when in receipt of any benefit and the periodical medical examination of such persons;
- <sup>5</sup>[\*\*\*]
- (xvi) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates;
- <sup>6</sup>[(xvi-a) the qualifications and experience which a person should possess for giving certificate of sickness;]
- (xvi-b) the constitution of medical boards and medical appeal tribunals;]
- (xvii) the penalties for breach of regulations by fine (not exceeding two days' wages for a first breach and not exceeding three days'

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1 Ins. by Act No.29 of 1989 sec. 44, (w.e.f. 20.10.1989)

2 Subs. by Act No.44 of 1966, sec. 40, for clause (vi) (w.e.f. 28.1.1968).

3 Subs. by Act No.44 of 1966, sec. 40, for "and the form in which" (w.e.f. 28.1.1968)

4 Ins. by Act 44 of 1966, sec. 40 (w.e.f. 28.1.1968).

5 Clause (xv) omitted by Act No.29 of 1989, sec. 44 (w.e.f. 20.10.1989)

6 Ins. by Act 44 of 1966, sec. 40 (w.e.f. 28.1.1968).

wages for any subsequent breach) which may be imposed on employees;

- <sup>1</sup>[(xvii-a) the amount of damages to be recovered as penalty;  
(xvii-b) the terms and conditions for reduction or waiver of damages in relation to a sick industrial company;]  
(xviii) the circumstances in which and the conditions subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted;  
<sup>2</sup>[(xix) the returns to be submitted and the registers or records to be maintained by the principal and immediate employers, the forms of such returns, registers or records, and the times at which such returns should be submitted and the particulars which such returns, registers and records should contain;]  
(xx) the duties and powers of <sup>3</sup>[Social Security Officers] and other officers and servants of the Corporation;  
<sup>4</sup>[(xxa) the constitution of the appellate authority and the interest on amount deposited by the employer with the Corporation;]  
<sup>5</sup>[(xxi) the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the officers and servants of the Corporation other than the <sup>6</sup>[Director General and Financial Commissioner;]  
(xxii) the procedure to be followed in remitting contributions to the Corporation; and  
(xxiii) any matter in respect of which regulations are required or permitted to be made by this Act.

<sup>7</sup>[(2-A) The condition of previous publication shall not apply to any regulations of the nature specified in clause (xxi) of sub-section (2).]

(3) Regulations made by the Corporation shall be published in the Gazette of India and thereupon shall have effects as if enacted in this Act.

<sup>8</sup>(4) Every regulation shall, as soon as may be, after it is made by the Corporation, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation].

**98. Corporation may undertake duties in part B States.-]** Repealed by the Employees' State Insurance (Amendment) Act, 1951 (53 of 1951), s.26.

1 Ins. by Act No.29 of 1989, sec. 44 (w.e.f. 20.10.1989)

2 Subs. by Act No.53 of 1951, sec. 25, for clause (xix) (w.e.f. 6-10-1951).

3 **Substituted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

4 **Inserted by the Employees State Insurance (Amendment) Act, 2010 (No.18 of 2010), dated 25<sup>th</sup> May, 2010.**

5 Subs. by Act No.53 of 1951, sec. 25, for clause (xxi).

6 Subs. by Act No.29 of 1989, sec. 44, for "Principal Officers" (w.e.f. 20.10.89).

7 Ins. by Act No.53 of 1951, s.25 (w.e.f. 6-10-1951).

8 Ins. by Act No.45 of 1985, sec. 12 (w.e.f. 27.1.1985).

**<sup>1</sup>[99. Medical care for the families of insured persons.-** At any time when its funds so permit, the Corporation may provide or contribute towards the cost of medical care for the families of insured persons.]

**<sup>2</sup>[99A. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.]

**<sup>3</sup>[100. Repeals and savings.-** If, immediately before the day on which this Act comes into force <sup>4</sup>[in any part of the territories which, immediately before the 1st November, 1956, were comprised in a Part B State], there is in force in <sup>5</sup>[that part] any law corresponding to this Act, that law shall, on such day, stand repealed:

Provided that the repeal shall not affect-

- (a) the previous operations of any such law, or
- (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or
- (c) any investigation or remedy in respect of any such penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that subject to the preceding proviso anything done or any action taken under any such law shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under this Act.]

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1 Subs. by Act No.29 of 1989, sec.45, for section 99 (w.e.f. 20-10-1989).

2 Ins. by Ac No.44 of 1966, sec. 41 (w.e.f. 17.6.1967)

3 Ins. by Act No.53 of 1951. sec. 27, (w.e.f. 6-10-1951).

4 Subs. by the A.O. (No.3) of 1956, for "in a part B State" (w.e.f. 1-11-1956).

5 Subs. by the A.O. (No.3) of 1956, for "that State"

1[\*\*\*\*]

**THE SECOND SCHEDULE**  
**[SEE SECTIONS 2 (15A) AND (15B)]**

Sl. No.	Description of injury	Percentage of loss of earning capacity
1	2	3
<b>PART I</b>		
<b>LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT</b>		
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100
<b>PART II</b>		
<b>LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT</b>		
Amputation—Upper limbs (either arm)		
7.	Amputation through shoulder joint	90
8.	Amputation below shoulder with stump less than 20.32 c.m. from tip of acromion	80
9.	Amputation from 20.32 c.m. from tip of acromion to less than 11.43 c.m. below tip of olecranon	70
10.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 c. m. below tip of olecranon	60
11.	Loss of thumb	30
12.	Loss of thumb and its metacarpal bone	40
13.	Loss of four fingers of one hand	50
14.	Loss of three fingers of one hand	30
15.	Loss of two fingers of one hand	20
16.	Loss of terminal phalanx of thumb	20
<sup>2</sup> [16A.	Guillotine amputation of the tip of the thumb without loss of bone	10]
Amputation—lower limbs		
17.	Amputation of both feet resulting in end-bearing stumps	90
18.	Amputation through both feet proximal to the metatarso-phalangeal joint	80

1 THE FIRST SCHEDULE omitted by Act 29 of 1989, sec. 46

2 Ins. by Act 29 of 1989, sec. 47 (w.e.f. 20-10-1989).

Sl. No.	Description of injury	Percentage of loss of earning capacity
1	2	3
19.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
20.	Loss of all toes of both feet proximal to be proximal inter-phalangeal joint	30
21.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
22.	Amputation at hip	90
23.	Amputation below hip with stump exceeding 12.70 c.m. in length measured from tip of great trenchanter.	80
24.	Amputation below hip with stump exceeding 12.70 c.m. in length measured from tip of great trenchanter but not beyond middle thigh.	70
25.	Amputation below middle thigh to 8.89 c.m. below knee.	60
26.	Amputation below knee with stump exceeding 8.89 c.m. but not exceeding 12.70 c. m.	50
27.	Amputation below knee with stump exceeding 12.70 c. m.	<sup>1</sup> [50]
28.	Amputation of one foot resulting in end-bearing	<sup>2</sup> [50]
29.	Amputation through one foot proximal to the metatarso-phalangeal joint	<sup>3</sup> [50]
30.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
	Other Injuries	
31.	Loss of one eye, without complications, the other being normal	40
32.	Loss of vision of one eye without complications, or disfigurement of eye-bal, the other being normal	30
<sup>4</sup> [32A.	Partial loss of vision of one eye	10]
	Loss of—	
	A-Fingers of right or left hand Index figure	
33.	Whole	14
34.	Two phalanges	11
35.	One Phalanx	9
36.	Guillotine amputation of tip without loss of bone	5
	Middle finger	

1 Subs. by Act 29 of 1989, sec. 47, for "40", (w.e.f. 20-10-1989).

2 Subs. by Act 29 of 1989, sec. 47, for "30" (w.e.f. 20-10-1989).

3 Subs. by Act 29 of 1989, sec. 47, for "30" (w.e.f. 20-10-1989).

4 Ins. by Act 29 of 1989, sec. 47 (w.e.f. 20-10-1989).

Sl. No.	Description of injury	Percentage of loss of earning capacity
1	2	3
37.	Whole	12
38.	Two phalanges	9
39.	One Phalanx	7
40.	Guillotine amputation of tip without loss of bone	4
	Ring or little finger	
41.	Whole	7
42.	Two phalanges	6
43.	One Phalanx	5
44.	Guillotine amputation of tip without loss of bone	2
	B—Toes of right or left foot Great toe	
45.	Through metatarso-phalangeal joint	14
46.	Part, with some loss or bone	3
	Any other toe	
47.	Through metatarso-phalangeal joint	3
48.	Part, with some loss or bone	1
	Two toes of one foot, excluding great toe	
49.	Through metatarso-phalangeal joint	5
50.	Part, with some loss or bone	2
	Three toes of one foot, excluding great toe	
51.	Through metatarso-phalangeal joint	6
52.	Part, with some loss or bone	3
	Four toes of one foot, excluding great toe	
53.	Through metatarso-phalangeal joint	9
54.	Part, with some loss or bone	3

Note.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

**<sup>1</sup>[THE THIRD SCHEDULE  
[SEE SECTION 52A)  
LIST OF OCCUPATIONAL DISEASES**

Sl. No.	Occupational disease	Employment
1	2	3
<b>PART A</b>		
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination	(a) As work involving exposure to health or laboratory work;  (b) All work involving exposure to veterinary work;  (c) Work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses;  (d) Other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes	All work involving exposure to the risk concerned.
5.	Poisoning by organphosphorus compounds.	All work involving exposure to the risk concerned.
<b>PART B</b>		
1.	Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned.
3.	Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations	All work involving exposure to the action of radioactive substances or ionising radiations.

<sup>1</sup> Subs. by Act 45 of 1984, sec. 14, for the Third Schedule (w.e.f. 27-1-1985).



Sl. No.	Occupational disease	Employment
1	2	3
8.	Primary epithelomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products of residues of these substances	All work involving exposure to the risk concerned.
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series)	All work involving exposure to the risk concerned.
10.	Diseases caused by the carbon disulphide	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or by the salts of such substances	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds	All work involving exposure to the risk concerned.
20.	Diseases caused by nitro-glycerine or other nitroacid esters	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter	All work involving exposure to the risk concerned.
<b>PART C</b>		
1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis asbestosis) and silicosis is an essential factor in causing the resultant incapacity or death	All work involving exposure to the risk concerned.
2.	Bagassosis	All work involving exposure to the risk concerned.

Sl. No.	Occupational disease	Employment
1	2	3
3.	Bronchpulmonary diseases caused by cotton, flax hemp and sisal dust (Byssinosis)	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveelitis caused by the inhalation of organic dusts	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals	All work involving exposure to the risk concerned.

### ANNEXURE

#### Dates on which the provisions of the Act came into force in different areas

Date	Provisions	Area
1	2	3
<sup>1</sup> 1-9-1948	Chapters I, II, III and VIII	All the Provinces of India
<sup>2</sup> [1-4-1950	Sections 44 and 45 of Chapter IV and Chapter VII.	All Part A States, Ajmer, Coorg, Delhi and Andaman and Nicobar Islands.
<sup>3</sup> [1-12-1950	Chapters I, II, III VII and VIII Sections 44 and 45 of Chapter IV	Himachal Pradesh, Bilaspur, Kutch, Bhopal, Tripura, Vindhya Pradesh and Manipur.
<sup>4</sup> [24-11-1951	Chapters I, II, III VII and VIII Sections 44 and 45 of Chapter IV	All Part B States except the State of Jammu and Kashmir
<sup>5</sup> 24-2-1952	Chapters IV (except Sections 44 and 45), Chapter V and Chapter VI.	State of Delhi and Kanpur area of Uttar Pradesh.
<sup>6</sup> 1-9-1952	Sub-section (1) of Section 76, Sections 77, 78, 79 and 81 of Chapter VI.	Whole of India except the State of Jammu and Kashmir, State of Delhi, Kanpur area of Uttar Pradesh.
<sup>7</sup> 1-9-1954	Chapters I, II, III, VA, VII and VIII and Sections 44 and 45 of Chapter IV	United Khasi-Jaintia Hills District Garo hills District, Lushai Hills District, North Cachar Hills, Mikir Hills.
<sup>1</sup> 1-9-1971	Chapters I, II, III, V-A, VII, VIII and Sections 44 and 45 of Chapter IV	Union Territory of Goa, Daman and Die.

1 S.O. 21 (2) (1), dt. 31-8-1948, Gaz. of India, 1948, Ext. P. 1417.

2 S.O. 1221 (32) dt. 3-4-1950, Gaz. of India, 1950, Pt. S. 1. p. 64.

3 S.R.O. 997, dt. 2-12-1950, Gaz. of India, 1950, Pt. II S. 3 p. 1027.

4 S.R.O. 1832, dt. 24-11-1951, Gaz. of India, 1950, Pt. II S. 3 p. 2023.

5 S.R.O. 251, dt. 1-2-1952, Gaz. of India, 1952, Pt. II S. 3 p. 271.

6 S.R.O. 1576, dt. 3-9-1952, Gaz. of India, 1952, Pt. II S. 3 p. 1468.

7 S.R.O. 2972, dt. 1-9-1954, Gaz. of India, 1954, Pt. II S. 3 p. 2215.

Date	Provisions	Area
1	2	3
220-11-1971	Chapters I, II, III, VII and VIII and Sections 44 and 45 of Chapter IV	The State of Jammu and Kashmir

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1 S.R.O. 3262, dt. 1-9-1971, Gaz. of India, 1971, Ext. Pt. II S. 3(II), p. 2687.

2 S.R.O. 5163, dt. 26-10-1971, Gaz. of India, 1971, Pt. II S. 3 (iii), p. 6264.

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## THE EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1950<sup>1</sup>

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In exercise of the powers conferred by section 95 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government is pleased to make the following rules:

### CHAPTER I

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

<sup>2</sup>[(2) [They extend to the whole of India <sup>3</sup>[\*\*\*].]

**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 (34 of 1948);

<sup>4</sup>[(1A) "Average daily wages during a contribution period" means, in respect of any employee for the purpose of the daily rate of sickness benefit, maternity benefit, disablement benefit and dependents benefit, the sum equal to one hundred and fifteen per cent of the aggregate amount of wages payable to him during that period, divided by the number of days (including paid holidays and leave days) for which such wages were payable;

(1B) "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 wages 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;

(1C) "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;

<sup>5</sup>[(2A) "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;

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<sup>1</sup> Vide S.R.O. 212, dated 22nd June, 1950.

<sup>2</sup> Subs. S.R.O. 891, dated 12th May, 1952.

<sup>3</sup> Omitted by G.S.R. 129, dated 9th February, 1987.

<sup>4</sup> Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

<sup>5</sup> Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

(4) "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;

(7) "movable property" means property of every description except immovable property;

<sup>1</sup>[(7A) "standard benefit rate" means the daily rate of benefit specified in Rule 54;]

(8) "State Medical Commissioner" means a duly registered medical practitioner including a medical officer in the service of the State Government appointed as such by the Corporation;

(9) "year" shall mean the financial year, that is to say, the period beginning from the first of April and ending with the thirty-first of March of the year following;

<sup>2</sup>[(10) all other words and expressions shall have the meaning respectively assigned to them in the Act.]

### <sup>3</sup>[CHAPTER II]

<sup>4</sup>[2A. **Election of Members of Parliament to the Corporation:**-The House of the People (Lok Sabha) and the Council of States (Rajya Sabha) shall elect in such manner as the Speaker of the House of the People or as the case may be the Chairman of the Council of States may direct, two members of the House of the People (Lok Sabha) and one member of the Council of States (Rajya Sabha) to be members of the Corporation.]

**3. Election of members of the Standing Committee:**-(1) The Chairman of the meeting shall, at a meeting of the Corporation at which it is proposed to elect members of the Standing Committee under clause (c) of section 8, invite members to propose names from among members of the Corporation belonging to the group from which election is to be made. The names proposed shall be duly seconded by another member of the Corporation.

(2) If the number proposed from any group for election does not exceed the number of vacancies to be filled from that group, the persons whose names have been so proposed shall be declared elected to the Standing Committee.

(3) If the number proposed for election from a group exceeds the number of vacancies to be filled therefrom, each member of the Corporation present at the meeting shall be given a ballot paper containing the names of all the candidates proposed and he shall be required to vote thereon for as many candidates from the group as there are vacancies to be filled up. Not more than one vote shall be given in favour of any candidate. If any member votes for more candidates than there are vacancies in the group or gives more than one vote in favour of any one candidate, all his votes shall be deemed to be invalid.

(4) The persons getting the highest number of votes shall be declared by the Chairman, at the meeting or as soon thereafter as possible, as duly elected to the Standing Committee:

Provided that where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared to be elected, the determination of the person or persons to whom such

1 Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

3 Ins. by G.S.R. 2113, dated 28th November, 1968.

4 Subs. by G.S.R. 1006, dated 22nd May, 1968.

one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Chairman and in such manner as he may determine.

(5) If any question shall arise as to the validity of any election it shall be referred to the Central Government whose decision in the matter shall be final.

**4. Restoration to membership:-**(1) A member of the Corporation, the Standing Committee, or the Medical Benefit Council, who ceases to be a member by virtue of section 12, shall be informed of such cessation by a letter sent to him by registered post. The letter shall also indicate that if he desires restoration to membership, he may apply therefor within thirty days from the receipt of the letter.

(2) The application under sub-rule (1) indicate the reasons which prevented him from attending three consecutive meetings and shall be addressed to the Chairman concerned.

(3) The application shall be placed before the next meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and if a majority of the members present at such meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, he shall be restored to membership immediately after resolution to that effect is adopted.

(4) The benefit of restoration to membership as provided for in this rule shall be allowed to a member only once during any one term as a member.

**5. Fees and allowances of members:-**<sup>1</sup>(1) Subject to the provisions of sub-rules (2) and (3), every non-official member of the Corporation, Standing Committee or the Medical Benefit Council shall be allowed travelling and daily allowance for attending the meetings of the Corporation or the Standing Committee or the Medical Benefit Council, as the case may be, at the following rates:—

- (i) Travelling allowance:
  - (A) A non-official member residing at the place where a meeting is held shall be allowed the actual expenditure incurred by him on conveyance subject to the maximum of rupees fifty for each day on which he attends one or more meetings;
  - (B) A non-official member, not residing at the place where a meeting is held, shall be allowed to draw :
    - (a) actual expenditure incurred by him on air journey by economy (Tourist) class; or
    - (b) actual expenditure incurred by him on journey, by rail by second class A.C. two-tier sleeper or first class, as the case may be;
    - (c) actual fare or expenditure incurred on road journey by taxi or own car or auto-rikshaw or bus (other than an air-conditioned bus) but not exceeding the rates notified by the concerned Director of Transport for journey by taxi or auto-rikshaw. When the journey is performed between places connected by railway, mileage would be

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<sup>1</sup> Subs. by G.S.R. 199, dated 6th March, 1990 (w.e.f. 1-1-1990).

limited to what would have been admissible to the member under clause (b) of this item.

- (ii) Daily allowance :
- (A) A non-official member residing at a place where a meeting is held shall not be entitled to any daily allowance;
- (B) A non-official member, not residing at a place where a meeting is held shall be paid daily allowance at the rate of Rs. 150 (rupees one hundred and fifty only) per day if the member stays in a hotel and Rs. 100 (rupees one hundred only) per day if the member does not stay in a hotel:

Provided that the daily allowance shall be calculated for the entire absence from the normal place of residence of the non-official member on calendar day basis; i.e., midnight to midnight as under:

For absence not exceeding 6 hours	Nil
For absence exceeding 6 hours but not exceeding 12 hours	70%
For absence exceeding 12 hours	100%

(2) A non-official member of the Corporation or Standing Committee or the Medical Benefit Council who is a Member of Parliament or a Member of the State Legislature shall be paid travelling allowance and daily allowance in accordance with the provisions of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954), or the respective provision of the law pertaining to the members of the concerned State Legislature.

(2A) Travelling and daily allowance shall be allowed if a member certifies that he has not drawn any travelling or daily allowance from any other source in respect of the journey and halt for which the claim is made.

(2B) The daily and travelling allowance shall also be payable in respect of the meetings of any sub-committee set up by the Corporation, the Standing Committee or the Medical Benefit Council.]

<sup>1</sup>[(3) Payments shall not be made to a non-official member earlier than the last date upon which the allowance is claimed. The travelling allowance for both the onward and return journeys will be included in the travelling allowance bill and the payment made thereof treated as final, irrespective of the date of completion of the journey. The Director-General, Employees' State Insurance Corporation will, however, obtain a formal intimation from the non-official member to the effect that the return journey has, in fact, been completed.]

**6. Minimum number of meetings:-**(1) The Corporation <sup>2</sup>[and the Medical Benefit Council] shall meet at least twice each year.

(2) The Standing Committee <sup>3</sup>[\*\*\*] shall meet at least four times each year.

(3) The Chairman may, whenever he thinks fit and shall, within fifteen days of the receipts of a requisition in writing from not less than one half of the members of the body concerned, call a meeting thereof.

(4) Any requisition made under this rule shall specify the object of the meeting proposed to be called.

1 Note No. 3 omitted and note No. 4 re-numbered as note No. 3 Notification No. G.S.R. 69, dated 4-1-1982.

2 Ins. by G.S.R. 199, dated 6th March, 1990 (w.e.f. 1-1-1990).

3 Omitted by G.S.R. 199, dated 6th March, 1990 (w.e.f. 1-1-1990).

**7. Roll of members:-**(1) The Corporation shall maintain a Roll of Members separately for the Corporation, the Standing Committee and the Medical Benefit Council. The name and the address of each member shall be stated therein.

(2) If a member changes his address, he shall notify such change to the Corporation for the correction of his address in the Roll.

**8. Notice of meeting and list of business:-**(1) The Chairman shall decide the date, time and place of every meeting. A notice of not less than twenty-one days from the date of issue shall ordinarily be given to every member, of each meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be. Such notice may be given to every member by post or in any other suitable manner. A list of business proposed to be transacted shall, after approval by the Chairman, be posted along with the notice. Brief notes on each item of the agenda shall be sent along with the agenda or as soon thereafter as possible. If it is necessary to convene an emergency meeting, a reasonable notice thereof shall be given to every member.

(2) No business other than that for which a meeting is convened shall be considered at that meeting, except with the permission of the Chairman of the meeting.

**9. Chairman of the meeting:-**The Chairman, or in his absence the Vice-Chairman, if any, of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, shall preside at the meetings. In the event of the absence of both the Chairman and Vice-Chairman, if any, the members present may elect one from amongst themselves to preside.

**10. Quorum:-**No business shall be transacted at any meeting unless a quorum of 1[fifteen] members in the case of the Corporation, five members in the case of the Standing Committee and seven members in the case of the Medical Benefit Council, is present:

Provided that if at any meeting there is not a sufficient number of members present to form a quorum, the Chairman of the meeting may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending.

**11. Disposal of business:-**Any business which requires consideration by the Corporation, the Standing Committee or the Medical Benefit Council shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon if supported by not less than a two-thirds majority of the members of the body concerned. In other cases or where the Chairman so decides, the question shall be considered at a duly convened meeting.

**12. Proceedings of the meetings:-**(1) The proceedings of each meeting, showing inter alia the name of the members present thereat, shall be forwarded to each member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and to the Central Government as soon after the meeting as possible and in any case not later than four weeks after the meeting.

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1 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).



(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

**13. Minute-books:-**(1) The minutes of a meeting of the Corporation, the Standing Committee and the Medical Benefit Council shall be kept in separate books (hereinafter referred to as minute-books) and shall be signed by the Chairman of the meeting at which the proceedings are confirmed.

(2) A copy of the minutes so confirmed shall be forwarded to the Central Government within fifteen days from the date of such confirmation.

(3) The minute-books shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Corporation.

(4) The minute-books of the Medical Benefit Council shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Medical Benefit Council.

**14. Powers and duties of the Medical Benefit Council:-**The powers and duties of the Medical Benefit Council shall be—

(1) to advise the Corporation in regard to the constitution, setting up duties and powers of the Regional and Local Medical Benefit Councils;

(2) to make recommendations to the Corporation in regard to—

(i) the scale and nature of medical benefit provided at hospitals, dispensaries, clinics and other institutions and the nature and the extent of the medicines, staff and equipment which shall be maintained at such institutions and the extent to which these fall short of the desired standard;

(ii) the medical formulary for use in connection with the medical benefit provided under the Act;

(iii) Medical certification, including the procedure and the forms for such certification, statistical returns, registers and other medical records;

(iv) measures undertaken for the improvement of the health and welfare of insured persons, and the rehabilitation and re-employment of insured persons, disabled or injured.

(3) to advise the Corporation on any matter relating to the professional conduct of any medical practitioner employed for the purpose of providing medical benefit under the Act.

### CHAPTER III

**15. <sup>1</sup>[Salaries, allowances and conditions of service of the Director General and Financial Commissioner:-**(1) The Director General shall be in the scale of pay of <sup>2</sup>[Rs. 22,400-24,500] and the Financial Commissioner shall be in the scale of pay of <sup>3</sup>[Rs. 18,400-22,400].

(2) The Director General and the Financial Commissioner shall receive dearness allowance, city compensatory allowance, house rent allowance, travelling allowance and other allowances, at such rates, and such provident fund, leave and medical benefits as may be sanctioned for the officers of the Central Government drawing similar salary at the place where they are posted:

Provided that where the Director General or the Financial Commissioner is a person already in the service of the Corporation, he shall be entitled to pension,

1 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Subs. by G.S.R. 210, dated 27-03-2001 (w.r.e.f 01-10-2000)

3 Subs. by G.S.R. 210, dated 27-03-2001 (w.r.e.f 01-10-2000)

gratuity and other superannuation benefits to which he would have been otherwise entitled but for his appointment as the Director General or the Financial Commissioner:

Provided further that the pay, allowances and conditions of service of the Director General or the Financial Commissioner, if he is a person already in the service of the Government, shall be such as may be determined by the Central Government in each individual case.]

**16. Powers and duties of the Director-General:-**(1) The powers and duties of the Director-General shall be—

- (i) to act as the Chief Executive Officer of the Corporation;
- (ii) <sup>1[\*\*\*]</sup>
- (iii) to convene, under the orders of the Chairman, meetings of the Corporation, the Standing Committee and the Medical Benefit Council in accordance with the Act and the Rules and to implement the decisions reached at the meetings;
- (iv) to enter into contracts on behalf of the Corporation in accordance with the Act or the Rules or Regulations made thereunder, or the general or special instructions of the Corporation or the Standing Committee;
- (v) to furnish all returns and documents required by the Act or the Rules to the Central Government and to correspond with the Central Government and the State Governments upon all matters concerning the Corporation;
- (vi) to undertake such other duties and to exercise such other powers as may from time to time be entrusted or delegated to him.

(2) The Director-General may, with the approval of the Standing Committee, by general or special order, delegate any of his powers or duties under the Rules or the Regulations or under any resolution of the Corporation or the Standing Committee, as the case may be, to any person subordinate to him. The exercise or discharge of any of the powers or duties so delegated shall be subjected to such restrictions, limitations and conditions, if any, as the Director-General may, with the approval of the Standing Committee impose.

<sup>2[\*\*\*\*]</sup>

**19. Powers and duties of the <sup>3</sup>[Financial Commissioner]:-**The powers and duties of the <sup>4</sup>[Financial Commissioner] shall subject to the control of the Director-General be—

- (i) to maintain the accounts of the Corporation and to arrange for the compilation of accounts by the collection of returns from the Centres and Regions;
- (ii) to prepare the budget of the Corporation;
- (iii) to arrange for internal audit of the accounts of the Centres and Regions and of the receipts and payments thereat;
- (iv) to make recommendations for the investment for the funds of the Corporation; and

1 Clause (ii) omitted by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Rules 17 and 18 omitted by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

3 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

4 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

- (v) to undertake such other duties and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

**20. 1[Creation of posts by the Corporation:-**The powers for creation of posts vested in the Corporation under sub-section (1) of section 17 of the Act shall be exercised by the Corporation in relation to posts carrying maximum scale of pay of <sup>2</sup>[Rs. 37,400-67,000.]

### **<sup>3</sup>[CHAPTER IIIA**

**20A. Appeals to Medical Appeal Tribunal:-**(1) If the insured person or the Corporation is not satisfied with the decision of the Medical Board, the insured person or the Corporation may appeal against such decision to the Medical Appeal Tribunal referred to in sub-section (2) of section 54A by presenting an application within three months from the date of communication of the said decision to the insured person or the Corporation, as the case may be:

Provided that the Medical Appeal Tribunal may entertain an application after the period of three months, if it is satisfied that the appellant had sufficient reasons for not presenting the application within the said period.

(2) The application, referred to in sub-rule (1) shall be in Form 2 and shall contain a statement of the grounds upon which the appeal is made.

(3) The application may be sent to the Chairman of the Medical Appeal Tribunal by registered post or may be presented personally.

**20B. Appeals to Employees' Insurance Court:-**(1) The insured person or the Corporation may appeal to the Employees' Insurance Court by presenting an application within three months of the date of communication of the decision of the Medical Board or of the Medical Appeal Tribunal to the insured person or the Corporation, as the case may be:

Provided that the Employees' Insurance Court may entertain an application after the period of three months, if it is satisfied that the applicant had sufficient reasons for not presenting the application within the said period.

(2) The rules made by the State Government in respect of the forms and manner to be followed in presenting applications to the Employees' Insurance Court shall be applicable to the applications presented under this rule.]

### **CHAPTER IV**

**21. Bank or Banks for depositing the Fund:-**(1) All moneys accruing or payable to the Fund shall be received by such officers of the Corporation as may be authorised by it in this behalf. The amount so received shall as soon as practicable be acknowledged by a receipt in Form I and deposited in the Reserve or the <sup>4</sup>[State Bank of India or any of its subsidiaries] <sup>5</sup>[or the Nationalised Banks] to the account of the Fund:

Provided that any moneys may also be paid directly to the account of the fund in any such bank.

<sup>6</sup>[Explanation: "Nationalised Bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and

1 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 **Substituted by the Employees' State Insurance (Central) (2<sup>nd</sup> Amendment) Rules, 2010, G.S.R. 115, dated 17<sup>th</sup> July, 2010.**

3 Ins. by G.S.R. 2113, dated 28th November, 1968.

4 Subs. G.S.R. 231, dated 20th January, 1964.

5 Subs. by G.S.R. 129, dated 9th February, 1987 (w.e.f. 28-2-1987).

6 Ins. by G.S.R. 129, dated 9th February, 1987 (w.e.f. 28-2-1987).

Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).]

(2) The receipt book in Form I shall be numbered serially by machine and the unused forms shall be kept in the custody of the <sup>1</sup>[Financial Commissioner] or such other officer of the Corporation as may be authorised by the Corporation in this behalf.

**22. Procedure for crediting moneys to the Banks:-**(1) All moneys accruing or payable to the Corporation shall be credited to the approved bank and not utilised directly for any purpose.

(2) The bank or banks shall be required at the end of every calendar month to furnish to the Corporation or such officer as may be authorised by it in this behalf, a statement of the amounts deposited in and withdrawn from the Fund during the month. These statements shall be examined by the Director-General before the expiry of a period of two months following the period to which the statements relate.

**23. Purpose and manner of payment out of the Fund:-**(1) The accounts of the Fund shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

(2) No payment shall be made by the bank or banks out of the Fund except on a cheque signed by such officers as may be authorised under sub-rule (1).

(3) Any payment in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way unless specifically authorised by the Standing Committee:

Provided that payment of salaries to the employees of the Corporation drawing a basic salary not exceeding rupees two hundred and fifty a month may be made in cash.

(4) No payment shall be made out of the Fund unless the expenditure is covered by a current budget grant:

Provided that in the absence of a current budget grant, the Corporation may authorise payments either generally or for any particular case:

Provided further that the payment of benefits to insured person under the provisions of the Act and of the pay and allowances of duly sanctioned posts shall not be withheld for want of a sanctioned budget grant.

**<sup>2</sup>[23A. Promotion of measures for the improvement of health and welfare of insured persons:-**For the promotion of measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured, the Corporation may incur an expenditure up to a limit of rupees <sup>3</sup>[three hundred crores] per year from the Employees' State Insurance Fund.]

**24. Circumstances in which cheques may be drawn:-**Before any person authorised under rule 23 signs a cheque, he shall satisfy himself that the sum for which the cheque is drawn is—

- (i) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget grant; and

1 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Ins. by G.S.R. 240, dated 6th February, 1964.

3 Subs. by G.S.R. 322 (E), dated 17th May, 2005 (w.e.f. 1-5-2005).

- (ii) required for any payment referred to and specified under section 28:

Provided that in the absence of a current budget grant the Corporation may authorise payment either generally or for any particular case:

Provided further that the payment of benefits to insured persons under the provisions of the Act and of the pay and allowances of duly sanctioned posts shall not be withheld for want of a sanctioned budget grant.

**25. Acquisition of property:**-Subject to the provisions of rule 29 and such conditions, as may, from time to time, be laid down by the Corporation, the Director-General may, for the purposes of this Act, acquire on behalf of the Corporation movable or immovable property:

Provided that sanction of the Standing Committee shall be required for the exchange of any immovable property for taking of any property on lease for a term exceeding twelve months, or for the acceptance of any gift or bequest of property burdened by an obligation.

**26. Disposal of property:**-Subject to the provisions of rule 29 and such conditions as may be laid down by the Corporation from time to time, the Director-General may—

- (i) dispose of, by sale or exchange, any movable property belonging to the Corporation, the value of which does not exceed ten thousand rupees in each case, or grant for any term not exceeding twelve months a lease of any immovable property belonging to the Corporation;
- (ii) with the sanction of the Standing Committee, lease, sell or otherwise dispose of any movable or immovable property belonging to the Corporation.

**27. Investment, transfer or realisation of the Fund:**-(1) All moneys belonging to the Fund which are not immediately required for expenses properly defrayable under the Act, may, subject to the approval of the Standing Committee, be invested by the Director-General—

- (i) in Government securities including Treasury Deposit Receipts; or
- (ii) in securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882 (2 of 1882); or
- <sup>1</sup>[(iii) as fixed deposit in the Reserve or the State Bank of India or any of its subsidiaries or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).]

(2) Moneys belonging to the Fund shall not be invested in any other manner except with the prior approval of the Central Government.

(3) Any investment made under this rule may, subject to the provisions of sub-rules (1) and (2), be varied, transposed, or realised from time to time:

Provided, however, that if such variation, transposition or realisation is likely to result in a loss, the prior approval of the Central Government shall be obtained.

<sup>2</sup>[*Explanation:* The approval of the Central Government shall not be required merely on the ground that the value of the security on its maturity is less than the price at which it was purchased.]

1 Subs. by G.S.R. 306, dated 7th March, 1974.

2 Ins. by G.S.R. 677, dated 29th March, 1968.

(4) The Central Government may, at any time, direct the vacation in part or in whole, or prohibit investment, in any security or class of securities or any land or building.

(5) All dividends, interest or other sums received in respect of any investment shall, as soon as possible after receipt, be paid into or credited to the account of the Fund.

(6) The expenses of, or the loss, if any, arising from any investment shall be charged to the Fund and the profit, if any, from the sale of any investment shall also accrue to the Fund.

(7) The approval under sub-rules (1) and (2) of the Standing Committee or the Central Government, as the case may be, may be given with or without any conditions either generally or in any particular case.

**28. Raising and repayment of loans:-**(1)(i) The Corporation may, in pursuance of a resolution passed at a meeting of the Standing Committee, and with the prior approval of the Central Government, raise loans for the purposes of the Act.

- (ii) In particular and without prejudice to the generality of the foregoing power, the Corporation may raise loans—
  - (a) for the acquisition of land and/or the raising of buildings thereon; or
  - (b) to repay a loan raised under this rule; or
  - (c) for any other purpose approved by the Central Government.

(2) All loans under this rule shall be obtained—

- (i) from the Central Government on such rates of interest and such terms as to the time and method of repayment as the Central Government may specify; or
- (ii) with the approval of the Central Government, from the Reserve or the <sup>1</sup>[State Bank of India or any of its subsidiaries] or any other scheduled bank.

(3) Where a loan is obtained from the Reserve Bank of India or any of its subsidiaries as provided in clause (ii) of sub-rule (2), the Corporation may, with the approval of the Central Government, grant mortgages of all or any of the property vested in it for securing the repayment of the sums so advanced, with interest.

(4) All payments due from the Corporation for interest on and repayment of loans shall be made in such manner and at such time as may have been agreed upon:

Provided that the Corporation may apply any sums which can be so applied, in repaying any amount due in respect of the principal of any loan although the repayment of the same may not be due.

(5) No expenditure incurred out of loan shall be charged by the Corporation to capital, except with the previous sanction (or under the direction) of the Central Government.

(6) The Corporation shall submit to the Central Government an annual statement by the thirtieth of April each year showing the loans raised and repayments made during the preceding year.

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1 Subs. by G.S.R. 131, dated 20th January, 1964.

**29. Procedure for execution of contracts:-**(1) The Corporation may enter into and perform all such contracts as it may consider necessary or expedient for carrying into effect the provisions of the Act.

(2) Every contract made under or for any purpose of the Act shall be made on behalf of the Corporation—

- (i) by the Director-General; or
- (ii) subject to such conditions as it may specify by such member or officer of the Corporation as it may authorise:

Provided that the prior sanction of the Standing Committee shall be obtained in respect of any contract involving an expenditure exceeding <sup>1</sup>[rupees five lakhs].

(3) Every contract entered into by any person as provided in sub-rule (2) shall be entered into in such manner and form as would bind him if it were made on his own behalf and may in like manner and form be varied or discharged:

Provided that the common or official seal, as the case may be, of the Corporation shall be affixed to every contract for amounts exceeding one thousand rupees.

**30. Seal:-**(1) The common seal of the Corporation shall remain in the custody of the Director-General and shall not be affixed to any instrument except in the presence of the Director-General or two members of the Standing Committee, and the Director-General or the said two members shall sign the contract in token of the fact that the same was sealed in his or their presence.

(2) The Corporation shall have for use at each of such other of its offices, as it may specify, an official seal which shall be a facsimile of the common seal of the Corporation with the addition of the name of the office where it is to be used.

(3) The official seal shall not be affixed to any instrument except in the presence of such person or persons as the Standing Committee may authorise in this behalf and such person or persons shall sign the instrument in token of the fact that the same was sealed in his or their presence.

(4) An instrument to which an official seal is duly affixed shall bind the Corporation as if it had been sealed with the common seal of the Corporation.

#### CHAPTER V

**31. Preparation and submission of annual budget estimates:-**(1) The budget estimates of the Corporation for each financial year beginning on the first of April and ending on the thirty-first of March next shall be prepared by the Chief Accounts Officer in such form as the Central Government may, from time to time, direct and shall be submitted with his recommendations by the Director-General to the Standing Committee for approval at a meeting of the Standing Committee to be held before the <sup>2</sup>[1st of February] of the preceding year.

(2) A copy of the budget estimates shall be sent to each member of the Standing Committee and of the Corporation at least seven clear days before the meeting of the Standing Committee or the Corporation at which these estimates are to be considered.

(3) The Standing Committee shall consider and approve the budget estimates with such changes as it may consider necessary.

(4) The budget estimates as approved by the Standing Committee shall be placed before a meeting of the Corporation to be held before the [twentieth of February] of the preceding year.

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1 Subs. by G.S.R. 594, dated 29th March, 1963.

2 Subs. S.R.O. 1173, dated 15th May, 1956.

(5) The budget estimates as passed by the Corporation shall be authenticated by affixing the common seal of the Corporation and shall be submitted to the Central Government under section 32, not later than the first day of March next following.

(6) It shall be open to the Central Government to make such alterations in the budget estimates as may be considered necessary before according approval.

<sup>1</sup>[(7) The budget estimates as finally adopted by the Corporation and as approved by the Central Government shall be placed before the Parliament by the administrative ministry concerned in the month of March preceding the financial year to which the estimates relate and shall be published in the Official Gazette].

**31A. <sup>2</sup>[Administrative expenses:-**(1) The expenditure incurred by the Corporation on the following items shall be termed as administrative expenses under section 28 of the Act, namely :—

- (i) Payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees;
- (ii) Payment of salaries, leave and joining time allowances, travelling and compensatory and other allowances, bonus, gratuities and compassionate allowances, pensions, contributions to the provident fund or other benefit funds of officers and employees of the Corporation;
- (iii) Defraying expenses on depreciation and maintenance of staff cars, office buildings, staff quarters, hiring of accommodation, purchase of furniture, office equipments, stationery, printing and other expenditure in respect of offices of the Corporation;
- (iv) Defraying expenses towards membership subscription to International Organisation, and other services for the purposes of giving effect to the provisions of the Act;
- (v) Defraying the cost (including all expenses) of the auditing accounts of the Corporation and of the valuation of its assets and liabilities;
- (vi) Defraying the cost (including all expenses) of the Employees' State Insurance Courts set up under the Act;
- (vii) Payment of any sums under any contract entered into for the purposes of this Act by the Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in this behalf;
- (viii) Payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceedings or claim instituted or made against the Corporation;
- (ix) Defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;
- (x) Defraying the expenditure in connection with publicity, of the Employees' State Insurance Scheme, including printing of publicity materials courses relevant to the purposes of the Act;

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1 Subs. by G.S.R. 1834, dated 18th December, 1964.

2 Ins. by G.S.R. 226, dated 22nd April, 1997 (w.e.f. 1-5-1997).



- (xi) Defraying the expenditure on conducting evaluation studies on various aspects of functioning of the Employees' State Insurance Scheme.

(2) The percentage of the total revenue income of the Corporation which may be spent every year on its administrative expenses beginning with the year 1997-98 shall not exceed fifteen per cent.]

**32. Supplementary estimates:-**The Standing Committee may cause a supplementary estimate to be prepared and submitted to the Corporation, if in respect of any financial year further expenditure is likely to be incurred. Every such supplementary estimate shall be considered and sanctioned by the Corporation and submitted to the Central Government in the same manner as if it were an original annual estimate, not later than the fifteenth of February of the financial year to which it relates. The provisions of rule 31 shall, so far as may be, apply to such supplementary estimate.

**33. Re-appropriation:-**(1) If the Director-General finds in the course of the year that there is likely to be an excess of expenditure over the sanctioned budget estimate under any head, he shall examine the allotment under each head of budget estimate with the object of discovering probable savings under any other head and effecting a re-appropriation. Where such re-appropriation is feasible, he may sanction the re-appropriation subject to such conditions as may be laid down by the Central Government from time to time.

(2) Funds shall not be re-appropriated to meet expenditure on a new service not contemplated in the budget estimates except with the prior approval of the Central Government.

(3) No re-appropriation shall be permitted between the grant sanctioned for administrative expenses, two-thirds of which shall be met by the Central Government, and a grant sanctioned for any other expenditure.

**34. Maintenance of accounts:-**The Corporation shall maintain complete and accurate accounts in such form as the Standing Committee, may with the approval of the Central Government, specify from time to time. The books shall be balanced on the thirty-first of March each year.

**35. Revenue accounts:-**The Corporation shall prepare Revenue Accounts for the financial year ended on the thirty-first March and Balance Sheet as on the thirty-first March, by the thirty-first of May:

Provided that on the application of the Corporation, the Central Government may extend the said date by a period not exceeding thirty days:

Provided further that the Corporation may, and if so required by the Central Government shall, cause to be prepared the Revenue Accounts and the balance sheet for any other period or as on any other date.

1[\*\*\*]

**37. Production of accounts before <sup>2</sup>[the Comptroller and Auditor General of India].:-**The annual accounts shall be set out and produced before <sup>3</sup>[the Comptroller and Auditor General of India] for scrutiny on or before the fifteenth of June each year following the close of the financial year to which they relate:

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1 Rule 36 omitted by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

3 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

Provided that on the application of the Corporation the Central Government may extend the said date by a period not exceeding thirty days.

**38. Powers of auditors:-**The Corporation shall submit all accounts to the <sup>1</sup>[Comptroller and Auditor General of India] as required by them. The <sup>2</sup>[Comptroller and Auditor General of India] may—

- (i) by written notice, require the production before them or before any officer subordinate to them, of any document which they may consider necessary for the proper conduct of their audit;
- (ii) by written notice, require any person accountable for, or having the custody or control of any such document, to appear in person before them or before any officer subordinate to them; and
- (iii) require any person so appearing before them or before any officer subordinate to them to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement.

**39. Report of auditors:-**The <sup>3</sup>[report of the Comptroller and Auditor General of India] on the annual accounts shall be submitted to the Corporation on such date and in such forms as the Central Government may specify in this behalf and they shall state whether in their opinion the Balance Sheet is a full and fair Balance Sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Corporation's affairs and in case they have called for any explanation or information from the Corporation or any of its officers, whether it has been given and whether it is satisfactory.

**40. Consideration of reports:-**(1) The annual report on the work and activities of the Corporation (excluding the unaudited accounts for the year incorporated therein) shall be considered by the Standing Committee and shall be placed for adoption at a meeting of the Corporation to be held before the <sup>5</sup>[tenth of December] following the close of the financial year concerned.

<sup>6</sup>(2) The Annual Accounts relating to a financial year duly authenticated by the Financial Commissioner and the Director General and approved by the Standing Committee shall be submitted for audit to the Comptroller and Auditor General of India and the Audited Accounts together with the report of the Comptroller and Auditor General of India shall be placed for adoption at a meeting of the Corporation to be held before the tenth of December following the close of the financial year concerned:

Provided that the report of the Comptroller and Auditor General of India is received by the twentieth November, following the year to which it pertains.]

**41. Authentication of annual accounts and reports:-**The annual accounts together with the <sup>8</sup>[report of the Comptroller and Auditor General of India] thereon and the annual report on the work and activities of the

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1 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

3 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

4 Subs. by G.S.R. 1834, dated 18th December, 1964.

5 Subs. by G.S.R. 199, dated 6th March, 1990 (w.e.f. 1-1-1990).

6 Ins. by G.S.R. 57, dated 31st January, 2005. (w.e.f. 31-1-2005).

7 Subs. by G.S.R. 1834, dated 18th December, 1964.

8 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

Corporation as adopted by the Corporation shall be authenticated by affixing the common seal of the Corporation and four copies thereof <sup>1</sup>[together with the comments of the Corporation on the report of the Comptroller and Auditor General] shall be submitted to the Central Government not later than the <sup>2</sup>[twentieth of December] following the close of the financial year concerned for being placed before the Parliament:

Provided that if the <sup>3</sup>[report of the Comptroller and Auditor General of India] is not received by the <sup>4</sup>[twentieth of November] following the financial year to which it pertains.]

**42. Cost of Audit:-**The cost of audit shall be paid by the Corporation by such date as may be specified by the Central Government.

<sup>5</sup>[\*\*\*].

**44. Impropriety or irregularity in accounts:-**(1) The auditors shall submit to the Corporation and the Central Government a separate statement, if necessary, in regard to—

- (i) any material impropriety or irregularity which they may observe in the expenditure, or in the recovery of moneys due to, or in the accounts of the Corporation; or
- (ii) any loss or waste of money or other property owned by or vested in the Corporation which has been caused by neglect or misconduct, with the names of the persons who in their opinion are directly or indirectly responsible for such loss or waste.

(2) The Standing Committee shall forthwith remedy any defect or irregularity that may be pointed out by the auditors and shall report to the Central Government the action taken by it thereon within ninety days of the receipt of the report of the auditors:

Provided that if there is a difference of opinion between the Standing Committee and the auditors, or if the Standing Committee does not remedy any defect or irregularity within a reasonable period, Central Government may, and on a reference specifically made thereof, shall pass such orders thereon as they think fit and the Standing Committee shall thereafter take action in accordance therewith within such time as may be specified by the Central Government.

**45. Disallowance of expenditure incurred and surcharge for loss or deficiency:-**(1) The Standing Committee or any authority authorised by it in this behalf may, after giving the person concerned an opportunity to submit an explanation, and after considering any such explanation, disallow any item of account contrary to the provisions of the Act or of the rules or regulations made thereunder, and surcharge the same on the person making or authorising the making of payment of such account and shall charge against any person accounting, the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person:

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1 Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

2 Subs. by G.S.R. 69, dated 4th January, 1982.

3 Subs. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

4 Subs. by G.S.R. 199, dated 6th March, 1990 (w.e.f. 1-1-1990).

5 Rule 43 omitted by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

Provided that no certificate made by the authority authorised by the Standing Committee shall have effect unless it is approved by the Standing Committee.

(2) The Standing Committee shall state in writing its reasons for every disallowance, surcharge or charge made or approved by it and shall serve a certificate of the amount due and a copy of the reasons for its decision on the person against whom the certificate is made and shall also furnish copies thereof to the Central Government.

(3) Any person aggrieved by a certificate made under this rule may, within one month from the date of the service of certificate on him under sub-rule (2), file an application to the Central Government for setting aside or modifying the disallowance, surcharge or charge in respect of which the certificate was made.

(4) On receipt of application under sub-rule (3) or on its own motion, the Central Government may, after making such inquiry as may be necessary, pass such order as it thinks fit either confirming, modifying or setting aside the disallowance, surcharge or charge in respect of which the certificate was made and the Standing Committee shall thereupon take action in accordance with such order within such time as may be specified by the Central Government.

(5) The Central Government may by order direct that all further action under the certificate made under this rule shall be stayed until the disposal of the matter pending before it under sub-rule (4).

**46. Recovery of amounts certified to be due:-**(1) Every sum certified to be due from any person by the Standing Committee or if the certificate has been modified by the Central Government, the sum shown to be due from such person in the modified certificate, shall be paid by such person to the Corporation within three months after he has been served with the certificate of the Standing Committee; or within such longer time as may be allowed by the Central Government; and 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.

**1[50. Wage limit for coverage of employees under the Act:-**The wage limit for coverage of an employee under sub-clause (b) of clause (9) of section 20 of the Act shall be 1[fifteen thousand] rupees a month:

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1 Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

Provided that an employee whose wages (excluding remuneration for overtime work) exceed <sup>2</sup>[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.

<sup>3</sup>[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 a month.]

**4[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.]

**5[51-A. Employer's contributions 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 up to 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.]

**6[52. Exemption from payment of employee's contribution:-**The average daily wages during a wage period for exemption from payment of employee's contribution under section 42 shall be upto and inclusive of <sup>7</sup>[rupees seventy].

**8[53. Writing off of losses:-**(1) Where the Corporation is of the opinion that the amount of contribution, interest and damages due to the Corporation has become irrecoverable, the Corporation or any other officer authorised by it in this behalf may sanction the writing off of the said amount, subject to the following conditions, namely :—

1 Substituted by the Employees' State Insurance (Central) (Amendment) Rules, 2010, G.S.R. 349(E), dated 20<sup>th</sup> April, 2010 (w.e.f 01-05-2010).

2 Substituted by the Employees' State Insurance (Central) (Amendment) Rules, 2010, G.S.R. 349(E), dated 20<sup>th</sup> April, 2010 (w.e.f 01-05-2010).

3 Proviso inserted by G.S.R. 254(E), dated 31<sup>st</sup> March, 2008 (w.e.f. 01-04-2008).

4 Subs. by G.S.R. 316, dated 26<sup>th</sup> August, 2004 and as corrected by G.S.R. 58, dated 19<sup>th</sup> January, 2005, for rule 51

5 Rule 51-A inserted by G.S.R. 254(E), dated 31<sup>st</sup> March, 2008 (w.e.f. 01-04-2008).

6 Subs. by G.S.R. 76, dated 22<sup>nd</sup> January, 1991 (w.e.f. 1-2-1991).

7 Subs. for "rupees fifty" by The Employees' State Insurance (Central) (1<sup>st</sup> Amendment) Rules, 2007 vide G.S.R. 465(E), dated 4<sup>th</sup> July 2007 (w.e.f 01-08-2007).

8 Subs. by G.S.R. 76, dated 22<sup>nd</sup> January, 1991 (w.e.f. 1-2-1991).

- (i) establishment or factory has been closed for more than five years and the whereabouts of the employer cannot be ascertained despite all possible efforts;
- (ii) decree obtained by the Corporation could not be executed successfully for want of sufficient assets of the defaulting employer; or
- (iii) claim for contribution is not fully met by—
- (a) the Official Liquidator in the event of factories or establishments having gone into liquidation; or
  - (b) the Commissioner of Payments in the event of unit being nationalised or taken over by the Government.

**<sup>1</sup>[54. Daily rate of benefit:-**Daily rate of benefit (hereinafter referred to as the "Standard benefit rate", in respect of group of employees specified in the first column of the table below shall be the amount respectively specified in the corresponding entry in the second column thereof.

<sup>2</sup>[TABLE

Sl. No.	Average daily wages are	Standard benefit rate (in Rs.)
1	2	3
1.	Below Rs. 28	14 or full average daily wage whichever is less
2.	Rs. 28 and above but below Rs. 32	16
3.	Rs. 32 and above but below Rs. 36	18
4.	Rs. 36 and above but below Rs. 40	20
5.	Rs. 40 and above but below Rs. 48	24
6.	Rs. 48 and above but below Rs. 56	28
7.	Rs. 56 and above but below Rs. 60	30
8.	Rs. 60 and above but below Rs. 64	32
9.	Rs. 64 and above but below Rs. 72	36
10.	Rs. 72 and above but below Rs. 76	38
11.	Rs. 76 and above but below Rs. 80	40
12.	Rs. 80 and above but below Rs. 88	44
13.	Rs. 88 and above but below Rs. 96	48
14.	Rs. 96 and above but below Rs. 106	53
15.	Rs. 106 and above but below Rs. 116	58
16.	Rs. 116 and above but below Rs. 126	63
17.	Rs. 126 and above but below Rs. 136	68
18.	Rs. 136 and above but below Rs. 146	73
19.	Rs. 146 and above but below Rs. 156	78
20.	Rs. 156 and above but below Rs. 166	83
21.	Rs. 166 and above but below Rs. 176	88
22.	Rs. 176 and above but below Rs. 186	93
23.	Rs. 186 and above but below Rs. 196	98
24.	Rs. 196 and above but below Rs. 206	103
25.	Rs. 206 and above but below Rs. 216	108
26.	Rs. 216 and above but below Rs. 226	113

<sup>1</sup> Ins. by G.S.R. 76, dated 22nd January, 1991 (w.e.f. 1-2-1991).

<sup>2</sup> Subs. by G.S.R. 185, dated 1st September, 1998 (w.e.f. 19-9-1998).

SI. No.	Average daily wages are	Standard benefit rate (in Rs.)
1	2	3
27.	Rs. 226 and above but below Rs. 236	118
28.	<sup>1</sup> [Rs. 236 and above but below Rs. 250	125]
<sup>2</sup> [29.	Rs. 250 and above but below Rs. 260	130
30.	Rs. 260 and above but below Rs. 270	135
31.	Rs. 270 and above but below Rs. 280	140
32.	<sup>3</sup> [Rs. 280 and above but below Rs. 290]	145
<sup>4</sup> [33	Rs. 290 and above but below Rs. 300	150.00
34.	Rs. 300 and above but below Rs. 310	155.00
35.	Rs. 310 and above but below Rs. 320	160.00
36.	Rs. 320 and above but below Rs. 330	165.00
37.	Rs. 330 and above but below Rs. 340	170.00
38.	Rs. 340 and above but below Rs. 350	175.00
39.	Rs. 350 and above but below Rs. 360	180.00
40.	Rs. 360 and above but below Rs. 370	185.00
41.	Rs. 370 and above but below Rs. 380	190.00
42.	<sup>5</sup> [Rs. 380 and above but below 390]	195.00
<sup>6</sup> [43.	Rs. 390 and above but below Rs. 400	200
44.	Rs. 400 and above but below Rs. 410	205
45.	Rs. 410 and above but below Rs. 420	210
46.	Rs. 420 and above but below Rs. 430	215
47.	Rs. 430 and above but below Rs. 440	220
48.	Rs. 440 and above but below Rs. 450	225
49.	Rs. 450 and above but below Rs. 460	230
50.	Rs. 460 and above but below Rs. 470	235
51.	Rs. 470 and above but below Rs. 480	240
52.	Rs. 480 and above but below Rs. 490	245
53.	Rs. 490 and above but below Rs. 500	250
54.	Rs. 500 and above but below Rs. 510	255
55.	Rs. 510 and above but below Rs. 520	260
56.	Rs. 520 and above but below Rs. 530	265
57.	Rs. 530 and above but below Rs. 540	270
58.	Rs. 540 and above but below Rs. 550	275
59.	Rs. 550 and above but below Rs. 560	280
60.	Rs. 560 and above but below Rs. 570	285
61.	Rs. 570 and above but below Rs. 580	290
62.	Rs. 580 and above but below Rs. 590	295

1 Subs. by G.S.R. 172 (E), dated 4th March,, 2004, for "Rs. 236 and above" (w.e.f. 1-4-2004).

2 Ins. by G.S.R. 172 (E), dated 4th March,, 2004, (w.e.f. 1-4-2004).

3 Subs. for "Rs. 280 and above" by G.S.R. 591(E), dated 22<sup>nd</sup> September 2006 (w.e.f 1-10-2006)

4 Inserted by G.S.R. 591(E), dated 22<sup>nd</sup> September 2006 (w.e.f 1-10-2006)

5 Substituted for "Rs. 380 and above" by G.S.R. 254(E), dated 31<sup>st</sup> March, 2008 (w.e.f. 01-04-2008).

6 Inserted by G.S.R. 254(E), dated 31<sup>st</sup> March, 2008 (w.e.f. 01-04-2008).

SI. No.	Average daily wages are	Standard benefit rate (in Rs.)
1	2	3
63.	Rs. 590 and above but below Rs. 600	300
64.	Rs. 600 and above but below Rs. 610	305
65.	Rs. 610 and above but below Rs. 620	310
66.	Rs. 620 and above but below Rs. 630	315
67.	Rs. 630 and above but below Rs. 640	320
68.	Rs. 640 and above but below Rs. 650	325
69.	Rs. 650 and above but below Rs. 660	330
70.	Rs. 660 and above but below Rs. 670	335
71.	Rs. 670 and above but below Rs. 680	340
72.	Rs. 680 and above but below Rs. 690	345
73.	Rs. 690 and above but below Rs. 700	350
74.	Rs. 700 and above but below Rs. 710	355
75.	Rs. 710 and above but below Rs. 720	360
76.	Rs. 720 and above but below Rs. 730	365
77.	Rs. 730 and above but below Rs. 740	370
78.	Rs. 740 and above but below Rs. 750	375
79.	Rs. 750 and above but below Rs. 760	380
80.	Rs. 760 and above but below Rs. 770	385
81.	Rs. 770 and above but below Rs. 780	390
82.	Rs. 780 and above but below Rs. 790	395
83.	Rs. 790 and above but below Rs. 800	400
84.	Rs. 800 and above but below Rs. 810	405
85.	Rs. 810 and above but below Rs. 820	410
86.	Rs. 820 and above but below Rs. 830	415
87.	Rs. 830 and above but below Rs. 840	420
88.	Rs. 840 and above but below Rs. 850	425
89.	Rs. 850 and above but below Rs. 860	430
90.	Rs. 860 and above but below Rs. 870	435
91.	Rs. 870 and above but below Rs. 880	440
92.	Rs. 880 and above but below Rs. 890	445
93.	Rs. 890 and above but below Rs. 900	450
94.	Rs. 900 and above but below Rs. 910	455
95.	Rs. 910 and above but below Rs. 920	460
96.	Rs. 920 and above but below Rs. 930	465
97.	Rs. 930 and above but below Rs. 940	470
98.	Rs. 940 and above but below Rs. 950	475
99.	Rs. 950 and above	480]

**55. Sickness benefit:-**(1) Subject to the provisions of the Act and the regulations a person shall be qualified to claim sickness benefit for sickness occurring during any benefit period if the contributions in respect of him were payable for not less than <sup>1</sup>[seventy-eight days] in the corresponding contribution period and shall be entitled to receive such benefit at the daily standard benefit rate for the period of his sickness :

1 Subs. by G.S.R. 172 (E), dt. 4-3-2004 (w.e.f. 1-4-2004).



Provided that he shall not be entitled to the benefits for the first two days of sickness in the case of a spell of sickness following, at an interval of not more than fifteen days, the spell of sickness for which sickness benefits were last paid :

Provided further that sickness benefits shall not be paid to any person for more than ninety-one days in any two consecutive benefit periods.

<sup>1</sup>[Provided also that in case of a person who becomes an employee within the meaning of the Act for the first time and for whom a shorter contribution period of less than 156 days is available, he shall be qualified to claim sickness benefit if the contribution in respect of him were payable for not less than half the number of days available for working in such contribution period:]

<sup>2</sup>[(2) The daily rate of sickness benefits in respect of a person during any benefit period shall be twenty per cent more than "the standard benefit rate" specified in rule 54 corresponding to the average daily wages of that person during the corresponding contribution period.]

**56. Maternity benefits:-**(1) An insured woman shall be qualified to claim maternity benefits for a confinement occurring or expected to occur in a benefit period, if the contributions in respect of her were payable for not less than <sup>3</sup>[seventy] days in the immediately preceding two consecutive contribution periods.

(2) Subject to the provisions of the Act and the regulations, if any, an insured woman who is qualified to claim maternity benefits in accordance with sub-rule (1) shall be entitled to receive it at the daily rate specified in sub-rule (5) for all days on which she does not work for remuneration during a period of twelve weeks of which not more than six weeks shall precede the expected date of confinement :

Provided that where the insured woman dies <sup>4</sup>[during her delivery or during the period immediately following the date of her delivery] for which she is entitled to maternity benefits, leaving behind in either case, the child, maternity benefits shall be paid for the whole of that period but if the child also dies during the said period, then for the days upto and including the day of the death of the child, to the person nominated by the insured woman, in such manner as may be specified in the regulations, and if there is no such nominee, to her legal representative.

(3) An insured woman who is qualified to claim maternity benefits in accordance with sub-rule (7) shall, in case of miscarriage or medical termination of pregnancy, be entitled, on production of such proof, as may be required under the regulations, to maternity benefits at the rates specified in sub-rule (5), for all days on which she does not work for remuneration during a period of six weeks immediately following the date of her miscarriage or medical termination of pregnancy.

(4) An insured woman who is qualified to claim maternity benefits in accordance with sub-rule (1), in case of sickness arising out of pregnancy, confinement, premature birth of child or miscarriage or medical termination of pregnancy shall, on production of such proof as may be required under the regulations, be entitled, in addition to the maternity benefits payable to her under any other provisions of the Act, for all days on which she does not work for remuneration to maternity benefits at the rates specified in sub-rule (5) for all

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1 Ins. by G.S.R. 129, dated 29th March, 2000 (w.e.f. 8-4-2000).

2 Substituted by G.S.R 685(E), dated 31<sup>st</sup> October 2007 (w.e.f 1-12-2007)

3 Subs. by G.S.R. 185, dated 1st September, 1998 (w.e.f. 19-9-1998).

4 Subs. by G.S.R. 522, dated 15th October, 1996 (w.e.f. 16-11-1996).

days on which she does not work for remuneration during an additional period not exceeding one month.

(5) The daily rate of maternity benefits payable in respect of confinement occurring or expected to occur during any benefit period shall be equal to twice the "standard benefit rate" specified in rule 54 corresponding to the average daily wages in respect of the insured woman during the corresponding contribution period <sup>1</sup>[or rupees twenty, whichever is higher].

**2**[56A. <sup>3</sup>[Confinement Expenses] to an insured woman and an insured person in respect of his wife shall be paid a sum of rupees <sup>4</sup>[two thousand five hundred] per case as medical bonus on account of confinement expenses:

Provided that the confinement occurs at a place where necessary medical facilities under the Employees' State Insurance Scheme are not available:]

<sup>5</sup>[Provided further that confinement expenses shall be paid for two confinements only.]

**57. Disablement benefits:-**(1) A person shall be qualified to claim disablement benefits for temporary disablement for not less than three days (excluding the day of accident) for the period of such disablement sustained as an employee under the Act.

(2) A person shall be qualified to claim periodical payment for permanent disablement sustained as an employee under the Act, whether total or partial, for such disablement :

Provided that where permanent disablement, whether total or partial, has been assessed provisionally for a limited period or finally, the benefit provided under this rule shall be payable for that limited period, or, as the case may be, for life.

(3)(a) The daily rate of disablement shall be <sup>6</sup>[fifty per cent] more than the standard benefit rate specified in rule 54 rounded to the next higher multiple of five paise corresponding to the average daily wages in the contribution period corresponding to the benefit period in which the employment injury occurs.

(b) Where an employment injury occurs before the commencement of the first benefit period in respect of a person, the daily rate of disablement shall be :-

- (i) where a person sustains employment injury after the expiry of the first wage period in the contribution period in which the injury occurs, the rate, <sup>7</sup>[fifty per cent] more than the standard benefit rate rounded to the next higher multiple of five paise corresponding to the wage group in which the average daily wages during that wage period fall;
- (ii) where a person sustains employment injury before the expiry of the first wage period in the contribution period in which the injury occurs, the rate, <sup>8</sup>[fifty per cent] more than the standard benefit rate, rounded to the next higher multiple of five paise corresponding to the group in which wages are actually earned

1 Added by G.S.R. 522, dated 15th October, 1996 (w.e.f. 16-11-1996).

2 Ins. by G.S.R. 522, dated 15th October, 1996 (w.e.f. 16-11-1996).

3 Subs. by G.S.R. 28, dated 2nd January, 2004 for "Medical bonus" (w.e.f. 24-1-2004).

4 Subs. by G.S.R. 207, dated 27th November, 2008 for "one thousand" (w.e.f. 01-12-2008).

5 Ins. by G.S.R. 28, dated 2nd January, 2004 for (w.e.f. 24-1-2004).

6 Sub. for "forty per cent" by G.S.R 685(E), dated 31st October 2007 (w.e.f 1-12-2007)

7 Sub. for "forty per cent" by G.S.R 685(E), dated 31st October 2007 (w.e.f 1-12-2007)

8 Sub. for "forty per cent" by G.S.R 685(E), dated 31st October 2007 (w.e.f 1-12-2007)

or which would have been earned, had he worked for a full day on the date of accident, fall.

*Explanation:*-The disablement benefit calculated as aforesaid shall be called the "full rate".

(4) The disablement benefits shall be payable to the insured person as follows :—

- (a) for temporary disablement, at the full rate;
- (b) for permanent total disablement, at the full rate;
- (c) for permanent partial disablement resulting from an injury specified in Part II of the Second Schedule, at such percentage of the full rate which would have been payable in the case of permanent total disablement as specified in the said Schedule as being the percentage of the loss of earning capacity caused by the injury;
- (d) for permanent particular disablement resulting from an injury not specified in Part II of the Second Schedule, at such percentage of the full rate payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

*Explanation:*-Where more injuries than one are caused by the same accident, the rate of benefit payable under clauses (c) and (d) shall be aggregated but not so in any case as to exceed the full rate and in cases of disablement not covered by clauses (a), (b), (c) and (d) at such rate, not exceeding the full rate, as may be provided in this regulation.

**58. Dependents' benefits:**-(1) Dependents' benefits shall be paid to the dependents of the insured person who dies as a result of an employment injury, in the following manner :—

(A) In the case of death of the insured person, the dependents' benefits shall be payable to his <sup>1</sup>[widow, children and widowed mother] as follows:—

- (a) to the widow during the life until remarriage, an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows;
- (b) to each legitimate or adopted son, an amount equivalent to two-fifths of the full rate until he attains the age of eighteen years :

Provided that in the case of a legitimate <sup>2</sup>[or adopted] son who is infirm and who is wholly dependent on the earnings of the insured person at the time of his death, dependents' benefits shall continue to be paid while the infirmity lasts;

- (c) to each legitimate or adopted unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains the age of eighteen years or until marriage, whichever is earlier :

Provided that in the case of legitimate or adopted unmarried daughter who is infirm and is wholly

<sup>1</sup> Subs. by G.S.R. 210, dated 27th March 2001 (w.e.f. 1-10-2000).

<sup>2</sup> Ins. by G.S.R. 210, dated 27th March 2001 (w.e.f. 1-10-2000).

dependent on the earnings of the insured person at the time of his death, dependents' benefit shall continue to be paid while the infirmity lasts and she continues to be unmarried :

Provided further that if the total of the dependents' benefits distributed among the widow or widows and legitimate or <sup>1</sup>[adopted children and widowed mother] of the deceased person as aforesaid 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 of disablement benefits at the full rate;

<sup>2</sup>[(d) to the widowed mother during life an amount equivalent to two fifths of the full rate.]

(B) In case the deceased person does not leave a widow or legitimate or <sup>3</sup>[adopted child or widowed mother], dependents' benefit shall be payable to other dependents as follows :

<sup>4</sup>[(a) to a parent other than the widowed mother or grand parent, for life, at an amount equivalent to three-tenths of the full rate and if there are two or more parents (other than widowed mother) or grand parents the amount payable to the parents (other than widowed mother) or grand parents as aforesaid shall be equally divided between them;]

(b) to any other—

(i) male dependent, until he attains the age of eighteen years,

(ii) female dependent, until she attains the age of eighteen years or until marriage, whichever is earlier or if widowed, until she attains eighteen years of age or remarriage, whichever is earlier;

at an amount equivalent to two-tenths of the full rate :

Provided that if there be more than one dependent under clause (b), the amount payable under this clause shall be equally divided between them.

(2)(a) The daily rate of dependent's benefit shall be <sup>5</sup>[fifty per cent] more than the "standard benefit rate" specified in rule 54 rounded to the next higher multiple of five paise corresponding to the average daily wages in the contribution period corresponding to the benefit period in which the employment injury occurs.

(b) Where an employment injury occurs before the commencement of the first benefit period in respect of a person, the daily rate of dependent's benefit shall be:—

(i) where a person sustains employment injury after the expiry of the first wage period in the contribution period in which the injury occurs, the rate, <sup>6</sup>[fifty per cent] more than the standard

1 Ins. by G.S.R. 210, dated 27th March 2001 (w.e.f. 1-10-2000).

2 Ins. by G.S.R. 210, dated 27th March 2001 (w.e.f. 1-10-2000).

3 Subs. by G.S.R. 210, dated 27th March 2001 (w.e.f. 1-10-2000).

4 Subs. by G.S.R. 210, dated 27th March 2001 (w.e.f. 1-10-2000).

5 Sub. for "forty per cent" by G.S.R 685(E), dated 31<sup>st</sup> October 2007 (w.e.f 1-12-2007)

6 Sub. for "forty per cent" by G.S.R 685(E), dated 31<sup>st</sup> October 2007 (w.e.f 1-12-2007)

benefit rate rounded to the next higher multiple of five paise corresponding to the wage group in which his average daily wages during that wage period fall;

- (ii) where a person sustains employment injury before the expiry of the first wage period in the contribution period in which the injury occurs, the rate, <sup>1</sup>[fifty per cent] more than the standard benefit rate, rounded to the next higher multiple of five paise corresponding to the group in which wages actually earned or which would have been earned had he worked for a full day on the date of accident fall.

*Explanation:*-The dependant's benefit rate calculated as aforesaid shall be called the "full rate".

**59. Funeral expenses:**-The amount of funeral expenses for the purpose of clause (f) of sub-section (1) of section 46 of the Act shall be <sup>2</sup>[three thousand rupees].

**60. Medical benefits to insured person who ceases to be in an insurable employment on account of permanent disablement:**-An insured person who ceases to be in an insurable employment on account of permanent disablement caused due to an employment injury shall be eligible to receive medical benefits for himself and his spouse at the scale prescribed under the Act and the regulations made thereunder till the date on which he would have vacated the employment on attaining the age of superannuation, had he not sustained such permanent disablement, subject to:—

- (i) the production of proof by such an insured person that he ceased to be in an insurable employment on account of permanent disablement due to employment injury to the satisfaction of such officer as may be authorised by the corporation; and
- (ii) the payment of contribution at the rate of ten rupees per month in lump sum for one year at a time in advance to the concerned office of the corporation in the manner prescribed by it.]

**61. Medical benefits to retired insured persons:**-An insured person who leaves the insurable employment on attaining the age of superannuation after being insured for not less than five years, shall be eligible to receive medical benefits for himself and his spouse at the scale prescribed under the Act and the regulations made thereunder, subject to:—

- (i) the production of proof of his superannuation and having been in the insurable employment for a minimum of five years to the satisfaction of such officer as may be authorised by the corporation; and
- (ii) the payment of contribution at the rate of ten rupees per month in lump sum for one year at a time in advance to the concerned office of the Corporation in the manner prescribed by it.

**62. Bar on grant of cash benefits:**-Where an insured person is convicted under section 84 of the Act he shall not be entitled to any cash benefit admissible under the Act for a period of three months for first conviction and six months for each subsequent conviction from the date of receipt of judgment of the Court in the concerned office of the Corporation.

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1 Sub. for "forty per cent" by G.S.R 685(E), dated 31<sup>st</sup> October 2007 (w.e.f 1-12-2007)

2 Sub. for "two thousand and five hundred rupees" by G.S.R 685(E), dated 31<sup>st</sup> October 2007 (w.e.f 1-12-2007)

**FORMS**  
**FORM 1**  
**[SEE RULE 21]**

Book No.....	Receipt No.....
Book No.....	Receipt No.....
Received from.....the sum of	Received from.....the sum of
Rs. ....(in words) .....	Rs. ....(in words) .....
on account of .....Rs.....	on account of .....Rs.....
Chief Accounts Officer	Chief Accounts Officer
-----	-----
Authorised Officer	Authorised Officer

Entered in Cash Book, Page Number..... The Employees' State Insurance Corporation.

.....  
Accountant.

**<sup>1</sup>[FORM II**  
**[SEE RULE 20A(2)]**  
**APPLICATION TO MEDICAL APPEAL TRIBUNAL**

Insurance No.....

I, .....(Full name of appellant) of .....(address of appellant) against the decision on.....(date) of the Medical Board at .....(address) notified to me by letter (from.....) dated..... that:—

- <sup>2</sup>(1) there is no appreciable disablement;
- <sup>3</sup>(2) the disablement should continue to be treated as temporary and the next date when the case should be referred to the Medical Board is; or
- <sup>4</sup>(3) the disablement can be declared to be of a permanent nature; and
  - (i) the extent of loss of earning capacity can be assessed provisionally or finally;
  - (ii) the assessment of the proportion of loss of earning capacity whether provisional or final; and
  - (iii) in case of provisional assessment, the period for which such assessment shall hold good.

The following are the grounds of my appeal:  
List of documents, if any.

Date..... Signature of appellant.....

The Statement of facts contained in this application is to the best of my knowledge and belief true and correct.

Signature of appellant

To  
Chairman of Medical Appeal Tribunal.]

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1 Ins. by G.S.R. 2113, dated 28th November, 1968.  
2 Delete whichever does not apply.  
3 Delete whichever does not apply.  
4 Delete whichever does not apply.

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## THE EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS, 1950<sup>1</sup>

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In exercise of the powers conferred by section 97 of the Employees' State Insurance Act, 1948 (34 of 1948), the Employees' State Insurance Corporation is pleased to make the following regulations, the same having been previously published as required by sub-section (1) of the said section, namely:—

### CHAPTER I

**1. Short title and extent:**-(1) These regulations may be called the Employees' State Insurance (General) Regulations, 1950.

(2) They extend to the whole of India including the Union Territory of Pondicherry except the State of Jammu and Kashmir.

**2. Definitions:**-In these regulations, unless the context otherwise requires—

- (a) "Act" means the Employees' State Insurance Act, 1948 (34 of 1948);
  - (b) "appointed day" means with reference to any area, factory or establishment, the day from which the whole of Chapters IV and V of the Act apply to such area, factory or establishment, as the case may be;
  - (c) "Appropriate Office", "Appropriate <sup>2</sup>[Branch office]" or "Appropriate Regional Office", shall mean with reference to any action taken under these regulations, such office of the Corporation as may be specified for that purpose under a general or special order of the Corporation;
  - (d) "Central Rules" means the rules made by the Central Government under section 95 of the Act;
- <sup>3</sup>[\*\*\*]  
<sup>4</sup>[\*\*\*]
- (g) "Employer" means the principal employer as defined in the Act;
  - <sup>5</sup>[(h) "Employer's Code Number" means the registration number allotted by the appropriate Regional Office to a factory or establishment for the purposes of the Act, the rules and these regulations;
  - (i) "Factory or Establishment" means a factory or an establishment to which the Act applies;
  - (j) "Form" means a form appended to these regulations;
  - <sup>6</sup>[(k) "Identity Card" means a permanent identity card issued by the appropriate office to an insured person for identification for the purposes of the Act, the rules and these regulations;]

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1 Vide Notification No. RS/5/48, dated 17th October, 1950.

2 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Local Office" (w.e.f. 1-1-2005).

3 Clause (e) omitted by Notification No. 12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

4 Clause (f) omitted by Notification No. N-12/13/19/79- P&D, dated 9th March, 1983 (w.e.f. 26-3-1983).

5 Subs. by Notification No. Genl./Amdt./20, dated 20th January, 1968.

6 Subs. by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

- <sup>1</sup>[(kk) "Family Identity Card" means a Card issued by the appropriate office to an insured person for identification of his family for the purposes of the Act, the rules and these regulations;
- (l) "Inspector" means a person appointed as such by the Corporation under section 45 of the Act;
- (m) "Instructions" means instructions or orders issued by the Corporation or by such officer or officers of the Corporation as may be authorised by the Corporation in this behalf;
- (n) "Insurance Medical Officer" means a medical practitioner appointed as such to provide medical benefit and to perform such other functions as may be assigned to him and shall be deemed to be a duly appointed medical practitioner for the purposes of Chapter V of the Act;
- (o) "Insurance Number" means a number allotted by the appropriate <sup>2</sup>[\*\*\*] Office to an employee for the purposes of the Act, the rules and these regulations;
- (p) <sup>3</sup>["Branch office]" and "Regional Office" shall mean, according to the context, such subordinate office of the Corporation, set up at such place and with such jurisdiction and functions as the Corporation may, from time to time determine;
- (q) <sup>4</sup>["Branch] Manager" means a person appointed by the Corporation as such or the officer-in-charge of a <sup>5</sup>[Branch Office];
- (r) "State Rules" means the rules made by a State Government under section 96 of the Act;
- (s) "Regional Director" means a person appointed by the Corporation as such for a specified region;
- (t) "Registered Midwife" means a person who is registered as a midwife under any law in force in any State providing for registration of nurses and midwives;
- (u) "Rules" means rules made by the Central or a State Government under the Act;
- (v) "Specified" means specified by instructions issued from time to time by the Corporation or any authorised officer;
- (w) "Year" means a calendar year except when specifically stated otherwise;
- (x) All other words and expressions have the meanings respectively assigned to them in the Act or the rules, as the case may be.

### 3. The manner in which the Corporation may exercise its powers:-(1)

Where a regulation empowers the Corporation to specify, prescribe, provide, decide or determine anything or to do any other act, such powers may be exercised by a resolution of the Corporation or subject to the provisions of section 18 of the Act by a resolution of the Standing Committee:

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1 Added by Notification No. Genl./Amdt./20, dated 20th January, 1968.

2 Omitted by Notification No. Genl./Amdt./20, dated 20th January, 1968.

3 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Local Office" (w.e.f. 1-1-2005).

4 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Local Office Manager" (w.e.f. 1-1-2005).

5 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Local Office" (w.e.f. 1-1-2005).



Provided that the Corporation or the Standing Committee may delegate any of powers under these regulations to a sub-committee or to such officers of the Corporation as it may specify in that behalf:

Provided further that no power shall be delegated under this regulation which under the Act is required to be exercised by the Corporation only.

(2) Any appointment to be made by the Corporation under these regulation, shall be made by the Director-General or by such other officers as may be authorised in this behalf by the Standing Committee.

**3A. Exercise of powers by an office:-**Where a power is to be exercised by the appropriate Office or appropriate <sup>1</sup>[Branch office] or appropriate Regional Office it shall be exercised by the officer for the time being in charge thereof or by such other officer as may be authorised for the purpose under general or special orders of the Director-General.

**<sup>2</sup>4. Contribution and benefit periods:-**Contribution periods and the corresponding benefit periods shall be as under :

Contribution period	Corresponding benefit period
1st April to 30th September	1st January of the year following to 30th June.
1st October to 31st March of the year following	1st July to 31st December:

Provided that in the case of a person who becomes an employee within the meaning of the Act for the first time, the first contribution period shall commence from the date of such employment in the contribution period current on that day and the corresponding benefit period for him shall commence on the expiry of the period of nine months from the date of such employment.]

<sup>3</sup>[\*\*\*]

**6. Meetings of the Corporation, the Standing Committee and the Medical Benefit Council:-**The meetings of the Corporation, the Standing Committee and the Medical Benefit Council shall be held in accordance with the Central Rules at such time and place as may be fixed by the Chairman concerned.

**7. Decision by majority:-**Every matter coming up for decision before a meeting of the Corporation, the Standing Committee or the Medical Benefit Council shall be decided by a majority of persons present and voting at the time of the meeting and in case of equality of votes the Chairman of the meeting shall have an additional casting vote.

**8. Mode of exercising vote:-**The votes shall be taken by show of hands and the names of persons voting in favour and against any proposition shall be recorded only if any member present requests the Chairman to do so.

**9. Matters to be brought before the Corporation:-**In addition to the matters which are, under any specific provision of the Act or the Central Rules,

1 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Local Office" (w.e.f. 1-1-2005).

2 Subs. by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

3 Regulation 5 omitted by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

required to be placed before the Corporation, the following matters shall be referred to the Corporation for its decision :—

- (a) regulations under section 97 and amendments thereto before final publication;
- (b) any measures proposed under section 19 of the Act;
- (c) any proposal to extend medical benefit to families under sub-section (2) of section 46;
- (d) any dispute proposed to be referred to arbitration under sub-section (4) of section 58;
- (e) any proposal to set up hospitals under section 59;
- (f) any proposal to grant exemption under section 91;
- (g) any proposal to enhance benefits under section 99;
- (h) any other matter which the corporation or its Chairman may direct the Standing Committee or the Director-General to place before the Corporation.

**10. Regional Boards:-**<sup>1</sup>[(1) A Regional Board may be set up for each State or Union Territory by the Chairman of the Corporation and shall consist of the following members, namely:—

- (a) a Chairman to be nominated by the Chairman of the Corporation in consultation with the State Government or the Administration of the Union Territory;
- (b) a Vice-Chairman to be nominated by the Chairman of the Corporation in consultation with the State Government or the Administration of the Union Territory;
- (c) one representative of the State or the Union Territory to be nominated by the State Government or the Administration of the Union Territory;
- <sup>2</sup>[(d) (i) the Administrative Medical Officer or any other Officer directly in charge of the Employees' State Insurance Scheme in the State or the Union Territory—ex officio;  
(ii) the Regional Deputy Medical Commissioner of the Corporation—ex officio;]
- (e) one representative each of the employers and employees from the State or the Union Territory to be nominated by the Chairman of the Corporation in consultation with such organisations of the employers and the employees as may be recommended for the purpose by the State Government or the Union Territory;
- (f) members of the Corporation other than the Chairman and the Vice-Chairman and officials, if any, amongst those nominated by the Central Government under clause (c) of section 4 of the Act, residing in the State or the Union Territory—ex officio;
- (g) members of the Medical Benefit Council nominated by the Central Government under clauses (e), (f) and (g) of section 10 of the Act residing in the State or the Union Territory—ex officio :

<sup>3</sup>[Provided that where the Chairman of the Corporation so considers it to be expedient he may nominate such additional representatives of employers, and employees, not exceeding three from each side, with a view to providing for the

1 Subs. by Notification No. Genl./Amdt./20, dated 20th January, 1968.

2 Subs. by Notification No. 12/13/2/76-P&D, dated 11th March, 1977.

3 Subs. by Notification No. Genl./Amdt./27, dated 4th November, 1970.

adequate representation of important organisations not included in the nominations of the State Governments, or the Union Territory and to maintain the parity between the number of representatives of such employers and employees:

Provided further that the Chairman of the Corporation shall nominate such additional representatives of employers and employees not exceeding three from each side where the number of representatives of employers and employees including the ex officio members, if less than three each.]

<sup>1</sup>(2) A Regional Board may, if it considers it desirable, co-opt the Officer in-charge of a Sub-Regional Office set up within its boundaries, and/or a member of the medical profession in the Region and the person(s) so co-opted shall continue to be member(s) during the pleasure of the Regional Board.]

(3) The Regional Director or Officer-in-charge of the Regional Office shall be the member secretary of the Board.

(4)(i) Save as expressly provided in this regulation, the term of office of the members of the Regional Board referred to in clause (e) of and the proviso to sub-regulation (1), shall be <sup>2</sup>[three years] commencing from the date on which their nomination is notified, provided that the members of the Regional Board, shall, notwithstanding the expiry of the said period, continue to hold office until the nomination of their successors is notified.

(ii) Save as expressly provided in this regulation, the members of the Regional Board referred to in clause (c)] of sub-regulation (1) shall hold office during the pleasure of the State Government nominating them.

(iii) A member of the Regional Board referred to in clause (f)] or sub-regulation (1) shall cease to hold office when he ceases to be a member of the Corporation or ceases to reside in that area.

(iv) Any member referred to in clause (i) of this sub-regulation nominated to fill a casual vacancy shall hold office for the remainder of the term of office of the member in whose place he is nominated.

(v) An outgoing member shall be eligible for renomination.

(5) A member of the Regional Board referred to in clause (e) of and the proviso to] sub-regulation (1) above, may resign his office by notice in writing to the Chairman of the Corporation, through the Chairman, Regional Board, and his seat shall fall vacant on the acceptance of the resignation.

(6)(i) A member of the Regional Board referred to in <sup>3</sup>[clause (e) of and the proviso to] sub-regulation (1) shall cease to be a member of the Board if he fails to attend there consecutive meetings thereof provided that his membership may be restored by the Chairman of the Corporation on his being satisfied as to the unavoidable nature of the circumstances which led to his non-attendance.

(ii) When any person nominated to represent an employer's or employee's organisation on the Regional Board has ceased to represent such organisation, the Chairman of the Corporation, may, by notification in the Gazette of India, declare that such

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1 Subs. by Notification No. N-12/13/1/82- P&D, dated 9th March, 1983 (w.e.f. 26-3-1983).

2 Subs. by Notification No. N-12/13/1/87- P&D, dated 29th February, 1988 (w.e.f. 19-3-1988).

3 Ins. by Notification No. Genl./Amdt./20, dated 20th January, 1968.

person shall cease to be a member thereof with effect from such date as may be specified therein.

(7) The members of the Regional Board shall receive such fees and allowances as may be prescribed by the Central Government for members of the Corporation.

(8) A member shall be disqualified for being nominated or for being a member of the Regional Board :—

- (i) if he is declared to be of unsound mind by a competent court ; or
- (ii) if he is an undischarged insolvent; or
- (iii) if before or after the commencement of the Regulations he has been convicted of an offence involving moral turpitude.

(9) The Secretary shall, with the approval of the Chairman, fix the date, time and place of, and also draw up the Agenda for, every meeting. Notice of not less than ten meeting, provided that if it is necessary to convene an emergency meeting, a reasonable notice thereof shall be given to every member. No matter other than that included in the Agenda shall be considered except with the permission of the Chairman.

(10) No business shall be transacted at any meeting unless there is a quorum of not less than one third of the members on the Board, provided that if at any meeting, sufficient number of members are not present to form a quorum, the Chairman may adjourn the meeting to a date not later than seven days from the date of original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present.

(11) All matters shall be decided by a majority of persons present and voting and in case of equality of votes, the Chairman shall have a casting vote or a second vote.

(12) The Chairman or in his absence the Vice-Chairman of the Regional Board shall preside at the meetings. In the event of the absence of both the Chairman and the Vice-Chairman the members present may elect one from amongst themselves to preside.

(13) (i) The minutes of each meeting showing inter alia the names of the members present thereat shall be forwarded to all members of the Regional Board as soon after the meeting as possible and in any case not later than fifteen days from the date of the meeting.

- (ii) The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modifications as may be considered necessary at the meeting, at which the minutes are confirmed.

<sup>1</sup>(14) A Regional Board shall perform the following functions in respect of the Region for which it is set up:

- (a) Such administrative and/or executive functions as may, from time to time be entrusted or delegated to it by a resolution, by the Corporation or the Standing Committee.
- (b) To make recommendations from time to time in regard to changes which may in its opinion be advisable in the Act, rules and regulations and forms and procedure to be followed in the running of the Scheme.

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<sup>1</sup> Subs. by Notification No. Genl./Amdt./30, dated 27th April, 1972.

- (c) To decide within the broad framework of the general decisions and programme of priorities of the Corporation, the following matters, provided that where the specific approval of the Corporation or the appropriate Government is required, such approval shall be taken:—
- (i) extension of the Scheme to other categories of establishments in accordance with the order of priorities laid down by the Corporation;
  - (ii) extension of Scheme to new areas and extension of medical care to families;
  - (iii) adoption of special measures to meet peculiar conditions in the area;
  - (iv) improvement in benefits;
  - (v) provision of indoor medical treatment;
  - (vi) measures and arrangements for the rehabilitation of insured persons in the area, who are permanently disabled;
  - (vii) securing compliance by employers with the various provisions of the Employees' State Insurance Act, the Regulations and other Rules and instructions;
- (d) To review from time to time the working of the Scheme in the State both on the medical side as well as cash benefit side and to advise the Corporation and the State Government on measures to improve the working of the Scheme both in regard to payment of cash benefits and administration of medical benefit and in particular to promote preventive health measures, safety and personal hygiene and to review and check lax certification and other abuses of the Scheme.
- (e) To look into general grievances, complaints and difficulties of insured persons, employers, etc., as it may consider necessary.
- (f) To advise the Corporation on such matters as may be referred to it for advice by the Standing Committee or the Director-General.

The Regional Board may set up suitable Sub-Committees for carrying out any of its functions and may seek the assistance or advice of Local Committees where necessary.]

(15)(i) If in the opinion of the Corporation, the Regional Board persistently makes default in performing the duties imposed on it by or under this regulation or abuses its powers, the Corporation may by notification in the Gazette of India supersede the Regional Board.

- (ii) Upon the publication of a notification under clause (i) above superseding the Regional Board, all the members of the Regional Board shall from the date of such publication be deemed to have vacated their offices.
- (iii) When the Regional Board has been superseded the Corporation may—
  - (a) immediately constitute a new Regional Board in accordance with this regulation; or
  - (b) appoint such agency for such period as it may think fit to exercise the powers and perform the functions of the Regional Board and such agency shall be competent to exercise all powers and perform all the functions of the Regional Board.

**1[10A. Local committees:-**(1) A local committee may be set up for such area as may be considered appropriate by the Regional Board and shall consist of the following members, namely:—

- (a) a Chairman to be nominated by the Chairman, Regional Board,<sup>2</sup>[\*\*\*];
- (b) an official of the State to be nominated by the State Government;
- (c) the Administrative Medical Officer-in-charge of the Scheme in the area concerned, ex officio, or any other medical officer nominated by him;
- (d) such number, not being less than two and not more than four, of representatives of employers in the area as may be considered appropriate by the Chairman, Regional Board, to be nominated by him, in consultation with such employers' organisations as may be recommended for the purpose by the State Government;
- (e) an equal number of representatives of employees in the area to be nominated by the Chairman, Regional Board, in consultation with such organisations of employees as may be recommended for the purpose by the State Government;
- (f) an official of the Corporation to be nominated by the Director-General, who shall also act as Secretary to the Committee:

Provided that where the Chairman, Regional Board, so considers it to be expedient, he may nominate such additional representatives of employers and employees, not exceeding two from each side, with a view to providing for the adequate representation of important organisations not included in the nominations of the State Government and to maintaining the parity between the number of representatives of such employers and employees:

Provided further that in any area in which medical care is provided through a panel system, a local committee may co-opt a member representing the local Insurance Medical Practitioners.

(2)(i) The term of office of the members of a local committee nominated under clauses (d) and (e) of sub-regulation (1) shall be <sup>3</sup>[three years], commencing from the date on which their nomination is notified, provided that such members, shall, notwithstanding the expiry of the said period, continue to hold office until the nomination of their successor is notified.

- (ii) The members of a local committee nominated under clauses (b), (c) and (f) of sub-regulation (1) shall hold office during the pleasure of the authority nominating them.

(3) A member of a local committee may resign his office by notice in writing to the Chairman, Regional Board, and his seat shall fall vacant on the acceptance of the resignation.

(4)(i) A member of a local committee shall cease to be a member of the Committee if he fails to attend three consecutive meetings thereof provided that this membership may be restored by the Chairman, Regional Board, on being satisfied as to the unavoidable nature of the circumstances which led to his non-attendance.

- (ii) Where in the opinion of the State Government any person nominated to represent employers or employees on a local

1 Ins. by the Employee State Insurance (General) Amendment) Regulations, 1954.

2 Omitted by Notification No. Genl./Amdt./20, dated 20th January, 1968.

3 Subs. by Notification No. N-12/13/1/87-P&D, dated 29th February, 1988 (w.e.f. 19-3-1988).

committee has ceased to represent such employers or employees, the Chairman, Regional Board, may declare that such person shall cease to be a member thereof with effect from such date as may be specified by him.

(5) The members of the committee shall receive such fees and allowances as may be specified by the Central Government.

(6) The Secretary, shall, in consultation with the Chairman, fix the date, time and place of, and also draw up the Agenda for every meeting. Notice of not less than seven days shall ordinarily be given to every member for such meeting. No matter other than that included in the Agenda shall be considered except with the permission of the Chairman.

(7) No business shall be transacted at any meeting of a committee unless there is a quorum of not less than one-third of the number of the members of the committee.

(8) All matters at a meeting of a local committee shall be decided by a majority of persons present at the meeting and voting, and in case of equality of votes, the Chairman shall have a casting vote or a second vote.

(9) A local committee shall perform the following functions in respect of the area for which it is set up, namely:—

- (a) to discuss local problems in regard to the Employees' State Insurance Scheme so as to secure its efficient working with the full co-operation of all parties concerned and to make recommendations;
- (b) to refer such complaints as it may consider necessary to the Regional Director concerned, or in the case of complaints concerning medical benefit, to the State Government or such authority as that Government may nominate for the purpose; and
- (c) to advise the Corporation or the Regional Board concerned on such matters as may be referred to it for advice.]

## CHAPTER II COLLECTION OF CONTRIBUTIONS, ETC

**<sup>1</sup>[10B. Registration of Factories or Establishments:-(a)** The employer in respect of a factory or an establishment to which the Act applies for the first time and to which an Employer's Code Number is not yet allotted, and the employer in respect of a factory or an establishment to which the Act previously applied but has ceased to apply for the time being, shall furnish to the appropriate Regional Office not later than 15 days after the Act becomes applicable, as the case may be, to the factory or establishment, a declaration of registration in writing in <sup>2</sup>[Form No. 01 and Form 01A] (hereinafter referred to as Employer's Registration Form).

(b) The employer shall be responsible for the correctness of all the particulars and information required for and furnished on the Employer's Registration Form.

(c) The appropriate Regional Office may direct the employer who fails to comply with the requirements of paragraph (a) of this regulation within the time stated therein, to furnish to that office Employer's Registration Form duly

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1 Ins. by Notification No. Genl./Amdt./20, dated 20th January, 1968.

2 Subs. for existing Form 01 by ESI (Amendment) Reg. 2004, dt. 1-10-2004 (w.e.f. 1-1-2005).

completed within such further time as may be specified and such employer shall, thereupon, comply with the instructions, issued by that office in this behalf.

<sup>1</sup>[(cc) The employer in respect of a factory or establishment to which a code number has been issued by the Corporation based on information collected or decision taken regarding applicability of the Act to such factory or establishment, shall, within fifteen days or receipt of information of allotment of code number, furnish a declaration in Form-01.]

(d) Upon receipt of the completed Employer's Registration Form, the appropriate Regional Office shall, if satisfied that the factory or the establishment is one to which the Act applies, allot to it an Employer's Code Number (unless the factory or the establishment has already been allotted an Employer's Code Number) and shall inform the employer of that number.

(e) The employer shall enter the Employer's Code Number on all documents prepared or completed by him in connection with the Act, the rules and these regulations and in all correspondence with the appropriate office.

**2[10C. Submission of annual information by factories/establishments:-**

The employer in respect of a factory or establishment to which this Act applies and to whom a code number has already been allotted, shall furnish to the appropriate Regional Office or Sub-Regional Office or Divisional Office, by 31st of January every year, a return in Form 01-A. The employer shall be responsible for correctness of all particulars and information furnished in Form 01-A.]

**11. Declaration by persons in employment on appointed day:-**The employer in respect of a factory or an establishment shall require every employee in such factory or establishment to furnish and such employee shall on demand furnish to him either before or on the appointed day, correct particulars <sup>3</sup>[along with his/her photograph and that of his/her family] required for the purpose of Form 1 (hereinafter referred to as the Declaration Form). Such employer shall enter the particulars in the Declaration Form including the Temporary Identification Certificate, and obtain the signature or the thumb-impression of such employee and also complete the form as indicated thereon.

**12. Declaration by persons engaged after the appointed day:-**(1) The employer in respect of a factory or an establishment shall, before taking any person into employment in such factory or establishment after the appointed day, require such person (unless he can produce an Identity Card or other document in lieu thereof issued to him under these regulations to furnish and such person shall on demand furnish to him correct particulars <sup>4</sup>[along with his/her photograph and that of his/her family] required for the Declaration Form including the Temporary Identification Certificate. Such employer shall enter the particulars in the Declaration Form including the Temporary Identification Certificate and obtain the signature or the thumb impression of such person and also complete the form as indicated thereon.

(2) Where an Identity Card is produced under such sub-regulation (1), the employer shall make relevant entries thereon.

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1 Ins. by ESI (General) (Amendment) Regulation, 2004, dt. 1-10-2004 (w.e.f. 1-1-2005).

2 Added by E.S.I. (General) (Amendment) Regulation, 2004, dt. 1-10-2004 (w.e.f. 1-1-2005).

3 Ins. by E.S.I. (General) (Amendment) Regulations, 2003, dt. 7-1-2004 (w.e.f. 31-1-2004).

4 Ins. by E.S.I. (General) (Amendment) Regulations, 2003, dt. 7-1-2004 (w.e.f. 31-1-2004).



1[\*\*\*]

**14. Declaration Form to be sent to appropriate office:-**The employer shall send to the appropriate office by registered post or messenger, all Declaration Forms without detaching the temporary identification certificate prepared under these regulations together with a return in duplicate in Form 3 <sup>2</sup>[within 10 days of the date] on which the particulars for the Declaration Forms were furnished.

**15. Allotment of Insurance Number:-**On receipt of the return required under Regulation 14, the appropriate office shall promptly allot an Insurance Number to each person in respect of whom the Declaration Form has been received unless it finds that the person had already been allotted an Insurance Number. The Temporary Identification Certificate with Insurance Numbers marked thereon shall be detached and returned to the employer along with one copy of Form 3. The employer shall deliver the Temporary Identification Certificate to the employee to whom it relates after obtaining his signature or thumb-impression thereon except in the case of an employee to whom a certificate of employment has been issued under Regulation 17A. The Insurance Number allotted by the Regional office to an employee and indicated in the copy of Form 3 <sup>3</sup>[on the register employees <sup>4</sup>(Form 7) and Return of Contributions] of such employees.

**<sup>5</sup>[15A. Registration of families:-**On the issue of a notification under Regulation 95A, specifying the date from which the family of an insured person shall also be entitled to medical benefit under the Act, every insured person who has not furnished the particulars of his family at the time of his registration under the Act, shall furnish to the employer correct particulars <sup>6</sup>[along with his/her photograph and that of his/her family] in respect of his family in Form 1A. The employer shall enter the particulars in the form and obtain the signature or the thumb impression of such person and complete the form as indicated thereon and send it to the appropriate office within 10 days of the date on which the particulars of the changes were furnished.

**<sup>7</sup>[15B. Changes in family:-**An insured person shall intimate all changes in the membership of the family as defined under the Act, to the employer within 15 days of such change having occurred and the employer shall enter such particulars in <sup>8</sup>[Form 2] and shall forward it to the appropriate office within 10 days of the date on which the particulars of the changes were furnished.]

**16. The Corporation to receive assistance from employers:-**An employer shall render all necessary assistance which the Corporation may require <sup>9</sup>[in connection with the registration of his factory or establishment and] the

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1 Regulation 13 omitted by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

2 Subs. by Notification No. Genl./Amdt./30, dated 27th April, 1972.

3 Subs. by Notification No. N-12/13/2/99- P&D, dated 13th May, 2002 (w.e.f. 29-6-2002).

4 Ins. by E.S.I. (General) (Amendment) Regulations, 2003, dt. 7-1-2004 (w.e.f. 31-1-2004).

5 Ins. by the Employees State Insurance (General) )Amendment) Regulations, 1957.

6 Ins. by E.S.I. (General) (Amendment) Regulations, 2003, dt. 7-1-2004 (w.e.f. 31-1-2004).

7 Ins. by the Employees State Insurance (General) )Amendment) Regulations, 1957.

8 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Form 1B" (w.e.f. 1-1-2005).

9 Subs. by Notification No. Genl./Amdt./12, dated 20th April, 1961.

registration of his employees and specially for photographing such employees and affixing the photographs to the identity cards.

**1[17. Identity cards:-**The appropriate office shall arrange to have an identity card prepared in Form 4 for each person <sup>2</sup>[along with his/her photograph and that of his/her family] in respect of whom an insurance number is allotted and shall include in such card the particulars <sup>3</sup>[and photograph] of the family entitled to medical benefit under regulation 95A and send all such identity cards to the employer. Such employer shall if and when the employee has been in his service for <sup>4</sup>[3 months], obtain the signature or thumb impression of the employee on the Identity Card and shall after making relevant entries thereon deliver the Identity Card to him. The employer shall obtain a receipt of an employee who has left employment before <sup>5</sup>[3 months] shall not be given to him, but shall be returned to the appropriate Office as soon as possible. <sup>6</sup>[The Identity Card shall not be transferable.]

**17A. Issue of a Certificate of Employment:-**If an insured person happens to need medical care before the Temporary Identification Certificate is issued to him, the employer shall issue a certificate of employment in such form as may be specified by the Director-General to such person on demand. Such certificate shall also be issued on demand, if an insured person loses his Temporary Identification Certificate before the receipt of the identity card.

**17B. Issue of Permanent Acceptance Card:-**In areas where the Director-General considers it appropriate, the appropriate Office shall also supply a permanent Acceptance Card for each employee in such form as the Director-General may specify along with the identity card and this shall also be delivered to the employee. Permanent Acceptance Card for the employee who has left employment before <sup>7</sup>[3 months] shall not be given to him but returned to the appropriate office along with the identity card as soon as possible.]

**18. Loss of Identity Card:-**In case of loss, defacement or destruction of an Identity Card, the insured person shall report the matter to the appropriate <sup>8</sup>[Branch office], and the Corporation may issue a duplicate copy of the Identity Card subject to such conditions and payment of such fees as may be determined by the Director-General.

<sup>9</sup>[\*\*\*]

<sup>10</sup>[\*\*\*]

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1 Subs. by The Employees State Insurance (General) )Amendment) Regulations, 1972.

2 Ins. by E.S.I. (General) (Amendment) Regulations, 2003, dt. 7-1-2004 (w.e.f. 31-1-2004).

3 Ins. by E.S.I. (General) (Amendment) Regulations, 2003, dt. 7-1-2004 (w.e.f. 31-1-2004).

4 Subs. by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

5 Subs. by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

6 Added by Notification No. GenI./Amend./25, dated 6th April, 1970.

7 Subs. by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

8 Subs. by Notification No. N-11/13/2/2003-P&D, dated 1st October, 2004, for "Local Office" (w.e.f. 1-1-2005).

9 Regulations 19 to 24 omitted by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

10 Regulation 25 omitted by Notification No. N-12/13/19/79- P&D, dated 9th March, 1983 (w.e.f. 26-3-1983).

**<sup>1</sup>[26. Return of contributions to be sent to appropriate office:-**(1) Every employer shall send a return of contributions in quadruplicate in <sup>2</sup>[Form 5] along with receipted copies of challans for the amounts deposited in the Bank, to the appropriate office by registered post or messenger, in respect of all employees for whom contributions were payable in a contribution period, so as to reach that office—

- <sup>3</sup>[(a) within 42 days of the termination of the contribution period to which it relates;
- (b) within 21 days of the date of permanent closure of the factory or establishment, as the case may be];
- (c) within 7 days of the date of receipt of requisition in that behalf from the appropriate office.

<sup>4</sup>[(1-A) Every employer shall be required to submit details in Form 5 (Return of Contribution) with regard to employees engaged through Principal and Immediate Employers and their coverage, submission of Declaration Forms, distribution of Temporary Identification Certificates/Permanent Identity Cards and wages considered for payment of contribution and wages excluded for such purpose.]

(2) For the purposes of section 77 of the Act, the due date by which the evidence of contributions having been paid must reach the Corporation shall be the last of the days respectively specified in clauses (a), (b) & (c) of sub-regulation (1).]

**<sup>5</sup>[27. Issue of certificate of contributions:-**An employer shall, on demand from the appropriate office, issue certificate of contributions paid or payable in respect of an insured person in such form as may be specified by the Director-General.]

<sup>6</sup>[\*\*\*]

**<sup>7</sup>[29. Payment of contribution:-**Contribution payable under the Act shall, except when otherwise provided, be paid into a Bank duly authorised by the Corporation.]

<sup>8</sup>[\*\*\*]

**<sup>1</sup>[31. Time for payment of contribution:-**An employer who is liable to pay contributions in respect of any employee shall pay these contributions within 21 days of the last day of the calendar month in which the contributions fall due:]

1 Subs. by Notification No. N-12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

2 Subs. for "Form 6" by Noti. No. 11/13/2/2003-P&D, dated 1st October, 2004, (w.e.f. 1-1-2005).

3 Subs. by Notification No. 12/13/1/86-P&D, dated 26th October, 1988 (w.e.f. 11-11-1988).

4 Inserted by Noti. No. N-12/13/1/2008-P&D dated 11<sup>th</sup> March, 2008 (w.e.f. 01-04-2008).

5 Subs. by Notification No. 12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

6 Regulation 28 omitted by Notification No. 12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

7 Subs. by Notification No. 12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

8 Regulation 30 omitted by Notification No. N-12/13/19/79- P&D, dated 9th March, 1983 (w.e.f. 26-3-1983).

<sup>2</sup>[Provided that where a factory/establishment is permanently closed, the employer shall pay contribution on the last day of its closure :]

<sup>3</sup>[Provided that an employer may opt, in such manner as may be prescribed, by the Director-General for payment of amount in advance towards contribution to be adjusted against contributions payable by him (including employees' contribution) for a wage period so that the balance of advance amount continues to be more than the contributions due and payable at the end of the concerned wage period. Such an employer shall furnish in the prescribed proforma <sup>4</sup>[(Form 5-A)], a six monthly statement of contributions payable and paid in advance with the balance left at the end of each month along with return of contributions to the appropriate regional office of the Corporation.]

**<sup>5</sup>[31A. Interest on contribution due, but not paid in time:-**An employer who fails to pay contribution within the periods specified in regulation 31, shall be liable to pay <sup>6</sup>[simple interest at the rate of <sup>7</sup>[twelve per cent] per annum in respect of each day of default or delay in payment of contribution.]

**<sup>8</sup>[31B. Recovery of interest:-**Any interest payable under regulation 31A may be recovered as an arrear of land revenue or under section 45C to section 45-I of the Act.]

**<sup>9</sup>[31C. Damages or contributions or any other amount due, but not paid in time:-**If an employer fails to pay contribution within the periods specified under Regulation 31, or any other amount payable under the Act, the Corporation may recover damages, not exceeding the rates mentioned below, by way of penalty.

	Period of delay	Maximum rate of damages in % per annum of the amount due
(i)	Less than 2 months	5%
(ii)	2 months and above but less than 4 months	10%
(iii)	4 months and above but less than 6 months	15%
(iv)	6 months and above	25% :

Provided that the Corporation, in relation to a factory or establishment which is declared as sick industrial company and in respect of which a rehabilitation scheme has been sanctioned by the Board for Industrial and Financial Reconstruction, may :—

1 Subs. by Notification No. 12/13/1/84-P&D, Col. II, dated 5th January, 1985 (w.e.f. 27-1-1985).

2 Subs. by Notification No. 12/13/1/86-P&D, dated 26th October, 1988 (w.e.f. 11-11-1988).

3 Ins. by Notification No. N-12/13/2/93- P&D, dated 16th March, 1994 (w.e.f. 1-4-1994).

4 Subs. by Notification No. N 11/13/2/2003-P&D, dated 1st October, 2004, for "Form 6A and Form 7" (w.e.f. 1-1-2005).

5 Subs. by Notification No. N-12/13/19/79- P&D, dated 9th March, 1983 (w.e.f. 26-3-1983).

6 Subs. by Notification No. N-12/13/1/94- P&D, dated 1st November, 1994 (w.e.f. 1-9-1994).

7 Subs. by Notification No. N-12/13/1/2005-P&D, dated 6th July, 2005, for "fifteen per cent." (w.e.f. 1-10-2005).

8 Subs. by Notification No. N-12/13/1/90-P&D, dated 17th May, 1991 (w.e.f. 15-6-1991).

9 Added by Notification No. N-12/13/3/2002-P&D, dated 27-3-2003. (w.e.f. 19-4-2003).