



**EMPLOYEES' STATE INSURANCE CORPORATION**  
**PANCHDEEP BHAWAN, CIG ROAD, NEW DELHI – 110002.**  
(Website address: [www.esic.nic.in](http://www.esic.nic.in))

Dated: 5th June, 2010

No.

To

All Regional Directors/SMCs/SSMCs

Subject :	<b>Amendments in the Employees' State Insurance Act, 1948 vide Employees' State Insurance (Amendment) Act, 2010</b>
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Sir,

The ESI Act, 1948, was last amended in 1989. Taking into account the changes in economic scenario in the country since 1989, the ESI Corporation, at its 139<sup>th</sup> meeting held on 17-7-2007, while discussing amendments in certain provisions of the ESI Act, decided that a sub-committee of the Corporation be constituted for reviewing the entire Act and suggesting comprehensive amendments therein taking into account the changed economic scenario.

2. Accordingly, the ESI Corporation constituted a Sub-Committee comprising of representatives of employers, employees, Members of Parliament, State and Central Government. The Committee submitted its report to the Corporation which was considered and approved by the ESI Corporation at its 142<sup>nd</sup> meeting held on 22.2.08.

3. Based on the recommendations of the Corporation, the Government of India, Ministry of Labour & Employment formulated proposals for comprehensive amendment in the ESI Act, 1948. The ESI (Amendment) Bill, 2009 which was approved by the Cabinet on 23-7-2009 and introduced in the Lok-Sabha on 7-8-2009 was referred to the Standing Committee of Parliament which presented its report to the Lok-Sabha and Rajya Sabha on 9-12-2009. The ESI (Amendment) Bill, 2010, alongwith further amendments as suggested by the Parliamentary Standing Committee, was passed by the Lok-Sabha on 3-5-2010 and Rajya Sabha on 6-5-2010. The Bill received assent of Hon'ble President of India on 24-5-2010 and has been enacted as the Employees' State Insurance (Amendment) Act, 2010 (No.18 of 2010) (Copy enclosed). All the provisions of the Amendment Act (except Section - 18) have come into effect from 1<sup>st</sup> June, 2010 vide Government of India, Ministry of Labour & Employment Notification (S.O.No.1296 (E) dated 1-6-2010 (copy enclosed). The salient features of the Amendment Act are as under:-

- facilitating coverage of smaller factories;

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- Enhancing age limit of dependant children for eligibility to dependants benefit;
  - Extending medical benefit to dependant minor brother/sister in case of IPs not having own family and whose parents are also not alive;
  - streamlining the procedure for assessment of dues from defaulting employers;
  - providing an Appellate Authority within the Corporation against assessment to avoid unnecessary litigation;
  - Continuing medical benefit to insured persons retiring under VRS scheme or taking premature retirement;
  - Treating commuting accidents as employment injury;
  - Streamlining the procedure for grant of exemptions;
  - third party participation in commissioning and running of the Hospitals;
  - opening of medical/dental/paramedical/nursing colleges to improve quality of medical care;
  - Making an enabling provision for extending medical care to other beneficiaries against payment of user charges to facilitate providing of medical care from under-utilised ESI Hospitals to the BPL families covered under the Rashtriya Swasthaya Bima Yojana introduced by the Ministry of Labour & Employment w.e.f.1-4-2008.
  - Reducing duration of notice period for extension of the Act to new classes of establishments from six months to one month.
  - Empowering State governments to set up autonomous Corporations for administering medical benefit in the States for bringing autonomy and efficiency in the working.

4. The following sections of the ESI (Amendment) Act, 2010, which do not require consequent changes in the ESI (Central) Rules, 1950/ ESI (General) Regulations, 1950, will become operable from 1<sup>st</sup> June, 2010..

i) As a result of amendment in Sec.1(5) of the Act, the notice period for extending the scheme to new sectors of employment by the 'appropriate government' have been reduced from existing six months to one month. You may bring this to the notice of the State Government and in case the final notification for extending the scheme to educational and medical institutions in the State is pending, you may request the state government to issue the final notification in case one month period after issue of intention notification is over.

ii) With the amendment in Sec.2 (9) of the Act, the apprentices appointed under the Standing orders of the establishment who were earlier excluded from coverage have now become coverable. Necessary instructions may be issued to Branch Officers of Revenue Branches and Social Security Officers to ensure coverage of all such persons.

iii) As a result of amendment in the definition of 'factory' in Sec.2(12) of the Act, any premises or precincts thereof where ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which manufacturing process is carried on or is ordinarily so carried on, have become coverable. Necessary instructions may be issued to all Social Security Officers to ensure coverage of all such factories. The changed provision may also be brought into the notice of employers' organizations through notices in local newspapers.

iv) Vide Sec.45 (4), a provision has been made for test inspection/re-inspection. You may make use of this provision as and when required.

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v) Vide amendment in Sec.45-A, it has now been provided that an order passed by the Corporation under Sec.45-A can be passed only in respect of period upto 5 years. This may be brought to the notice of all officers dealing with Revenue Branches for strict compliance.

vi) In Sec.51 (A) to Sec.51 (D), the words 'Insured Persons' has been substituted with the word 'employee'. This provision has been made with a view to prevent misuse of the provision by persons who have gone out of insurable employment but continue to be insured persons and sustain injury after ceasing to be employees. This may be brought into notice of all officers dealing with Benefit Division as well as Branch Office Manager

vii) A new Section 51-E has been inserted as a result of which an accident occurring to an employee while commuting from his residence to the place of employment for duty or vice-versa shall be treated as employment injury if nexus between the circumstances, time and place in which accident occurred and the employment is established.

viii) In Sec.58 of the Act, a new provision has been made vide Sec.58 (5) and (6) empowering the State Govts. to set up autonomous organizations for administering medical benefit. This provision may be brought to the notice of concerned authorities in the state. Necessary model Bill & rules for setting up of such Corporations will be sent to the State Govts. separately.

ix) A provision has been made in Sec.59 (3) for third party participation for commissioning and running ESI Hospitals. This may be taken note of and brought to the notice of State Govt.

x) A new provision in Sec.59B has been made empowering the Corporation to establish Medical Colleges, Nursing Colleges and training institutes for para-medical staff and other employees with a view to improve the quality of services.

xi) A new chapter V(A)-Sec.73(A) to 73(F) has been created under which medical care can be provided from under utilized ESI Hospitals on payment of user charges. Necessary detailed instructions in this regard will be issued separately by Medical Commissioner.

xii) Vide amendment in Sec.87 and Sec.91(A), it has been provided that exemptions shall be granted by State Govts. only in case of substantially similar or superior benefits are provided by the employers. Further, exemptions are to be granted only prospectively and not from retrospective date. This provision may be brought to the notice of State Govts. with the request to keep this in view while granting exemptions in future. Contribution be collected from such institutions which have applied for exemption till the time they get such exemption.

This issues with the approval of Director General.

Receipt of this letter may please be acknowledged.

Hindi version will follow.

Yours faithfully,

**(R.C.SHARMA)**  
**Director (P &D)**

**Copy for information and necessary action to :-**

1. SSMC, ESI Corporation, \_\_\_\_\_
2. Medical Commissioner, ESIC Hqrs. Office, New Delhi.