

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

### **34 of 1948**

#### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title, extent, commencement and application
2. Definitions
- 2A. Registration of factories and establishments

#### **CHAPTER 2 :-CORPORATION,STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL**

3. Establishment of Employees State Insurance Corporation
4. Constitution of Corporation
5. Term of office of members of the Corporation
6. Eligibility for re-nomination or re-election
7. Authentication of orders, decisions, etc
8. Constitution of Standing Committee
9. Term of office of members of Standing Committee
10. Medical Benefit Council
11. Resignation of membership
12. Cessation of membership
13. Disqualification
14. Filling of vacancies
15. Fees and allowances
16. Principal Officers
17. Staff
18. Powers of the Standing Committee
19. Corporations power to promote measures for health, etc., of insured persons
20. Meetings of Corporation, Standing Committee and Medical Benefit Council
21. Supersession of the Corporation and Standing Committee
22. Duties of Medical Benefits Council
23. Duties of 3[Director General and the Financial Commissioner]
24. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc
25. Regional Boards, Local Committees, Regional and Local Medical Benefit Councils

#### **CHAPTER 3 :- FINANCE AND AUDIT**

26. Employees State Insurance Fund
27. Grant by the Central Government
28. Purposes for which the fund may be expended
- 28A. Administrative expenses
29. Holding of property, etc
30. Vesting of the property In the Corporation
31. Expenditure by Central Government to be treated as a loan
32. Budget estimates
33. Accounts
34. Audit
35. Annual report
36. Budget, audited accounts and the annual report to be placed before

Parliament

37. Valuation of assets and liabilities

#### **CHAPTER 4 :- CONTRIBUTIONS**

38. All employees to be insured

39. Contributions

40. Principal employer to pay contributions In the first instance

41. Recovery of contributions from Immediate employer

42. General provisions as to payment of contributions

43. Method of payment of contribution

44. Employers to furnish returns and maintain registers in certain cases

45. Inspectors, their functions and duties

45A. Determination of contributions in certain cases

45AA. Appellate authority

45B. Recovery of contributions

45C. Issue of certificate to the Recovery Officer

45D. Recovery Officer to whom certificate is to be forwarded

45E. Validity of certificate and amendment thereof

45F. Stay of proceedings under certificate and amendment or withdrawal thereof

45G. Other modes of recovery

45H. Application of certain provisions of the Income-tax Act

45I. Definitions

#### **CHAPTER 5 :- BENEFITS**

46. Benefits

47. When person eligible for sickness benefit

48. When person deemed available for employment

49. Sickness benefit

50. Maternity benefit

51. Disablement benefit

51A. Presumption as to accident arising in course of employment

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

51C. Accidents happening while travelling in employers transport

51D. Accidents happening while meeting emergency

51E. Accidents happening while commuting to the place of work and vice versa

52. Dependents benefits

52A. Occupational disease

53. Bar against receiving or recovery of compensation or damages under any other law

54. Determination of question of disablement

54A. References to medical boards and appeals to medical appeal Tribunals and Employees Insurance Courts

55. Review of decisions by medical board or medical appeal Tribunal

55A. Review of dependants benefit

56. Medical benefit

57. Scale of medical benefit

58. Provision of medical treatment by 65[State] Government

59. Establishment and maintenance of hospitals, etc., by Corporation

59A. Provision of medical benefit by the Corporation In lieu of State Government

59B. Medical and para-medical education

60. Benefit not assignable or attachable

61. Bar of benefits under other enactments

62. Persons not to commute cash benefits

63. Persons not entitled to receive benefit in certain cases

64. Recipients of sickness or disablement benefit to observe conditions

65. Benefits not to be combined

66. Corporations right to recover damages from employer in certain cases

- 67. Corporations right to be indemnified in certain cases
- 68. Corporations rights where a principal employer fails or neglects to pay any contribution
- 69. Liability of owner or occupier of factories, etc., for excessive sickness benefit
- 70. Repayment of benefit improperly received
- 71. Benefit payable up to and including day of death
- 72. Employer not to reduce wages, etc
- 73. Employer not to dismiss or punish employee during period of sickness, etc

#### **CHAPTER 5A :- TRANSITORY PROVISIONS**

- 73A. Employers special contribution
- 73B. Special tribunals for decision of disputes or questions under this Chapter where there is no Employees Insurance Court
- 73C. Benefits under Chapter V to depend upon employees contribution
- 73D. Mode of recovery of employers special contribution
- 73E. Power to call for additional information or return
- 73F. Power to exempt to be exercised by Central Government alone in respect of employers special contributions
- 73G. Application of certain provisions of this Act to employers special contribution
- 73H. Power to remove difficulties
- 73I. Duration of Chapter V-A

#### **CHAPTER 6 :- ADJUDICATION OF DISPUTE AND CLAIMS**

- 74. Constitution of Employees Insurance Court
- 75. Matters to be decided by Employees Insurance Court
- 76. Institution of proceedings, etc
- 77. Commencement of proceedings
- 78. Powers of Employees Insurance Court
- 79. Appearance by legal practitioners, etc
- 80. Benefit not admissible unless claimed in time
- 81. Reference to High Court
- 82. Appeal
- 83. Stay of payment pending appeal

#### **CHAPTER 7 :- PENALTIES**

- 84. Punishment for false statement
- 85. Punishment for failure to pay contributions, etc
- 85A. Enhanced punishment in certain cases after previous conviction
- 85B. Power to recover damages
- 85C. Power of court to make orders
- 86. Prosecutions
- 86A. Offences by companies

#### **CHAPTER 8 :- MISCELLANEOUS**

- 87. Exemption of a factory or establishment or class of factories or establishments
- 88. Exemption of persons or class of persons
- 89. Corporation to make representation
- 90. Exemption of factories or establishments belonging to Government or any local authority
- 91. Exemption from one or more provisions of the Act
- 91A. Exemptions to be either prospective or retrospective
- 91AA. Central Government to be appropriate Government
- 91B. Misuse of benefits
- 91C. Writing off of losses

- 92. Power of Central Government to give directions
- 93. Corporation officers and servants to be public servants
- 93A. Liability in case of transfer of establishment
- 94. Contributions, etc., due to Corporation to have priority over other debts
- 94A. Delegation of powers
- 95. Power of Central Government to make rules
- 96. Power of 44[State] Governments to make rules
- 97. Power of Corporation to make regulations
- 98. Corporation may undertake duties in the Indian States
- 99. Medical care for the families of insured persons
- 99A. Power to remove difficulties
- 100. Repeals and savings

**SCHEDULE 1 :- SCHEDULE**

**SCHEDULE 2 :- SCHEDULE**

**SCHEDULE 3 :- LIST OF OCCUPATIONAL DISEASES**

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

**34 of 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 1 PRELIMINARY**

#### **1. Short title, extent, commencement and application :-**

- (1) This act may be called the Employees State Insurance Act, 1948.
- (2) It extends to <sup>1</sup>[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 <sup>4</sup>[Government] other than seasonal factories : <sup>5</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>6</sup>[where the appropriate Government is a State Government, with the approval of the Central Government], after giving six months notice of its intention of so doing by notification in the Official Gazette, extend the provision of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agriculture 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 already been extended to similar establishment or class .of establishments in another part of that State.]

**8** [(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.]

1. Substituted for "all the provinces of India by the A.O. 1950.

2. The words except the State of Jammu and Kashmir omitted by the Central Labour Laws (Extension to Jammu and Kashmir) Act, 1970. Earlier these words were substituted by the Employees State Insurance (Amendment) Act, 1951.

3. Substituted for for different States by the Employees State Insurance (Amendment)Act, 1951.

4. Substituted for "crown by A.O. 1950.

5. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

6. Substituted for "with the approval of the Central Government" by the Employees State Insurance (Amendment) Act, 1951.

7. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 16-5-1990.

8. Inserted, the Employees State Insurance (Amendment) Act, 1989., w.e.f. 20-10-1989.

## **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or con- text-

(1) "appropriate Government" means, in respect of establishment un- der the control of the Central Government or <sup>1</sup>[a railway adminis tration] or a major port or a mine or oilfield, the Central Govern- ment, and in all other cases, the [State] Government;

(2) <sup>2</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 Corpora- tion by the principal employer in respect of an employee and in- cludes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

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

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

<sup>4</sup>[(6A) "dependant" means any of the following relatives of a deceased insured person, namely :-

(i) a widow, a minor legitimate or adopted son, an unmarried le- gitimate or adopted <sup>5</sup>[daughter;]

<sup>6</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 eighteen 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,
  - (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>7</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>8</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>9</sup>[or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment; but does not include]-
    - (a) any member of 20[the Indian] naval, military or air forces; or
    - <sup>10</sup>[(b) any person so employed whose wages (excluding remuneration for overtime work) exceed [such wages as may be prescribed by the Central Government] : Provided that an employee whose wages (excluding remuneration for overtime work) exceed [such wages as may be prescribed by the Central Government] 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;]

(10) "exempted employee" means an employee who is not liable under this Act to pay the employees contribution.

**11**(II) "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;

(v) dependent parents;

(12) "factory" means any premises including the precincts thereof-

(a) whereon ten or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

(b) whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power 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 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 [and includes a contractor];

**12**[(13A) "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;

**13**[(14A) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other persons trade or business, but does not include an individual manager subordinate to an employer;]

**14**[(14AA) "manufacturing process" shall have the meaning assigned to it in the Factories Act, 1948 ;]

**13**[(14B) "mis-carriage" means expulsion of the contents of a pregnant uterus at

any period prior to or during the twenty-sixth week of pregnancy but does not include any mis-carriage, 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, 1948 ,<sup>16</sup>[1948] (63 of 1948);

<sup>17</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 Sched- ule shall be deemed to result in permanent partial disablement.]

<sup>18</sup>[(15B) "permanent total disablement" mean such disablement of a permanent nature as 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 percent or more.]

<sup>19</sup>[(15C) "power" shall have the meaning assigned to it in the Factories Act,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 in- cludes 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>20</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 in India, the authority appointed by such Government in this behalf or where no authority is so ap- pointed, 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;

33[(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 ground- nuts, the manufacture of coffee, indigo, lac, rubber, sugar (includ- ing 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 Govern- ment 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 em- ployment injury which requires medical treatment and renders an employee, as

a result of such injury, temporarily incapable of <sup>21</sup>[doing the work which he was doing prior to or at the time of the 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>22</sup>[any payment to an employee in respect of any period of authorised leave, lock out, strike which is not illegal or lay-off and] other additional remuneration, if any, <sup>23</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>24</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>25</sup> [(24) all other words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act.]

1. Substituted for "a federal railway" by the A.O. 1950.

2. Omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991. Earlier existing clause (2) was amended by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

3. Omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991. Earlier existing clause (5) was amended by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

4. Inserted by the Employees State Insurance (Amendment) Act, 1966.

5. Substituted for "daughter or a widowed mother; and" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

6. Inserted, the Employees State Insurance (Amendment) Act, 1989.

7. Substituted by the Employees State Insurance (Amendment) Act, 1966.

8. Substituted for "but does not include" by the Employees State Insurance (Amendment) Act, 1966.

9. Substituted for "; but does not include" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

10. Substituted by the Employees State Insurance (Amendment) Act, 1966,

11. Substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989. Earlier existing clauses (II) and (12) were amended by the Employees State Insurance (Amendment) Act, 1966.

12. Inserted by the Employees State Insurance (Amendment) Act, 1966.

13. Inserted, the Employees State Insurance (Amendment) Act, 1966.

14. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
16. Substituted for 1934" by the Employees State Insurance (Amendment) Act, 1951.
17. Inserted by the Employees State Insurance (Amendment) Act, 1966.
18. Inserted, the Employees State Insurance (Amendment) Act, 1966
19. inverted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
20. Substituted for "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934" by the Employees State Insurance (Amendment) Act, 1951.
21. Substituted for "work" by the Employees State Insurance (Amendment) Act, 1966.
22. Inserted by the Employees State Insurance (Amendment) Act, 1966.
23. Substituted for "paid at regular intervals after the last day of the wage period" by the Employees State Insurance (Amendment) Act, 1951.
24. Substituted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985
25. Substituted by the Employees State Insurance (Amendment) Act, 1966.

## **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 2 CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL**

### **3. Establishment of Employees State Insurance Corporation :-**

(1) With effect from such date as the Central Government may, by notification in the 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>2</sup>[appointed] by the Central Government;]

- (c) not more than five persons to be <sup>2</sup>[appointed] by the Central Government <sup>5</sup>[\*\*\*];
- (d) one person each representing each of the <sup>6</sup><sup>7</sup>[States] in which this Act is in force] to be <sup>8</sup>[appointed] by the <sup>9</sup>[State] Government concerned;
- (e) one person to be <sup>6</sup>[appointed] by the Central Government to represent the [Union territories];
- (f) <sup>11</sup>[ten] persons representing employers to be <sup>6</sup>[appointed] by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (g) <sup>8</sup>[ten] persons representing employees to be <sup>6</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>6</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>16</sup>[\*\*\*]
- <sup>17</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
- (j) the Director General of the Corporation, ex. officio.]

1. Substituted by the Employees State Insurance (Amendment) Act, 1966.
2. Substituted for "nominated" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
5. The words "of whom at least three shall be officials of the Central Government" omitted by the Employees State Insurance (Amendment) Act, 1966.
6. Substituted for "Part A States" by the Employees State Insurance (Amendment) Act, 1951.
7. Substituted for "Part A States and Part B States" by the Adaptation of Laws (No. 3) Order, 1956.
8. Substituted for "nominated" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
9. Substituted for Provincial by the A.O. 1950.
11. Substituted for "five" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
16. The word "and" omitted by the Employees State Insurance (Amendment) Act, 1966.
17. Substituted by the Employees State Insurance (Amendment) Act, 1966.

**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.

1. Substituted for "the ex officio members and members referred to in clauses (c), (d) and (e) of section 4," the Employees State Insurance (Amendment) Act, 1966.

2. Substituted for "nomination" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

3. Substituted for "nomination", the Employees State Insurance (Amendment) Act, 1989.

4. Substituted for "(c), (d) and (e) by the Employees State Insurance (Amendment) Act, 1966, w.e.f. 17-6-1967.

5. Substituted for "nominating" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

## **6. Eligibility for re-nomination or re-election :-**

An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for <sup>1</sup> [reappointment] or re-election as the cases may be.

1. Substituted for "re-nomination", the Employees State Insurance (Amendment) Act, 1989.

## **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, nominated by the Central Government;

(b) three members of the Corporation, <sup>1</sup><sup>2</sup>[appointed] by the Central Government];

<sup>3</sup>[(b) 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>4</sup>[eight] members elected by the Corporation as follows -

(i) <sup>5</sup>[\* \* \*]

(ii) <sup>6</sup>[three] members from among the members of the Corporation representing employers;

(iii) <sup>6</sup>[three] members from among the members of the Corporation representing employees;

(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>8</sup>[Parliament];

<sup>9</sup> [(d) the Director General of the Corporation, ex officio.]

1. Substituted for "being officials of the Central Government, nominated by that Government" by the Employees State Insurance (Amendment) Act, 1966.

2. Substituted for "nominated" by the Employees State Insurance (Amendment) Act, 1989, w.c.f. 20-10-1989.

3. Inserted by the Employees State Insurance (Amendment) Act, 1951.

4. Substituted for "six" by the Employees State Insurance (Amendment) Act, 1966.

5. Omitted by the Employees State Insurance (Amendment) Act, 1951.

6. Substituted for "two" by the Employees State Insurance (Amendment) Act, 1966. Earlier this word was substituted by the Employees State Insurance (Amendment) Act, 1961.

8. Substituted for "the Central Legislature" by the A.O. 1950.

9. Inserted by the Employees State Insurance (Amendment) Act, 1966.

### **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>1</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 :

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

1. Substituted for "clause (b)" by the Employees State Insurance (Amendment) Act, 1951.

2. Substituted for "clause (b)" by the Employees State Insurance (Amendment) Act, 1951.

## **10. Medical Benefit Council :-**

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

(a) the Director General, Health Services, ex officio, as Chairman;

(b) a Deputy Director-General, Health Services, to be<sup>1</sup>[appointed] by the Central Government;

(c) the Medical Commissioner of the Corporation, ex officio;

(d) one member each representing each of the <sup>2</sup><sup>3</sup>[States (other than Union territories)] in which this Act is in force] to be <sup>1</sup>[appointed] by the <sup>5</sup>[State] Government concerned;

(e) three members representing employers to be <sup>4</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>4</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>4</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.

(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 clause (a) to (d) of sub-section (1), shall be four years from the date on which his <sup>9</sup>[appointment] is notified:] <sup>10</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>11</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>12</sup> [appointing] him.

1. Substituted for "nominated" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

2. Substituted for "Part A States" by the Employees State Insurance (Amendment) Act, 1951.

3. Substituted for "Part A States and Part B States" by the Adaptation of Laws (No.3) Order, 1956.

5. Substituted for "Provincial" by the A.O.1950.

9. Substituted for "nominated" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

10. Inserted by the Employees State Insurance (Amendment) Act, 1966.

11. Substituted for "nomination" by the Employees State Insurance (Amendment) Act, 1989, w.e.f.20-10-1989.

12. Substituted for "nominating", the Employees State Insurance (Amendment)

Act, 1989.

### **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>1</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>2</sup>[(2) Where in the opinion of the Central Government any person <sup>3</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>4</sup> [(3) A person referred to in clause (i) of section 4 shall cease to be a member of the Corporation, when he ceases to be a member of Parliament.]

1. Renumbered by the Employees State Insurance (Amendment) Act, 1951.
2. Inserted, the Employees State Insurance (Amendment) Act, 1951.
3. Substituted for "nominated" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
4. Inserted by the Employees State Insurance (Amendment) Act, 1966.

### **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 a subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a shareholder (not being a Director) of a 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 [appointed] or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by <sup>1</sup>[appointment] or election, as the case may be.

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

1. Substituted for "nomination", the Employees State Insurance (Amendment) Act,1989.

2. Substituted for "nominated", the Employees State Insurance (Amendment) Act,1989.

### **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>1</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>2</sup>[The Director General and the Financial Commissioner] shall be wholetime officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government <sup>3</sup>[and of the Corporation].

(4) <sup>4</sup>[The Director General or the Financial Commissioner] shall hold office for such period, not exceeding five years, as may be specified in the order <sup>5</sup>[appointing] him. An outgoing <sup>4</sup>[Director General or the Financial Commissioner] shall be eligible for <sup>7</sup>[reappointment] if he is otherwise qualified.

(5) <sup>8</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 <sup>9</sup>[appointed] as or for being <sup>10</sup> [the Director General or the Financial Commissioner] if he is subject to any of the disqualification specified in section 13 .

(7) The Central Government may at any time remove [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.

1. Substituted, the Employees State Insurance (Amendment) Act,1989.

2. Substituted fur "The Principal Officers",the Employees State Insurance

(Amendment) Act, 1989.

3. Inserted by the Employees State Insurance (Amendment) Act, 1966.

4. Substituted for "A Principal Officer" and "Principal Officer", respectively, by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

5. Substituted for "nominating", the Employees State Insurance (Amendment) Act, 1989.

7. Substituted for "renomination", the Employees State Insurance (Amendment) Act, 1989.

8. Substituted for "A Principal Officer", the Employees State Insurance (Amendment) Act, 1989

9. Substituted for "nominated", the Employees State Insurance (Amendment) Act, 1989

10. Substituted for "a Principal Officer", the Employees State Insurance (Amendment) Act, 1989 .

### **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, 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:

(b) In determining the corresponding scales of pay of the members of the staff under clause (a), the Corporation shall have regard to the educational qualifications, method 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>4</sup>[posts <sup>5</sup>[(other than medical posts)] corresponding to <sup>6</sup>[Group A and Group B] posts under the Central Government] shall be made in consultation with the <sup>7</sup>[Union] Public Service Commission : Provided that this sub-section shall not apply to an officiating or temporary <sup>8</sup>[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 <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.]

1. Substituted for "with a maximum monthly salary of five hundred rupees and above" by the Employees State Insurance (Amendment) Act, 1975.
2. Substituted for "exceeds two thousand and two hundred fifty rupees " by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991. Earlier these words were substituted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.
3. Substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 8-11-1989.
4. Substituted for "post carrying a maximum monthly pay of five -hundred rupees and above" by the Employees State Insurance (Amendment) Act, 1966.
5. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 16-5-1990.
6. Substituted for "Class I or Class II" by the Employees State Insurance (Amendment) Act, 1984 w.e.f. 27-1-1985.
7. Substituted for "Federal" by the A.O. 1950.
8. Substituted for "nomination" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
9. Substituted for "an aggregate period", the Employees State Insurance (Amendment) Act, 1989.
10. Inserted, the Employees State Insurance (Amendment) Act, 1989.
11. Inserted by the Employees State Insurance (Amendment) Act, 1966.
12. Substituted for "Class I or Class II" by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

#### **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.
- (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. Corporations 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 may incur in respect of such measures

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 objections, 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 [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>2</sup> [Parliament] at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Corporation or the Standing Committee, as the case may be.

1. Substituted for "nominate" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

2. Substituted for "the Central Legislature" by the A.O. 1950.

## **22. Duties of Medical Benefits 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.

1. Substituted for "the Corporation, the Standing Committee and the Medical Commissioner" by the Employees State Insurance (Amendment) Act, 1951.

**23. Duties of 3[Director General and the Financial Commissioner] :-**

. The <sup>1</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.

1. Substituted for "Principal Officers" by the Employees State Insurance (Amendment) Act, 1989,w.e.f.20-10-1989.

**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 [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 3 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 <sup>1</sup>[State] Government, <sup>2</sup>[\* \* \*] local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

<sup>3</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 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 officer as may be authorised by the Standing Committee with the approval of the Corporation.

1. Substituted for "Provincial by the A.O. 1950.
2. Words "Part B States" omitted by the Employees State Insurance (Amendment) Act, 1951.
3. Substituted, the Employees State Insurance (Amendment) Act, 1951.

## **27. Grant by the Central Government :-**

<sup>1</sup> [\* \* \*]

1. Omitted by the Employees State Insurance (Amendment) Act, 1966.

## **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 offices 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 provisions 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 <sup>1</sup>[State] Government, <sup>2</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, 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;

(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. Substituted for "Provincial" by the A.O. 1950.

2. Words "Part B States" omitted by the Employees State Insurance (Amendment) Act, 1951.

### **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 :-**

.. **1** [\* \* \*]

1. Omitted by the Employees State Insurance (Amendment) Act, 1966.

### **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 a 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 a 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.

### **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>1</sup>[together with<sup>2</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 the<sup>3</sup>[Parliament]<sup>4</sup> [\* \* \*].

1. Inserted by the .Employees State Insurance (Amendment) Act, 1966.
2. Substituted for "auditors report thereon" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
3. Substituted for "the Central Legislature" by the A.O. 1950.
4. Words "and published in the Official Gazette" omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

### **37. Valuation of assets and liabilities :-**

The Corporation shall, at intervals of five years, have a valuation of its assets and liabilities made by a 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 4 CONTRIBUTIONS**

### **38. All employees to be insured :-**

Subject to the provisions of the Act, all employees in factories, or establishments to which this Act applies shall be insured in the manner provided by this Act.

### **39. Contributions :-**

(1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employers contribution) and contribution payable by the employee (hereinafter referred to as the employees contribution) and shall be paid to the Corporation.

<sup>1</sup>[(2) The contributions shall be paid at such rates as may be prescribed by the Central Government: 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>2</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>3</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>3</sup>[wage period], or is employed under two or more employers during the same <sup>3</sup>[wage period], the contributions shall fall due on such days as may be specified in the regulations.

<sup>3</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 :

(b) Any interest recoverable under clause (a) may be recovered as an arrear of land revenue or under SIZE ERROR. 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).]

1. Substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991.

2. Substituted for "week", the Employees State Insurance (Amendment) Act, 1984

3. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

#### **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 employers contribution and the employees contribu- tion.

(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 employees 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 employees contributing for the period.

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employers contribution from any wages 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 contributions 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 contribution so paid (that is to say the employers contribution as well as the employees, 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>[(1A) The immediate employer shall maintain a register of employees employed by or through him as provided in the regulations and submit the

(2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employees 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 . Explanation:

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

1. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991.

2. Omitted by the Employees State Insurance (Amendment) Act, 1966.

#### **42. General provisions as to payment of contributions :-**

(1) No employees contribution shall be payable by or on behalf of an employee whose average daily wages <sup>1</sup>[during a wage period are below <sup>2</sup>[such wages as may be prescribed by the Central Government]]. Explanation: The average daily wages of an employee shall be calculated <sup>3</sup>[in such manner as may be prescribed by the Central Government].

(2) Contribution (both the employers contribution and the employees contribution) shall be payable by the principal employer for each <sup>1</sup>[wage period], <sup>5</sup>[in respect of the whole or part of which wages are payable to the employee and not otherwise].

(3) <sup>6</sup> [\* \* \*]

(4) <sup>7</sup> [\* \* \*]

(5) <sup>6</sup> [\* \* \*]

1. Substituted for "are below one rupee and fifty paise" and "week", respectively, by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1 -1985. Earlier these words were substituted by the Employees State Insurance (Amendment) Act, 1966.

2. Substituted for "six rupees" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991.

3. Substituted for "in the manner specified in the First Schedule", the Employees State Insurance (Amendment) Act, 1989.

5. Substituted for "during the whole or part of which an employee is employed" by the Employees State Insurance (Amendment) Act, 1966.

6. Omitted by the Employees State Insurance (Amendment) Act, 1984, w.e.f.

27-1-1985.

7. Omitted by the Employees State Insurance (Amendment) Act, 1966.

**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 contributions payable under this Act and without prejudice 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>1</sup> [(bb) the date by which evidence of contributions having been paid is to be received by the Corporation;]

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

1. Inserted by the Employees State Insurance (Amendment) Act, 1966.

**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 subsection (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. Inspectors, their functions and duties :-**

(1) The Corporation may appoint such persons as Inspectors; as it thinks fit, for the purposes of this Act, within such local limits as it may assign to them.

(2) Any Inspector appointed by the Corporation under sub-section ( 1) (hereinafter referred to as Inspector), 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 any of the 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 re-

(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 Inspector or other official has reasonable cause to believe to be or to have been an employee;

<sup>1</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 Inspector shall exercise such functions and perform such duties as may be authorised by the Corporation or as may be specified in the regulations.

1. Inserted by the Employees State Insurance (Amendment) Act, 1951.

#### **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 section 44 or any Inspector or other official of the Corporation referred to in sub-section (2) of section 45 is <sup>1</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>2</sup>[Provided that no such order shall be passed by the Corporation unless the principal or immediate employei or the person in charge of the factory or establishment has been given a reasonable opportunity of being heard;]

(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 the amount determined by such order as an arrears of land revenue under section 45B <sup>3</sup> [or the recovery under section 45C section 45D section 45E section 45F section 45G section 45H section 45I ].]

1. Substituted for "obstructed" by the Employees State Insurance (Amendment) Act,1989, w.e.f. 20-10-1989

2. Inserted, the Employees State Insurance (Amendment) Act,1989.

3. Inserted by the Employees State Insurance (Amendment) Act, 1966.

#### **45AA. Appellate authority :-**

\*[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.]

\* Inserted by the Employees State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010

#### **45B. Recovery of contributions :-**

.[. Any contribution payable under this Act may be recovered as an arrears of land revenue.]

#### **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 sections 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 45C 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 situated.

(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

**45E. Validity of certificate and amendment thereof :-**

(1) When the authorised officer issues a certificate to a Recovery Officer under section 45C, 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 Rule 45F.

**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 a 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 appeals 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 45C , 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 .

(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

(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 employers 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 discharge or to the extent of the principal or immediate employers 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 proceedings 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 section 45C section 45D section 45E section 45F 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 45C .

(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.

#### **45H. Application of certain provisions of the Income-tax Act :-**

The provisions of the Second and Third Schedules to the Income-tax Act, 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 section 45C section 45D section 45E section 45F section 45G section 45H , -

(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 5 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 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 dependents benefit); <sup>4</sup>[\*\*\*]

(e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit); <sup>5</sup>[and]

<sup>5</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]): Provided that the amount of such payment shall not exceed <sup>8</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 or 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.

1. Substituted for "or, as the case may be, their dependents" by the Employees State Insurance (Amendment) Act, 1966.

2. Inserted by the Employees State Insurance (Amendment) Act, 1966.

3. Substituted, the Employees State Insurance (Amendment) Act, 1966.

4. The word "and" omitted, the Employees State Insurance (Amendment) Act, 1966.

5. Inserted, the Employees State Insurance (Amendment) Act, 1966.

7. Substituted for "funeral benefit" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

8. Substituted for "one hundred rupees", the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991.

#### **47. When person eligible for sickness benefit :-**

**1** [\* \* \*]

1. Omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991. Earlier section 47 was substituted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

#### **48. When person deemed available for employment :-**

.. **1** [\* \* \*]

1. Omitted by the Employees State Insurance (Amendment) Act, 1966.

#### **49. Sickness benefit :-**

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 Govern- ment.]

#### **51. Disablement benefit :-**

Subject to the provisions of this Act [\*\*\*],-

(a) a person who sustains temporary disablement for not less than three days (excluding the day of accident), shall be entitled to periodical payment [at such rates and for such period 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 at such rates and for such period and subject to such conditions as may be prescribed by the Central Government].<sup>1</sup> [\*\*\*]

1. Proviso omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991.

### **51A. Presumption as to accident arising in course of employment :-**

For the purposes of this Act, an accident arising in the course of an insured persons employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.

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

An accident shall be deemed to arise out of and in the course of an insured persons 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 or on 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 employers trade or business.

### **51C. Accidents happening while travelling in employers transport :-**

(1) An accident happening while an insured person 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 insured person in or about any pre- mises at which he is for the time being employed for the purpose of his employers 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 pro- tect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.]

**51E. Accidents happening while commuting to the place of work and vice versa :-**

\*[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.]

\* Inserted by the Employees State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010

**52. Dependents benefits :-**

(1) If an insured person dies as a result of an employment injury sustained as an employee under this Act (whether or not he 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 (ia) and] sub-clause (ii) of clause (6A) 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].

1. Substituted for "in accordance with the provisions of the First Schedule" by the Employees State Insurance (Amendment) Act, 1989,w.e.f. 1-2-1991.

2. Substituted for "sub-clause (i) and", the Employees State Insurance (Amendment) Act, 1989.

3. Substituted for in accordance with the provisions of the First Schedule", the Employees State Insurance (Amendment) Act, 1989.

**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 Workmens 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

(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 51A shall not apply to the cases to which this section applies.]

### **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 Workmens 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.]

### **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 hereafter be referred to as the "disablement question".

**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 subse-

(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>1</sup> [Provided that no appeal by an insured person shall lie under this subsection 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.]

1. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

**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 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

(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 54A 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 that 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, remarriage or cesser of infirmity of, or attainment of the age of eighteen years by, a 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 inpatient 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 : <sup>3</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 : Provided also that an insured person, who has attained the age of superannuation, and his spouse shall be eligible to receive medical benefit subject to payment of contribution and such other conditions as may be prescribed by the Central Government.

1. Substituted for "week" by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

2. Substituted for "or as provided under the regulations, is in receipt of disablement benefit" by the Employees State Insurance (Amendment) Act, 1951.

3. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-2-1991.

#### **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 65[State] Government :-**

(1) The <sup>1</sup>[State] Government shall provide for insured persons and (where such benefit is extended to their families) their families in the <sup>1</sup>[State] reasonable medical, surgical and obstetric treatment : Provided that the <sup>1</sup>[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 <sup>4</sup>[State] is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the <sup>2</sup>[State] Government in such proportion as may be fixed by agreement between them:

(3) The corporation may enter into an agreement with a <sup>6</sup>[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 <sup>3</sup>[State] Government.

(4) In default of agreement between the Corporation and a n y <sup>3</sup>[State] Government as aforesaid the nature and extent of the medical treatment to be provided by the <sup>3</sup>[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>10</sup>[High Court <sup>11</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 <sup>3</sup> [State] Government.

1. Substituted for "Provincial" by the A.O 1950.
4. Substituted for "Provincial" and "Province" by the A.O. 1950.
6. Substituted for "Provincial" and "Province" by the A.O. 1950.
10. Substituted for "High Court of a Province" by the A.O. 1950.
11. Substituted for "for a Part A State" by the Employees State Insurance (Amendment) Act, 1951.

**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 [\*\*\*] local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

**59A. Provision of medical benefit by the Corporation In lieu of State Government :-**

(1) Notwithstanding anything contained in any other provisions 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

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

**59B. Medical and para-medical education :-**

\*[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.]

\* Inserted by the Employees State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010

**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 lump sum any <sup>1</sup> [disablement benefit] admissible under this Act.

1. Substituted for "periodical payment" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

**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,

(d) shall allow himself to be examined by any duly appointed medical officer <sup>1</sup> [\*\*\*] or other person authorised by the Corporation in this behalf.

1. The words "or sick visitor" omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

**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

(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. Corporations right to recover damages from employer in certain cases :-**

**1** [\*\*\*]

1. Omitted by the Employees State Insurance (Amendment) Act, 1966.

**67. Corporations right to be indemnified in certain cases :-**

**1** [\*\*\*]

1. Omitted, the Employees State Insurance (Amendment) Act, 1966.

**68. Corporations rights where a principal employer fails or neglects to pay any contribution :-**

(1) If any principal employer fails or 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-

**1**[(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 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 **2** [or under section 45C section 45D section 45E section 45F section 45G section 45H section 45I ].

1. Substituted by the Employees State Insurance (Amendment) Act, 1951.

2. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

**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) insanitary 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) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary 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.

(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 [or under section 45-C to section 45-I].

#### **71. Benefit payable up to and including day of death :-**

[If a person dies] during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit up to 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 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.

**CHAPTER 5A TRANSITORY PROVISIONS**

**73A. Employers special contribution :-**

(1) For so long as the provisions of this Chapter are in force, every principal employer shall, notwithstanding anything contained in this Act, pay to the Corporation a special contribution (hereinafter referred to as the employers special contribution) at the rate specified under sub-section (3).

(2) The employers special contribution shall, in the case of a factory or establishment situate in any area in which the provisions of both Chapters IV and V are in force, be in lieu of the employers contribution payable under Chapter IV.

(3) The employers special contribution shall consist of such percentage, not exceeding five per cent of the total wage bill of the employer, as the Central Government may, by notification in the Official Gazette, specify from time to time: Provided that before fixing or varying any such percentage the Central Government shall give by like notification not less than two months notice of its intention so to do and shall in such notification specify the percentage which it proposes to fix or, as the case may be, the extent to which the percentage already fixed is to be varied : Provided further that the employers special contribution in the case of factories or establishments situate in any area in which the provisions of both Chapters IV and V are in force shall be fixed at a rate higher than that in the case of factories or establishments situate in any area in which the provisions of the said Chapters are not in force.

(4) The employers special contribution shall fall due as soon as the liability of the employer to pay wages accrues, but may be paid to the Corporation at such intervals, within such time and in such manner as the Central Government may, by notification in the Official Gazette, specify, and any such notification may provide for the grant of a rebate for prompt payment of such contribution.

**73B. Special tribunals for decision of disputes or questions under this Chapter where there is no Employees Insurance Court :-**

(1) If any question or dispute arises in respect of the employers special contribution payable or recoverable under this Chapter and there is no Employees Insurance Court having jurisdiction to try such

(2) The provisions of sub-section (1) of section 76 , section 77 to Rule 79 and Rule 81 shall, so far as may be, apply in relation to a proceeding before an authority specified under sub-section (1) as they apply in relation to a proceeding before an Employees Insurance Court.

**73C. Benefits under Chapter V to depend upon employees contribution :-**

The payment of the employees contribution for any week in accordance with the provisions of Chapter IV in any area where all the provisions of that Chapter are in force shall, for the purpose of Chapter V, have effect as if the contributions payable under Chapter IV in respect of that employee for that week had been paid, and shall accordingly entitle the employee as an insured person to the benefits specified in Chapter V if he is otherwise entitled thereto. Explanation: In the case of an exempted employee, the employees contribution shall be deemed to have been paid for a week if the Corporation is satisfied that during that week the employers contribution under Chapter IV would have been payable in respect of him but for the provisions of this Chapter.

**73D. Mode of recovery of employers special contribution :-**

The employers special contribution payable under this Chapter may be recovered as if it were an arrears of land revenue.

**73E. Power to call for additional information or return :-**

Without prejudice to the other provisions contained in this Act, the Corporation may, for the purpose of determining whether the employers special contribution is payable under this Chapter or for determining the amount thereof, by general or special order, require any principal or immediate employer or any other person to furnish such information or returns to such authority, in such form and within such time as may be specified in the order.

**73F. Power to exempt to be exercised by Central Government alone in respect of employers special contributions :-**

.. Notwithstanding anything contained in this Act, the Central Government

may, having regard to size or location of, or the nature of the industry carried on, in any factory or establishment or class of factories or establishments, exempt the factory or establishment or class of factories or establishments from the payment of the employers special contribution under this Chapter and nothing contained in section 87 to Rule 91 (inclusive) shall be deemed to authorise any State Government to grant any such exemption.

**73G. Application of certain provisions of this Act to employers special contribution :-**

Save as otherwise expressly provided in this Chapter, the provisions of Chapter IV, section 72 and Chapter VII and any rules and regulations made under this Act shall, so far as may be, apply in relation to the payment or recovery of employers special contributions, the penalties specified in connection therewith and all other matters, incidental thereto as they would have applied in relation to an employers contribution if this Chapter were not in force and the employers contribution had been payable under this Act.

**73H. Power to remove difficulties :-**

1 [\*\*\*]

1. Omitted by the Employees State Insurance (Amendment) Act, 1966.

**73I. Duration of Chapter V-A :-**

The Central Government may, by notification in the Official Gazette, direct that the provisions of this Chapter shall cease to have effect on such date as may be specified in the notification, not being a date earlier than three months from the date of the notification: Provided that on the provisions of this Chapter so ceasing to have effect the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply as if the provisions of this Chapter had then been repealed by a Central Act.]

**CHAPTER 6 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 employees 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 55A on a review of any payment of dependants benefits, or]

(f) <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>3</sup>[subject to the provision of sub-section (2A)] 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 (2A), the following claims] shall be decided by the Employees Insurance Court, namely :-

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

(b) claim by a principal employer to recover contributions from any immediate employer;

(c) <sup>6</sup>[\*\*\*]

(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>7</sup>[(2A) If in any proceedings before the Employees Insurance Court a disablement question arises and the decision 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 subsection (2) of section 54A in which case the Employees Insurance Court may itself

determine all the issues arising before it.]

<sup>8</sup>[(2B) 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>9</sup> [a medical board, or by a medical appeal tribunal or by the Employees Insurance Court].

1. Substituted by the Employees State Insurance (Amendment) Act, 1966, Clause (ee) was inserted by the Employees State Insurance (Amendment) Act, 1951.

2. Clause (f) omitted by the Employees State Insurance (Amendment) Act, 1966.

3. Inserted, the Employees State Insurance (Amendment) Act, 1966.

5. Substituted for "The following claims", the Employees State Insurance (Amendment) Act, 1966.

6. Clause (c) omitted, the Employees State Insurance (Amendment) Act, 1966.

7. Inserted by the Employees State Insurance (Amendment) Act, 1966.

8. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

9. Substituted/for "the Employees Insurance Court" by the Employees State Insurance (Amendment) Act, 1966.

## **76. Institution of proceedings, etc :-**

(1) Subject to the provisions of this Act and any rules made by the <sup>1</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>1</sup>[State], it may, subject to any rules made by the <sup>1</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.

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

1. Substituted for "Provincial" and "Province" by the A.O. 1950.

## **77. Commencement of proceedings :-**

(1) The proceedings before an Employees Insurance Court shall be commenced by application.

<sup>1</sup>[(1A) 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>2</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 <sup>3</sup> [State] Government in consultation with the Corporation.

1. Inserted by the Employees State Insurance (Amendment) Act, 1966.

2. Substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

3. Substituted for "Provincial" by the A.O. 1950.

## **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 <sup>1</sup>[ Section 195 of the Code of Criminal Procedure, 1973 ].

(2) The Employees Insurance Court shall follow such procedure as may be prescribed by rules made by the <sup>1</sup>[State] Government.

(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 <sup>1</sup> [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.

1. Substituted for section 195 and Chapter XXXV of the Code of Criminal Procedure 1898 (1 of 1898)" by the Employees State Insurance (Amendment) Act, 1984, w.e.f.27-1-1985.

### **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 a 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 :-**

**1** [\*\*\*]

1. Substituted for "Provincial" by the A.O. 1950.

### **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.

1. Omitted by. the Employees State Insurance (Amendment) Act, 1966.

### **83. Stay of payment pending appeal :-**

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

## **CHAPTER 7 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>1</sup>[six months] or with fine not exceeding <sup>2</sup>[two thousand] rupees or with both: <sup>3</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. Substituted for "three months" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

2. Substituted for "five hundred", the Employees State Insurance (Amendment) Act, 1989.

3. Inserted, the Employees State Insurance (Amendment) Act, 1989, 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 employers 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 employees contribution which has been deducted by him from the employees 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 or 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.]]

1. Substituted for "he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both." by the Employees State Insurance (Amendment) Act, 1975.

2. Clauses (i) and (ii) substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

### **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>1</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>2</sup> [five years but which shall not be less than two years and shall also be liable to fine of twenty-five thousand rupees].]

1. Substituted for "one year, or with fine which may extend to two thousand rupees, or with both" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

2. Substituted for "one year but which shall not be less than three months and shall also be liable to fine which may extend to four thousand rupees", the Employees State Insurance (Amendment) Act, 1989.

### **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- <sup>1</sup>[from the employer by way of penalty such 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>2</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 S.4 of the Sick Industrial Companies (Special Provisions) Act, 1985, 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>3</sup> [or under section 45C section 45D section 45E section 45F section 45G section 45H section 45I ].]

1. Substituted for "from the employer such damages not exceeding the amount of arrears as it may think fit to impose" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 1-1-1992.

2. Inserted, the Employees State Insurance (Amendment) Act, 1989.

3. Inserted, the Employees State Insurance (Amendment) Act, 1989.

**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 on application in that behalf, from time to time, extend), to pay the amount of contribution in respect of which the offence was committed <sup>1</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>2</sup> [one thousand] rupees for every day after such expiry on which the order has not been complied with.]

1. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

2. Substituted for "one hundred", the Employees State Insurance (Amendment) Act, 1989.

**86. Prosecutions :-**

(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner <sup>1</sup>[or of such other officer of the corporation as may be authorised in this behalf by the <sup>2</sup>[Director General of the Corporation].

<sup>3</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 complaint made in writing in respect thereof <sup>4</sup> [\*\*\*].

1. Inserted by the Employees State Insurance (Amendment) Act, 1951.

2. Substituted for "Central Government" by the Employees State Insurance (Amendment) Act, 1966.

3. Substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

4. The words "within six months of the date on which the offence is alleged to have been committed" omitted, the Employees State Insurance (Amendment) Act, 1989.

## **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 in charge 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 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 8 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.

### **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, [after consultation with the Corporation,] by notification in the Official Gazette and subject to such conditions as may be specified in the notifications, exempt any factory or establishment belonging to [\*\*\*] 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.

**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 either prospectively or retrospectively on such date as may be specified therein.]

**91AA. Central Government to be appropriate Government :-**

\*[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.

\* Inserted by the Employees State Insurance (Amendment) Act, 2010 w.e.f. 01.06.2010

**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 as 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 , 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>1</sup>[(1)] The Central Government may give directions to a <sup>2</sup>[State] Government as to the carrying into execution of this Act in the <sup>3</sup>[State].

<sup>4</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.]

1. Section 92 renumbered as 92(1), the Employees State Insurance (Amendment) Act 1989.

2. Substituted for "Provincial" by the A.O. 1950.

3. Substituted for "Province", the A.O. 1950.

4. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20--10-1989.

### **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, 1860 .

### **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 licence 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 up to 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 S.49 of the Presidency-towns Insolvency Act, 1909, or under Section 61 of the Provincial Insolvency Act, 1920 ,<sup>1</sup>[or under any law relating to insolvency in force <sup>2</sup>[in the territories which, immediately before the 1st November, 1956, were comprised in a Part B State]], <sup>3</sup> [or under Section 530 of the Companies Act, 1956 , are 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.

1. Inserted by the Employees State Insurance (Amendment) Act, 1951.

2. Substituted for "in a Part B State" by the Adaptation of Laws (No. 3) Order, 1956.

3. Substituted for "or under section 230 of the Indian Companies Act, 1913 (7 of 1913) by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-

1989.

**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>1</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>2</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>3</sup>[(ac)] the manner in which <sup>4</sup>[appointments] and elections of members of the Corporation, the Standing Committee and the Medical Benefit Council shall be made;

(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>5</sup>[Director General and the Financial Commissioner] and the conditions of their service;

(e) the powers and duties of the Medical Benefit Council;

<sup>6</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 and dependents benefit;

(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;]

**7**<sup>8</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 Corpora- tion;

(h) the raising and repayment of loans;

(i) the investment of the funds of the Corporation and of any provi- dent 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 of money 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 of supplementary esti- mates and the manner in which such estimates shall be sanc- tioned and published;

(o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation; **9**[\*\*\*]

**10**[(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 pre- scribed by the Central Government.

**11**[(2A) 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 rule 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 sections shall be published in the Official Gazette and thereupon shall have effect as if enacted in this Act.

**12**[(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 total period of thirty days which may be comprised in one session **13** [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 has 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.]

1. Inserted by the Employees State Insurance (Amendment) Act, 1966.

2. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f 20-10-1989.
3. Clause (a) re-lettered as clause (ac), the Employees State Insurance (Amendment) Act, 1989.
4. Substituted for "nominations", the Employees State Insurance (Amendment) Act, 1989.
5. Substituted for "Principal Officers", the Employees State Insurance (Amendment) Act, 1989.
6. Inserted, the Employees State Insurance (Amendment) Act, 1989.
7. Inserted by the Employees State Insurance (Amendment) Act, 1966.
8. Clause (ee) re-lettered as clause (ei) by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
9. The word "and" omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.
10. Inserted, the Employees State Insurance (Amendment) Act, 1989.
11. Inserted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.
12. Inserted by the Employees State Insurance (Amendment) Act, 1966.
13. Substituted for "or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following" by the Employees State Insurance (Amendment) Act, 1975.

**96. Power of 44[State] Governments to make rules :-**

(1) The State Government may, [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;

(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;

(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>1</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.]

1. Inserted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

## **97. Power of Corporation to make regulations :-**

(1) The Corporation may, <sup>1</sup>[\*\*\*] subject to the condition of 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>2</sup>[(ia) 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>3</sup>[(iiia) the rate of interest higher than twelve per cent on delayed payment of contribution;]

(iv) reckoning of wages for the purpose of fixing the contribution payable under this Act;

<sup>4</sup>[(iva) the register of employees to be maintained by the immediate employer; (ivb) 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>5</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>6</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 dependents 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>7</sup>[(xiiia) specifying the authority competent to give certificate of eligibility for maternity benefit;
- (xiiib) the manner of nomination by an insured woman for payment of maternity benefit in case of her or her child's death;
- (xiiic) 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;
- (xv) <sup>8</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>9</sup>[(xviiia) the qualifications and experience which a person should possess for giving certificate of sickness;
- (xviiib) 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 wages for any subsequent breach) which may be imposed on employees;
- <sup>10</sup>[(xviiia) the amount of damages to be recovered as penalty;
- (xviiib) 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>11</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 Inspectors and other officers and servants of the Corporation;
- <sup>11</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>13</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 and permitted to be made by this Act.
- <sup>14</sup>[(2A) 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 effect as if enacted in this Act.

**15** [(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.]

1. The words "with the prior approval of the Central Government and" omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989. Earlier these words were inserted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

2. Inserted by the Employees State Insurance (Amendment) Act, 1966.

3. Substituted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-12-98. Earlier clause (iiia) was inserted by the Employees State Insurance (Amendment) Act, 1966.

4. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

5. Substituted by the Employees State Insurance (Amendment) Act, 1966.

6. Substituted for "and the form in which", the Employees State Insurance (Amendment) Act, 1966.

7. Inserted, the Employees State Insurance (Amendment) Act, 1966.

8. Clause (xv) omitted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

9. Inserted by the Employees State Insurance (Amendment) Act, 1966.

10. Inserted by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

11. Substituted by the Employees State Insurance (Amendment) Act, 1951.

13. Substituted for "Principal Officers" by the Employees State Insurance (Amendment) Act, 1989, w.e.f. 20-10-1989.

14. Inserted by the Employees State Insurance (Amendment) Act, 1951.

15. Inserted by the Employees State Insurance (Amendment) Act, 1984, w.e.f. 27-1-1985.

## **98. Corporation may undertake duties in the Indian States :-**

1. Omitted by the Employees State Insurance (Amendment) Act, 1951.

**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.]

**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.]

**100. Repeals and savings :-**

If, immediately before the day on which this Act comes into force <sup>1</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>2</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 this act had not been passed. Provided further that subject to the [receding 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 according unless and until superseded by anything done or any action taken under this Act.]

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

2. Substituted for "that State" by the A.O. (No. 3) of 1955.

**SCHEDULE 1**

SCHEDULE

[\* \* \*]

**SCHEDULE 2**

SCHEDULE

[See section 2(15A) and Rule 15B]

Serial No.	Description of injury	Percent age of loss of earning capacity
PART I LIST OF INJURIES DEEMED TO RESULT IN PERMANENT		

	TOTAL DISABLEMENT	
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
	PART II	
	LIST OF INJURIES DEEMED TO RESULT IN	
	PERMANENT PARTIAL DISABLEMENT	
	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
70[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 meta-tarso-phalangeal joint	80
19.	Loss of all toes of both feet through the metatarso-phalangeal joint	40

20.	Loss of all toes of both feet proximal to the 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 not exceeding 12.70 c.m. in length measured from tip of great trochanter	80
24.	Amputation below hip with stump exceeding 12.70 c.m. in length measured from tip of great trochanter 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.	71[50]
28.	Amputation of one foot resulting in end-bearing	71[50]
29.	Amputation through one foot proximal to the metatarso-phalangeal joint	71[50]
30.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
31.	Other injuries Loss of one eye, without complications, the other being normal	40
32.	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
72[32A.	Partial loss of vision of one eye	10]
	Loss of	
	A - Fingers of right or left hand index finger	
33.	Whole	14
34.	Two phalanges	11
35.	One phalanx	9
36.	Guillotine amputation of tip without loss of bone	5
	Middle finger	
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 of bone	3
	Any other toe	
47.	Through metatarso-phalangeal joint	3
48.	Part, with some loss of bone	1
49.	Two toes of one foot, excluding great toe Through metatarso-phalangeal joint	5
50.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
51.	Through metatarso-phalangeal joint	6
52.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
53.	Through metatarso-phalangeal joint	9
54.	Part, with some loss of 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.]

**SCHEDULE 3**

LIST OF OCCUPATIONAL DISEASES

THE SCHEDULE [Sec section 52A ]

Sl. No.	Substance	Permissible-limit	Time-Weighted average concentration (TWA) (8 hrs.)	Short-term exposure limit (STEL) (15 min.)	Permissible-limit	Time-Weighted average concentration (TWA) (8 hrs.)	Short-term exposure limit (STEL) (15 min.)
1	2	3	4	5	6	7	8
(1)	Acetaldehyde	100	180	150	270		
(2)	Acetic Acid	10	25	15	37		
(3)	Acetone	750	1780	1000	2375		
(4)	Acrolein	01	0.25	0.3	0.8		

(5) Acrylonitrile-skin (S.C.)	2	4.5	-	-
(6) Aldrin-skin	-	0.25	-	-
(7) Allyl Chloride	1	3	2	6
(8) Ammonia	0.25	18	35	27
(9) Aniline-skin	2	10	-	-
(10) Anisidine (o-P-isomers)-skin	0.1	0.5	.	
(11) Arsenic & soluble compounds (as As)	.	0.2	-	.
(12) Benzene (S.C.)	10	30	-	-
(13) Beryllium & Compound (as Be) (S.C.)		0.002	-	
(14) Boron trifluorideC	1	3	-	.
(15) Bromine	0.1	0.7	0.3	2
(16) Butane	800	1900	.	.
(17) 2-Butanone(Methylethyle Ketone MEK)	200	590	300	885
(18) n-Butyl acetate	150	710	200	950
(19) n-Butyl alcohol-skin-C	50	150	-	-
(20) Sce/tert, Butyl acetate	200	950 -	-	-
(21) Butyl Mercaptan	0.5	1.5	-	
(22) Cadmium-dust and salts (as Cd)	-	0.05	-	-
(23) Calcium oxide	-	2	-	-
(24) Carbaryl (Sevin)	-	5	-	-
(25) Carbofuran (Furadan)	-	0.1	-	-
(26) Carbon disulphide-skin	10	30		-
(27) Carbon monoxide	50	55.	400	440
(28) Carbon tetrachloride-skin (S.C.)	5	30		
(29) Chlordane-skin	-	0.5	-	2
(30) Chlorine	l	3	3	9
(31) Chlorobenzene	75	350		

(32) Chloroform (monochlorobenzene) (S.C.)	10	50	-	-
(33) bis-(Chloromethyl) ether (H.C.) 0	.001	0.005		
(34) Chromic acid and chromates (as Cr) (Water soluble)	-	0.05	-	-
(35) Chromous Salts (as Cr)	-	0.5	-	-
(36) Copper fume	-	0.2	-	-
(37) Cotton dust, raw	-	0.2	-	-
(38) Cresolal, all isomers-skin	5	22	-	-
(39) Cyanides (as Cn)skin	-	5	-	-
(40) Cyanogen	10	20	-	-
(41) DDT(Dichlorodiphenyl Trichloroethane)		1		
(42) Demeton-skin	0.01	0.1	-	-
(43) Diazinon-skin	-	0.1	-	-
(44) Dibutyl Phythalate	-	5	-	-
(45) Dichlorous (DDVP)-skin		1	-	-
(46) Dieldrin-skin	-	0.25	-	-
(47) Dinitrobenzene (all isomers)-skin C	1.15	1		
(48) Dinitrotoluene-skin	-	1.5	-	-
(49) Diphenyl (Biphenyl)	0.2	1.5	-	-
(50) Endusulfan (Thiutlan)-skin	-	0.1		
(51) Endrin-skin	-	0.1	-	-
(52) Ethyl acetate	400	1400	-	-
(53) Ethyl alcohol	1000	1900	-	-
(54) Ethylamin	10	18	-	-
(55) Fluorides(asF)	-	2.5	-	-
(56) Fluorine	1	2	2	4
(57) Formaldehyde (S.C.)	1.0	1.5	2	3
(58) Formic Acid	5	9	-	-

(59) Gasoline	300	900	500	1500
(60) Hydrazine-skin (S.C.)	0.1	0.1	-	-
(61) Hydrogen Chloride-C	5	7	-	-
(62) Hydrogen Cyanide skin-	: 10	10	-	-
(63) Hydrogen Fluoride (as F)-C	3	2.5	-	-
(64) Hydrogen Peroxide	1	1.5	-	-
(65) Hydrogen Sulphide	10	14	15	21
(66) Iodine-C	0.1	1	-	-
(67) Iron Oxide Fume (F0 2 O 3) (as Fe)		5	-	
(68) Isoamyl acetate	100	525	-	-
(69) Isoamyl alcohol	100	360	125	450
(70) Isobutyl alcohol	50	150	-	-
(71) Lead, inorg, dusts, dusts and fumes (as Pb)	.	0.15	-	-
(72) Lindane-skin	-	0.5	-	-
(73) Malathion-skin	-	10	-	-
(74) Manganese dust and compounds (as (Mn)-C	.	5	.	
(75) Manganese Fume (as Mn)	-	1	-	3
(76) Mercury (as Hg)- skin				
(I) Alkyle compounds	-	0.01	-	0.03
(ii) All forms except alkyle vapour	-	0.05	-	.
(iii) Aryle and inorganic compounds	.	0.1	-	-
(77) Methyl alcohol (MethanoD-skin	200	260	250	310
(78) Methyl cellosolve (2-methoxyethanoD- skin	5	16	-	-
(79) Methyl isobutyl Ketone	50	205	75	300
(80) Methyl Isocyariate-skin	0.02	0.05	-	-
(81) Naphthalene	10	50	15	75
(82) Nickel carbonyl (as Ni)	0.05	0.35	-	-

(83) Nitric acid	2	5	4	10	
(84) Nitric Oxide	25	30	-	-	
(85). Nitrobenzene-skin	1	5	-	-	
(86) Nitrogen dioxide	3	6	5	10	
(87) Oil mist. mineral	-	5	-	10	
(88) Ozone	0.1	0.2	0.3	0.6	
(89) Parathion-skin	-	0.1	-	-	
(90) Phenol-skin	5	19	-	-	
(91) Phorate(Thimet)-skin	-	0.05	-	0.2	
(92) Phosgene (Carbonyl Chloride)	0.1	0.4	-	.	
(93) Phosphine	0.3	0.4	1	1	
(94) Phosphoric acid	-	1	-	3	
(95) Phosphorus (yellow)	-	0,1	-		
(96) Phosphorus penta-chloride	0.1	1			
(97) Phosphorus trichloride	0.2	1.5	0.5	3	
(98) Picric acid-skin	-	0.1	-	0.3	
(99) Pyridine	5	15	-	-	
(100) Silans (silicon tetrahydride)	5	7	.	.	
(101) Sodium hydroxide-C		2	-	-	
(102)	Styrene, monomer (phanylethlene)	50	215	100	425
(103)	Sulphur dioxide	2	5	5	10
(104)	Sulphur hexafluoride	1000	6000	-	-
(105)	Sulphuric acid	-	1	-	-
(106)	Tetraethyl lead				
	(as Pb) - Skin	-	0.1	-	-
(107)	Toluene (Toluol)	100	375	150	560
(108)	O-Toluidine-skin (S.C.)	2	9	-	-
(109)	Tributylphosphate	0.2	2.5	-	-

(I 10)	Trichloroethylene	50	270	200	1080
(III)	Uranium natural (as U)	-	0.2	-	0.6
(112)	Vinyl Chloride (H.C.)	5	10	-	-
(113)	Welding fumes	-	5	-	-
(114)	Xylene (O-m-P-isomers)	100	435	150	655
(115)	Zinc oxide				
	(i) Fume	-	5.0	-	10
	(ii) Dust (Total dust)	-	10.00	-	-
(116)	Zirconium compounds (as Zr)	.	5	-	10
<p>ppm : Parts of vapour or gas per million parts of contaminated air by volume at 25°C and 760 mm of Hg.  mg/m<sup>3</sup> : Milligram of substance per cubic metre of air :  Not more than 4 times a day with at least 60 min. interval between successive exposures. : Molecular weight 24.45 G  : denotes ceiling limit Skin : denotes potential contribution to the overall exposure by the cutaneous route including mucous membranes and eye. S.C. : denotes suspected human carcinogen H.C. : denotes confirmed human carcinogen.</p>					
Substance		Permissible time-weighted average concentration (TWA) (8 hours)			
<p>Silica SiO<sup>2</sup> (a)  Crystalline (i) Quartz  (1) In terms of dust count 10600  <sup>2</sup>Quartz+10 mppcm  (2) In terms of respirable dust 10 % respirable quartz + 2  (3) In terms of total dust 30 % quartz + 3  (ii) Cristoblite : Half the limits given against quartz. (iii) Trioumite : Half the limits given against quartz. (iv) Silica fused : Same limit as for quartz. (v) Tripoli : Same limit as in formula in item (2) given against quartz.  (b) Amorphous Silicates : 10 mg/m<sup>3</sup> , total dust. Asbestos (H.C.) 2 Fibre/ml, greater than 5 cm in length and less than 3 cm in breadth with length to breadth ratio equal to or greater</p>					

than 3:1 Portland cement : 10 mg/m *, total dust containing less than 1% quartz Coal dust : 2 mg/m * respirable dust fraction containing less than 5 % quartz.	
mppcm == Million particles per cubic meter of air, based on impinger samples counted by light-field techniques. As determined by the membrane filter method at 400-450 X magnification (4 mm objective) phase contrast illumination. Respirable dust: Fraction passing a size-selector with the following characteristics:	
Aerodynamic Diameter (um) (Unit density sphere)	% passing selector
2 2.5 3.5 5.0 10	90 75 50 25 0