

HR Law Hotline

January 04, 2017

MORE WORKERS GET COVERED UNDER INDIA'S MANDATORY EMPLOYEE INSURANCE

- Wage ceiling for mandatory subscription and contribution for employees' insurance scheme increased to INR 21,000 per month.
- Members already enrolled under the ESIC Scheme will continue to be members irrespective of their monthly wages.
- The amendments have taken effect from January 1, 2017.

The wage ceiling for employee coverage under the Employees' State Insurance Act, 1948 ("**ESI Act**") has been increased by the Indian government, thereby including a larger workforce for mandatory insurance coverage.

The Ministry of Labour and Employment has through notification dated December 22, 2016¹ ("**ESI 2017 Amendment**") amended the Employees' State Insurance (Central) Rules, 1950 ("**the ESI Rules**") under the ESI Act, to increase the wage ceiling for determining employee eligibility² under the statute. The ESI 2017 Amendment has increased the wage ceiling from INR 15,000 (approx. US\$ 220) per month to INR 21,000 (approx. US\$ 310) per month.³

The ESI 2017 Amendment has come into effect from January 1, 2017.

BACKGROUND

The ESI Act was enacted with the objective of protecting the interests of workers in contingencies resulting in loss of wages or earning capacity, such as sickness, temporary or permanent physical disablement, or death due to employment injury (i.e. injury suffered during the course of employment). The ESI Act applies to all factories and to specified establishments where at least 10 employees are employed. As per the ESI Act, employers of covered establishments are required to provide benefits envisaged under the ESI Act to employees who draw wages up to INR 21,000 per month (INR 15,000 per month prior to the ESI 2017 Amendment). The contribution payable to the Employees' State Insurance Corporation ("**ESIC**") with respect to each employee is comprised of the employer's contribution and the employee's contribution at the specified rates, which are currently, 1.75% of the wages (employee's contribution) and 4.75% of the wages (employer's contribution) paid/payable in respect of the employees in every wage period.

The Ministry of Labour and Employment had earlier through its notification dated October 6, 2016, published the draft amendments to the ESI Rules⁴. The ESI 2017 Amendment has been notified after considering objections and suggestions received from the public in furtherance of the aforementioned notification. Pursuant to the ESI 2017 Amendment, employees drawing wages of up to INR 21,000 per month, will now be eligible for health care benefits at more than 1,500 clinics and hospitals run by the ESIC directly or indirectly.

ANALYSIS

The ESI 2017 Amendment has now brought the ESI Act in line with the Payment of Bonus Act, 1965, in terms of the wage threshold. Although the initial proposal was to revise the wage ceiling under the ESI Act to INR 25,000 (approx. US\$ 370) per month, following stiff resistance from employer representatives, the same was fixed at INR 21,000 per month. In this context, it is also interesting to note that the government is considering an increase in the wage ceiling for employee coverage under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, to INR 25,000 per month from the existing INR 15,000 per month limit⁵.

As of March 31, 2016, there were around 21 million persons who were insured under the ESI Act and a total of over 60 million beneficiaries. The increase in wage ceiling is now expected to benefit a larger working population and include approximately three million workers to the ESI pool, benefiting 12 million more people⁶. However, the increased wage ceiling is expected to pose a challenge to employers in terms of the wage costs to be borne by them. Employers would now be required to make provisions of cash benefit and health insurance for an extended employee population who draw wages up to INR 21,000 per month. Although the move is a positive stride made with the objective of expanding the ambit of social security schemes to a larger working population, it continues to remain a challenge for the government to ensure that the quality of medical facilities (including hospital infrastructure) provided under the ESI Act are improved such that the desired benefit is achieved.

– Preetha S, Ajay Solanki & Vikram Shroff

Research Papers

Handbook on New Labour Codes

April 29, 2024

Compendium of Research Papers

April 11, 2024

Third-Party Funding for Dispute Resolution in India

April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

Third-Party Funding: India & the World

April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

The Midnight Clause

February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

¹ Employees' State Insurance (Central) Third Amendment Rules, 2016
² <http://esic.nic.in/backend/writereaddata/file/1e1207c7c4a23e8f08d0a15b10af6d8b.pdf>
³ The Employees' State Insurance (Central) Rules, 1950, Rule 50
⁴ https://www.hinote.in/wp-content/uploads/LabourMin_Notification_ESIWageLimitIncreaseProposal_06Oct2016.pdf
⁵ http://www.livemint.com/Politics/Hri0hpNMgZ5SPcopMaZFSL/Govt-weighs-hike-in-EPFO-wage-ceiling-to-Rs25000-per-month.html?li_source=LI&li_medium=news_rec
⁶ <http://www.livemint.com/Politics/EccAww4ndlxC3ciUqxbFUN/ESIC-raises-wage-threshold-to-Rs21000-aims-to-add-50-lakh.htm>

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.