

HR Law Hotline

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MORE WORKERS GET COVERED UNDER INDIA'S MANDATORY EMPLOYEE INSURANCE

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

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

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

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

BACKGROUND

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

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

ANALYSIS

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

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

– Preetha S, Ajay Solanki & Vikram Shroff

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

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