THE EMPLOYEES' STATE INSURANCE ACT, 1948

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THE EMPLOYEES' STATE INSURANCE ACT, 1948

ACT NO.34 OF 1948[1]

[19*th April*, 1948.]

An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.

WHEREAS it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.—(*1*) This Act may be called the Employees' State Insurance Act, 1948.

(*2*) It extends to the whole of India [2]***.

(*3*) It shall come into force on such date or dates[3] 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 [4][for different States or for different parts thereof].

(*4*) It shall apply, in the first instance, to all factories (including factories belonging to the Government) other than seasonal factories:

[5][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 [6][where the appropriate Government is a State Government, with the approval of the Central Government], after giving [7][one month's] notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise:

[8][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].

[5][(*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. This Act has been extended to Jaunsar Bawar Parganas in the Dehra Dun District and the areas of South of Kaimpur range in the Mirzapur District of the State of Uttar Pradesh by Schedule IV of Act 20 of 1954; to Pondicherry by Reg. 7 of 1963, s. 3 and Schedule and to Goa, Daman and Diu by Reg. 11 of 1963, s.3 and the Schedule.
2. The words "except the State of Jammu and Kashmir" omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).
3. For dates *see* Annexure.
4. Subs. by Act 53 of 1951, s. 2, for "for different States" (w.e.f. 6-10-1951).
5. Ins. by Act 29 of 1989, s. 2 (w.e.f. 20-10-1989).
6. Subs. by Act 53 of 1951, s. 2, for "with the approval of the Central Government" (w.e.f. 6-10-1951).
7. Subs. by Act 18 of 2010, s. 2, for "six month's " (w.e.f. 1-6-2010).
8. Ins. by Act 29 of 1989, s. 2 (w.e.f. 16-5-1990).

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "appropriate Government" means, in respect of establishments under the control of the Central Government or [1][a railway administration] or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;

[2]* * * * *

(*3*) "confinement" means labour resulting in the issue of a living child or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(*4*) "contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

[3]* * * * *

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

[4][(*6A*) "dependant" means any of the following relatives of a deceased insured person, namely:—

[5][(*i*) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter,]

[6][(*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 [7][twenty-five years] and is infirm;

(*iii*) if wholly or in part dependent on the earnings of the insured person at the time of his death,—

(*a*) a parent other than a widowed mother,

(*b*) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,

(*c*) a minor brother or an unmarried sister or a widowed sister if a minor,

(*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;

[8][(*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;]

1. Subs. by the A.O. 1950, for "a federal railway".
2. Omitted by Act 29 of 1989, s. 3 (w.e.f. 16-5-1990).
3. Omitted by s. 3, *ibid*. (w.e.f. 1-2-1991).
4. Ins. by Act 44 of 1966, s. 2 (w.e.f. 28-1-1968).
5. Subs. by Act 18 of 2010, s. 3, for sub-clause (*i*) ((w.e.f. 1-6-2010).
6. Ins. by Act 29 of 1989, s. 3 (w.e.f. 20-10-1989).
7. Subs. by Act 18 of 2010, s. 3, for "eighteen years" (w.e.f. 1-6-2010).
8. Subs. by Act 44 of 1966, s. 2, for clause (*8*) (w.e.f. 28-1-1968).

(*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;

[1][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 [2][or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or [3][and includes such person engaged as apprentice whose training period is extended to any length of time] but does not include]—

(*a*) any member of [4][the Indian] naval, military or air forces; or

[5][(*b*) any person so employed whose wages (excluding remuneration for overtime work) exceed [6][such wages as may be prescribed by the Central Government] a month:

Provided that an employee whose wages (excluding remuneration for overtime work) exceed [6][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 employee's contribution;

[7][(*11*) "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;

[8][(*v*) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;

1. Subs. by Act 44 of 1966, s. 2, for "but does not include" (w.e.f. 28-1-1968).
2. Subs. by Act 29 of 1989, s. 3, for "but does not include" (w.e.f. 20-10-1989).
3. Subs. by Act 18 of 2010, s. 3, for "or under the standing orders of the establishment;" (w.e.f. 1-6-2010).
4. Subs. by the A.O. 1950, for "His Majesty's".
5. Subs. by Act 44 of 1966, s. 2, for sub-clause (*b*) (w.e.f. 28-1-1968).
6. Subs. by Act 29 of 1989, s. 3, for "one thousand and six hundred rupees a month" (w.e.f. 1-2-1991).
7. Subs. by s. 3, *ibid*., for clauses (*11*) and (*12*) (w.e.f. 20-10-1989).
8. Subs. by Act 18 of 2010, s. 3, for sub-clause (*v*) (w.e.f. 1-6-2010).

(*vi*) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;]

[1][(*12*) "factory" means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines railway running shed;]

(*13*) "immediate employer", in relation to employees employed by or through him, means a person who has undertaken the execution, on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole, or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer; [2][and includes a contractor];

[3][(*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;

[3][(*14A*) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

[4][(*14AA*) "manufacturing process" shall have the meaning assigned to it in the Factories Act, 1948 (63 of 1948);]

(*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 miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860);]

(*15*) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, [5][1948 (63 of 1948)];

[3][(*15A*) "permanent partial disablement" means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

Provided that every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement;

(*15B*) "permanent total disablement" means 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 per cent. or more;]

[4][(*15C*) "power" shall have the meaning assigned to it in the Factories Act, 1948 (53 of 1948);]

(*16*) "prescribed" means prescribed by rules made under this Act:

1. Subs. by Act 18 of 2010, s. 3, for clause (*12*) (w.e.f. 1-6-2010).
2. Added by Act 29 of 1989 s. 3 (w.e.f. 20-10-1989).
3. Ins. by Act 44 of 1966, s. 2 (w.e.f. 28-1-1968)
4. Ins. by Act 29 of 1989, s. 3 (w.e.f. 20-10-1989).
5. Subs. by Act 53 of 1951, s. 3, for "1934" (w.e.f. 6-10-1951).

(*17*) "principal employer" means—

(*i*) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under [1][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 appointed, the head of the department;

(*iii*) in any other establishment, any person responsible for the supervision and control of the establishment;

(*18*) "regulation" means a regulation made by the Corporation;

(*19*) "Schedule" means a Schedule to this Act;

2[(*19A*) "seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year—

(*a*) in any process of blending, packing or repacking of tea or coffee; or

(*b*) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify;]

(*20*) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds;

(*21*) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of 3[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 4[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, 5[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;

6[(*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;]

1. Subs. by Act 53 of 1951, s. 3, for "clause (*e*) of sub-section (*1*) of section 9 of the Factories Act, 1934" (w.e.f. 6-10-1951).
2. Ins. by Act 29 of 1989, s. 3 (w.e.f. 20-10-1989).
3. Subs. by Act 44 of 1966, s. 2, for "work" (w.e.f. 28-1-1968).
4. Ins. by s. 2, *ibid*. (w.e.f. 28-1-1968).
5. Subs. by Act 53 of 1951, s. 3, for "paid at regular intervals after the last day of the wage period" (w.e.f. 6-10-1951).
6. Subs. by Act 45 of 1984, s. 2, for clause (*23*) (w.e.f. 27-1-1985).

1[(*24*) all other words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meanings respectively assigned to them in that Act.]

2[**2A. Registration of factories and establishments.**—Every factory or establishment to which this Act applies shall be registered within such time and in such manner as may be specified in the regulations made in this behalf.]

CHAPTER II

CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL

3. Establishment of Employees' State Insurance Corporation.—(*1*) With effect from such date 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:—

[3][(*a*) a Chairman to be [4][appointed] by the Central Government;

(*b*) a Vice-Chairman to be [4][appointed] by the Central Government;]

(*c*) not more than five persons to be [4][appointed] by the Central Government [5]***;

(*d*) one person each representing each of the [6][[7][States] in which this Act is in force] to be [4][appointed] by the State Government concerned;

(*e*) one person to be [4][appointed] by the Central Government to represent the [8][Union territories];

(*f*) [9][ten] persons representing employers to be [4][appointed] by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

(*g*) [9][ten] persons representing employees to be [4][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 [4][appointed] by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government; [10]***

[11][(*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. Subs. by Act 44 of 1966, s. 2, for clause (*24*) (w.e.f. 28-1-1968).
2. Ins. by s. 3, *ibid*. (w.e.f. 28-1-1968).
3. Subs. by s. 4, *ibid*., for clauses (*a*) and (*b*) (w.e.f. 17-6-1967).
4. Subs. by Act 29 of 1989, s. 4, for "nominated" (w.e.f. 20-10-1989).
5. The words "of whom at least three shall be officials of the Central Government" omitted by Act 44 of 1966, s. 4 (w.e.f. 17-6-1967).
6. Subs. by Act 53 of 1951, s. 4, for "Part A States" (w.e.f. 6-10-1951).
7. Subs. by the A.O. (No. 3) 1956, for "Part A States and B States".
8. Subs., *ibid*. for "Part C States".
9. Subs. by Act 29 of 1989, s. 5, for "five" (w.e.f. 20-10-1989).
10. The word "and" omitted by Act 44 of 1966, s. 4 (w.e.f. 17-6-1967).
11. Subs. by s. 4, *ibid*., for clause (*i*) (w.e.f. 17-6-1967).

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 [1][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 [2][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 [2][appointment] or election of his successor is notified.

(*2*) The members of the Corporation referred to in clauses [3][(*a*), (*b*), (*c*), (*d*) and (*e*)] of section 4 shall hold office during the pleasure of the Government [4][appointing] them.

6. Eligibility for re-appointment or re-election.—An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for [5][re-appointment] or re-election as the case may be.

[6]**[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, [7][appointed] by the Central Government;

(*b*) three members of the Corporation, [8][[7][appointed] by the Central Government];

[9][(*bb*) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time;]

(*c*) [10][eight] members elected by the Corporation as follows:—

[11]* * * * *

(*ii*) [12][three] members from among the members of the Corporation representing employers;

(*iii*) [12][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 [13][Parliament];

[14][(*d*) the Director General of the Corporation, *ex officio*.]

9. Term of office of members of Standing Committee.—(*1*) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (*a*) or [15][clause (*b*) or clause (*bb*)] of section 8, shall be two years from the date on which his election is notified:

1. Subs. by Act 44 of 1966, s. 5, for certain words (w.e.f. 17-6-1967). 2.
Subs. by Act 29 of 1989, s. 4, for "nomination" (w.e.f. 20-10-1989). 3.
Subs. by Act 44 of 1966, s. 5, for "(*c*), (*d*) and (*e*)" (w.e.f. 17-6-1967). 4.
Subs. by Act 29 of 1989, s. 4, for "nominating" (w.e.f. 20-10-1989). 5.
Subs. by s. 4, *ibid*., for "renomination" (w.e.f. 20-10-1989).
6. Subs. by Act 44 of 1966, s. 6, for section 7 (w.e.f. 17-6-1967).
7. Subs. by Act 29 of 1989, s. 4, for "nominated" (w.e.f. 20-10-1989).
8. Subs. by Act 44 of 1966, s. 7, for certain words (w.e.f. 17-6-1967).
9. Ins. by Act 53 of 1951, s. 5 (w.e.f. 6-10-1951).
10. Subs. by Act 44 of 1966, s. 7, for "six" (w.e.f. 17-6-1967).
11. Omitted by Act 53 of 1951, s. 5 (w.e.f. 6-10-1951)
12. Subs. by Act 44 of 1966, s. 7, for "two" (w.e.f. 17-6-1967).
13. Subs. by the A.O. 1950, for "the Central Legislature".
14. Ins. by Act 44 of 1966, s. 7 (w.e.f. 17-6-1967).
15. Subs. by Act 53 of 1951, s. 6, for "clause (*b*)" (w.e.f. 6-10-1951).

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

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

(*2*) A member of the Standing Committee referred to in clause (*a*) or [1][clause (*b*) or clause (*bb*)] of section 8 shall hold office during the pleasure of the Central Government.

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

[2][(*a*) the Director General, the Employees' State Insurance Corporation, *ex officio* as Chairman;

(*b*) a Director-General, Health Services, *ex officio*, as Co-Chairman;]

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

(*d*) one member each representing each of the [3][[4][States (other than Union territories)] in which this Act is in force] to be [5][appointed] by the State Government concerned;

(*e*) three members representing employers to be [5][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 [5][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 [5][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 clauses (*a*) to (*d*) of sub-section (*1*), shall be four years from the date on which his [6][appointment] is notified:

[7][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 [6][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 [8][appointing] him.

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

12. Cessation of membership.—[9][(*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.

[10][(*2*) Where in the opinion of the Central Government any person [5][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.]

1. Subs. by Act 53 of 1951, s. 6, for "clause (*b*)" (w.e.f. 6-10-1951).
2. Subs. by Act 18 of 2010, s. 4, for sub-clauses (*a*) and (*b*) (w.e.f. 1-6-2010).
3. Subs. by Act 53 of 1951, s. 7, for "Part A States" (w.e.f. 6-10-1951).
4. Subs. by the A.O. (No. 3) 1956, for "Part A States or Part B States".
5. Subs. by Act 29 of 1989, s. 4, for "nominated" (w.e.f. 20-10-1989).
6. Subs. by s. 4, *ibid*., for "nomination" (w.e.f. 20-10-1989).
7. Added by Act 44 of 1966, s. 8 (w.e.f. 17-6-1967).
8. Subs. by Act 29 of 1989, s. 4, for "nominating" (w.e.f. 20-10-1989).
9. Section 12 re-numbered as sub-section (*1*) thereof by Act 53 of 1951, s. 8 (w.e.f. 6-10-1951).
10. Ins. by s. 8, *ibid*. (w.e.f. 6-10-1951).

[1][(*3*) A person referred to in clause (*i*) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament.]

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

(*a*) if he is declared to be of unsound mind by a competent Court; or

(*b*) if he is an undischarged insolvent; or

(*c*) if he has directly or indirectly by himself or by his partner any interest in 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 [2][appointed] or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by [3][appointment] or election, as the case may be.

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

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

16. Appointment of a Director General and a Financial Commissioner.—[4][(*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*) [5][The Director General and The Financial Commissioner] shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government [6][and of the Corporation].

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

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

(*6*) A person shall be disqualified from being appointed as or for being [5][the Director General or the Financial Commissioner] if he is subject to any of the disqualifications specified in section 13.

(*7*) The Central Government may at any time remove [5][the Director General or the Financial Commissioner] from office and shall do so if such removal is recommended by a resolution of the

1. Subs. by Act 18 of 2010, s. 5, for "sub-section (*3*)" (w.e.f. 1-6-2010).

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

3. Subs. by s. 4, *ibid*., for "nomination" (w.e.f. 20-10-1989).

4. Subs. by s. 6, *ibid*., for sub-section (*1*) (w.e.f. 20-10-1989).

5. Subs. by s. 6, *ibid*., for "The Principal Officers" (w.e.f. 20-10-1989).

6. Ins. by Act 44 of 1966, s. 10 (w.e.f. 17-6-1967).

Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

17. Staff.—(*1*) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post [1][the maximum monthly salary of which [2][exceeds such salary as may be prescribed by the Central Government].]

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

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

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

(*b*) In determining the corresponding scales of pay of the members of the staff under clause (*a*), the Corporation 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 [5][posts [6][(other than medical posts)] corresponding to [7][Group A and Group B] posts under the Central Government] shall be made in consultation with the [8][Union] Public Service Commission:

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

[10][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.]

[11][(*4*) If any question arises whether a post corresponds to a [7][Group A and Group B] post under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.]

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

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

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

19. Corporation's power to promote measures for health, etc., of insured persons.—The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the

1. Subs. by Act 38 of 1975, s. 3, for certain words (w.e.f. 1-9-1975).
2. Subs by Act 29 of 1989, s. 7, for "exceeds two thousand and two hundred fifty rupees" (w.e.f. 1-2-1991).
3. Subs. by s. 7, *ibid*., for sub-section (*2*) (w.e.f. 8-11-1989).
4. Ins. by Act 18 of 2010, s. 6 (w.e.f. 1-6-2010).
5. Subs. by Act 44 of 1966, s. 11, for certain words (w.e.f. 17-6-1967).
6. Ins. by Act 29 of 1989, s. 7 (w.e.f. 16-5-1990).
7. Subs. by Act 45 of 1984, s. 3, for "Class I or Class II" (w.e.f. 27-1-1985).
8. Subs. by the A.O. 1950, for "Federal".
9. Subs. by Act 29 of 1989, s. 7, for "an aggregate period" (w.e.f. 20-10-1989).
10. Ins. by s. 7, *ibid*. ((w.e.f. 20-10-1989)
11. Ins. by Act 44 of 1966, s. 11 (w.e.f. 17-6-1967).

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 at 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 [1][appoint] or cause to be [2][appointed] 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 [3][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.

22. Duties of Medical Benefit Council.—The Medical Benefit Council shall—

(*a*) advise [4][the Corporation and the Standing Committee] on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters;

(*b*) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance; and

(*c*) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

23. Duties of [5][Director General and the Financial Commissioner].—The [5][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. Subs. by Act 29 of 1989, s. 4, "nominate" (w.e.f. 20-10-1989).

2. Subs. by s. 4, *ibid*., "nominated" (w.e.f. 20-10-1989).

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

4. Subs. by Act 53 of 1951, s. 9, for "the Corporation, the Standing Committee and the Medical Commissioner" (w.e.f. 6-10-1951).

5. Subs. by Act 29 of 1989, s. 8, for "Principal Officers" (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 [1][appointment] or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

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

CHAPTER III

FINANCE AND AUDIT

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

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

[3][(*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 officers as may be authorised by the Standing Committee with the approval of the Corporation.

27. [*Grant by the Central Government*.] *Omitted by the Employees' State Insurance* (*Amendment*) *Act*, 1966 (44 *of* 1966) *s*. 12 (*w.e.f*. 17-6- 1967).

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

(*i*) payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;

(*ii*) payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical Benefit Councils;

(*iii*) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of 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 provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families, their families;

1. Subs. by Act 39 of 1989, s. 4, for "nomination" (w.e.f. 20-10-1989).

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

3. Subs. by s. 10, *ibid*., for sub-section (*3*) (w.e.f. 6-10-1951).

(*v*) payment of contributions to any State Government, [1]*** 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 authorized 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 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 authorized by the Corporation with the previous approval of the Central Government.

[2][**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***.]** *Omitted by the Employees'State Insurance* (*Amendment*) *Act*, 1966 (44 *of* 1966). *s*. 12 (*w.e.f*. 17-6-1967).

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

1. The words and letter "Part B State" omitted by Act 53 of 1951, s. 11 (w.e.f. 6-10-1951).
2. Ins. by Act 29 of 1989, s. 9 (w.e.f. 1-5-1997).

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.

[1][**34. Audit**.—(*1*) The accounts of the Corporation shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Corporation to the Comptroller and Auditor-General of India.

(*2*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Corporation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other document ny 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 [2][together with the [3][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 [4][Parliament] [5]***.

37. Valuation of assets and liabilities.—The Corporation shall, at intervals of [6][three 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 IV

CONTRIBUTIONS

38. All employees to be insured.—Subject to the provisions of this 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 employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

[7][(*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 (29 of 1989).]

1. Subs. by Act 29 of 1989, s. 10, for section 34 (w.e.f. 20-10-1989).
2. Ins. by Act 44 of 1986, s. 13 (w.e.f. 17-6-1967).
3. Subs. by Act 29 of 1989, s. 11, for "auditor's report thereon" (w.e.f. 20-10-1989).
4. Subs. by the A.O. 1950, for "the Central Legislature".
5. The words "and published in the Gazette of India" omitted by Act 29 of 1989, s. 11 (w.e.f. 20-10-1989).
6. Subs. by Act 18 of 2010, s. 7, for "five years" (w.e.f. 1-6-2010).
7. Subs. by Act 29 of 1989, s. 12, for sub-section (*2*) (w.e.f. 1-2-1991).

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

[3][(*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 regulation till the date of its actual payment:

Provided that higher interest specified in the regulations shall not exceed the lending rate of interest charged by any scheduled bank.

(*b*) Any interest recoverable under clause (*a*) may be recovered as an arrear of land revenue or under section 45C to section 45-I.

Explanation.—In this sub-section, "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).]

40. Principal employer to pay contributions in the first instance.—(*1*) The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.

(*2*) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise:

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the employee's contribution for the period.

(*3*) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any 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 contribution from immediate employer.—(*1*) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

4[(*1A*) The immediate employer shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the principal employer before the settlement of any amount payable under sub-section (*1*).]

1. Subs. by Act 45 of 1984, s. 4, for sub-section (*3*) (w.e.f. 27-1-1985).
2. Subs. by s. 4, *ibid*., for "week" (w.e.f. 27-1-1985).
3. Ins. by Act 29 of 1989, s. 12 (w.e.f. 20-10-1989).
4. Ins. by s. 13, *ibid*. (w.e.f. 1-2-1991).

(*2*) In the case referred to in sub-section (*1*), the immediate employee shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the proviso to sub-section (*2*) of section 40.

1* * * * *

42. General provisions as to payment of contributions.—(*1*) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages 2[during a wage period are below 3[such wages as may be prescribed by the Central Government]].

Explanation.—The average daily wages of an employee shall be calculated 4[in such manner as may be prescribed by the Central Government.]

(*2*) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each 5[wage period] 6[in respect of the whole or part of which wages are payable to the employee and not otherwise].

7* * * * *

8* * * * *

43. Method of payment of contributions.—Subject to the provisions of this Act, the Corporation may make regulations for any matter re yment 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;

9[(*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.

10[**44. Employers to furnish returns and maintain registers in certain cases**.—(*1*) Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any factory or establishment in respect of which he is the principal or immediate employer as may be specified in regulations made in this behalf.

(*2*) Where in respect of any factory or establishment the Corporation has reason to believe that a return should have been submitted under sub-section (*1*) but has not been so submitted, the Corporation may require any person in charge of the factory or establishment to furnish such particulars as it may consider necessary for the purpose of enabling the Corporation to decide whether the factory or establishment is a factory or establishment to which this Act applies.

1. The *Explanation* omitted by Act 44 of 1966, s. 14 (w.e.f. 28-1-1968).
2. Subs. by Act 45 of 1984, s. 5, for "are below one rupee and fifty paise" (w.e.f. 27-1-1985).
3. Subs. by Act 29 of 1989, s. 14, for "six rupees" (w.e.f. 1-2-1991).
4. Subs. by s. 14, *ibid*., for "in such manner specified in the First Schedule" (w.e.f. 1-2-1991).
5. Subs. by Act 45 of 1984, s. 5, for "week" (w.e.f. 27-1-1985).
6. Subs. by Act 44 of 1966, s. 15, for "during the whole or part of which an employee is employed" (w.e.f. 28-1-1968).
7. Omitted by Act 45 of 1984, s. 5 (w.e.f. 27-1-1985).
8. Omitted by Act 44 of 1966, s. 15 (w.e.f. 28-1-1968).
9. Ins. by s. 16, *ibid*. (w.e.f. 28-1-1968).
10. Subs. by Act 53 of 1951, s. 12, for section 44 (w.e.f. 6-10-1951).

(*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. 1**[Social Security Officers], 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 2[Social Security Officer] appointed by the Corporation under sub-section (*1*) (hereinafter referred to as 2[Social Security Officer]), or other official of the Corporation authorised in this behalf by it may, for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in section 44 or for the purpose of ascertaining whether 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 require any person found in charge thereof to produce to such 2[Social Security Officer] or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(*c*) examine, with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said [2][Social Security Officer] or other official has reasonable cause to believe to be or to have been an employee;

[3][(*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 [2][Social Security Officer] shall exercise such functions and perform such duties as may be authorized by the Corporation or as may be specified in the regulations.

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

[5][**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 [2][Social Security Officer] or other official of the Corporation referred to in sub-section (*2*) of section 45 is [6][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:

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

1. Subs. by Act 18 of 2010, s. 8, for "Inspectors" (w.e.f. 1-6-2010).
2. Subs. by s. 8, *ibid*., for "Inspector" (w.e.f. 1-6-2010).
3. Ins. by Act 53 of 1961, s. 13 (w.e.f.
4. Ins. by Act 18 of 2010, s. 8 (w.e.f. 1-6-2010).
5. Ins. by Act 44 of 1966, s. 17 (w.e.f. 17-6-1967).
6. Subs. by Act 29 of 1989, s. 15, for "obstructed" (w.e.f. 20-10-1989).
7. Ins. by s. 15, *ibid*. (w.e.f. 20-10-1989).

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

(*2*) An order made by the Corporation under sub-section (*1*) shall be sufficient proof of the claim of the Corporation under section 75 or for recovery of the amount determined by such order as an arrear of land revenue under section 45B [2][or the recovery under section 45C to section 45-I].

[3][**45AA. Appellate authority.**—[1][If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

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

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

[4][**45C. Issue of certificate to the Recovery Officer**.—(*1*) Where any amount is in arrear under this Act, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the factory or establishment or, as the case may be, the principal or immediate employer by one or more of the modes mentioned below:—

(*a*) attachment and sale of the movable or immovable property of the factory or establishment or, as the case may be, the principal or immediate employer;

(*b*) arrest of the employer and his detention in prison;

(*c*) appointing a receiver for the management of the movable or immovable properties of the factory or establishment or, as the case may be, the employer:

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

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

45D. Recovery officer to whom certificate is to be forwarded.—(*1*) The authorised officer may forward the certificate referred to in section 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 situate.

(*2*) Where a factory or an establishment or the principal or immediate employer has property within the jurisdiction of more than one Recovery Officers 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

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

1. Ins. by Act 18 of 2010, s. 9 (w.e.f. 1-6-2010).
2. Added by Act 29 of 1989, s. 15 (w.e.f. 20-10-1989).
3. Ins. by Act 18 of 2010, s. 10 (w.e.f. 1-6-2010).
4. Ins. by Act 29 of 1989, s. 16 (w.e.f. 1-9-1991).

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

45E. Validity of certificate and amendment thereof.—(*1*) When the authorised officer issues a certificate to a Recovery Officer under section 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 section 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 appeal or other proceeding remains pending.

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

45G. Other modes of recovery.—(*1*) Notwithstanding the issue of a certificate to the Recovery Officer under section 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 required such person to deduct from the said amount the arrears due from such factory or establishment or, as the case may be, the principal or immediate employer under this Act and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Corporation:

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

(*3*) (*i*) The Director General or any other officer authorised by the Corporation in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the factory or establishment or, as the case may be, the principal or immediate employer or any person who holds or may subsequently hold money for or on account of the factory or establishment or, as the case may be, the principal or immediate employer, to pay to the Director General either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the factory or establishment or, as the case may be, the principal or immediate employer in respect of arrears or the whole of the money when it is equal to or less than that amount.

(*ii*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the principal or immediate employer jointly with any other person and for the purposes of this sub-section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(*iii*) A copy of the notice shall be forwarded to the principal or immediate employer at his last address known to the Director General or, as the case may be, the officer so authorised and in the case of a joint account to all the joint-holders at their last addresses known to the Director General or the officer so authorised.

(*iv*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

(*v*) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(*vi*) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the principal or immediate employer or that he does not hold any money for or on account of the principal or immediate employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Director General or the officer so authorised to the extent of his own liability to the principal or immediate employer on the date of the notice, or to the extent of the principal or immediate employer's liability for any sum due under this Act, whichever is less.

(*vii*) The Director General or the officer so authorised may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(*viii*) The Director General or the officer so authorised shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section and the person so paying shall be fully discharged from his liability to the principal or immediate employer to the extent of the amount so paid.

(*ix*) Any person discharging any liability to the principal or immediate employer after the receipt of a notice under this sub-section shall be personally liable to the Director General or the officer so authorised to the extent of his own liability to the principal or immediate employer so discharged or to the extent of the principal or immediate employer's liability for any sum due under this Act, whichever is less.

(*x*) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Director General or the officer so authorised, he shall be deemed to be a principal or immediate employer in default in respect of the amount specified in the notice and further 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 sections 45C to 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 (43 of 1961).

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

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

45-I. Definitions.—For the purposes of sections 45C to 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 V

BENEFITS

46. Benefits.—(*1*) Subject to the provisions of this Act, the insured persons [1][their dependants 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 [2][or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf] (hereinafter referred to as sickness benefit);

[3][(*b*) periodical payments to an insured woman in case of confinement or mis-carriage or sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit;)]

(*c*) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);

(*d*) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants benefit); [4]***

(*e*) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit) ; [2][and]

[2][(*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 [5][funeral expenses]):

1. Subs. by Act 44 of 1966, s. 18, for "or, as the case may be, their dependants" (w.e.f. 28-1-1968).
2. Ins. by s. 18, *ibid*. (w.e.f. 28-1-1968).
3. Subs. by s. 18, *ibid.*, for clause (*b*) (w.e.f. 28-1-1968).
4. The word "and" omitted by s. 18, *ibid*. (w.e.f. 28-1-1968).
5. Subs. by Act 29 of 1989, s. 17, for "funeral benefit" (w.e.f. 20-10-1989).

Provided that the amount of such payment shall not exceed [1][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.

47. [*When person eligible for sickness benefit*.] *Omitted by the Employees' State Insurance* (*Amendment*) *Act*, 1989 (29 *of* 1989), *s*. 18 (*w.e.f*. 1-2-1991).

48. [*When person deemed available for employment*.] *Omitted by theEmployees' State Insurance* (*Amendment*) *Act*, 1966 (44 *of* 1966), *s.* 20 (*w.e.f*. 28-1-1968).

[2][**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 Government.]

[3][**51. Disablement Benefit**.—Subject to the provisions of this Act [4]***,—

(*a*) a person who sustains temporary disablement for not less than three days (excluding the day of accident) shall be entitled to periodical payment [5][at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government];

(*b*) a person who sustains permanent disablement, whether total of partial, shall be entitled to periodical payment [5][at such rates and for such period and subject to such conditions as may be prescribed by the Central Government]:

[6]* * * * *

51A. Presumption as to accident arising in course of employment.—For the purposes of this Act, an accident arising in the course of [7][an employee's] 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 [7][an employee's] employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(*a*) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(*b*) the act is done for the purpose of and in connection with the employer's trade or business.

1. Subs. by Act 29 of 1989, s. 17, for "one hundred rupees" (w.e.f. 1-2-1991).
2. Subs. by s. 19, *ibid*., for sections 49 and 50 (w.e.f. 1-2-1991).
3. Subs. by Act 44 of 1966, s. 23, for section 51 (w.e.f. 28-1-1968).
4. The words "and the regulations, if any" omitted by Act 29 of 1989, s. 20 (w.e.f. 1-2-1991).
5. Subs. by s. 20, *ibid*., for "for the period of such disablement in accordance with the provisions of the First Schedule" (w.e.f. 1-2-1991).
6. Proviso omitted by s. 20, *ibid*. (w.e.f. 1-2-1991).
7. Subs. by Act 18 of 2010, s. 12, for "an insured person's" (w.e.f. 1-6-2010).

51C. Accidents happening while travelling in employer's transport.—(*1*) An accident happening while an [1][employee] is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—

(*a*) the accident would have been deemed so to have arisen had he been under such obligation; and

(*b*) at the time of the accident, the vehicle—

(*i*) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer, and

(*ii*) is not being operated in the ordinary course of public transport service.

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

51D. Accidents happening while meeting emergency.—An accident happening to an [1][employee] in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.]

[2][**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.]

[3][**52. Dependant's benefit**.—(*1*) If an insured person dies as a result of an employment injury sustained as an employee under this Ac receipt of any periodical payment for

temporary disablement in respect of the injury) dependant's benefit shall be payable [4][at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government] to his dependants specified in [5][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 [4][at such rates and for such period and subject to such conditions as may be prescribed by the Central Government].

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

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

1. Subs. by Act 18 of 2010, s. 12, for "insured person" (w.e.f. 1-6-2010).

2. Ins. by s. 13, *ibid*. (w.e.f. 1-6-2010).

3. Subs. by Act 44 of 1966, s. 24, for section 52 (w.e.f. 28-1-1968).

4. Subs. by Act 29 of 1989, s. 21, for "in accordance with the provisions of the First Schedule" (w.e.f. 1-2-1991).

5. Subs. by s. 21, *ibid*., for "sub-clause (*i*) and" (w.e.f. 1-2-1991).

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

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

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

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

[2][**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 subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

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

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

(*ii*) the Employees' Insurance Court directly:]

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

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

1. Subs. by Act 44 of 1966, s. 25, for section 53 (w.e.f. 28-1-1968).
2. Subs. by s. 26, *ibid*., for section 54 (w.e.f 28-1-1968).
3. Ins. by Act 29 of 1989, s. 22 (w.e.f. 20-10-1989).

[1][**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 satisified that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:

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

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

(*4*) Subject to the foregoing provisions of this section, a medical board day 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, re-marriage 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 in-patient in a hospital or other institution.

(*3*) A person shall be entitled to medical benefit during any [2][Period] for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit [3][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:

[4][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

1. Subs. by Act 44 of 1966, s. 27, for section 55 (w.e.f. 28-1-1968).

2. Subs. by Act 45 of 1984, s. 8, for "week" (w.e.f. 27-1-1985).

3. Subs. by Act 53 of 1951, s. 17, for "or, as provided under the regulations, is in receipt of disablement benefit" (w.e.f. 6-10-1951).

4. Ins. by Act 29 of 1989, s. 23 (w.e.f. 1-2-1991).

have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement:

[1][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.]

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

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

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

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

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

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

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

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

(*4*) In default of agreement between the Corporation and any State Government as aforesaid the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the [2][High Court [3][of a State]]) appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the State Government.

[4][(*5*) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

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

1. Subs. by Act 18 of 2010, s. 14, for the proviso (w.e.f. 1-6-2010).

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

3. Subs. by Act 53 of 1951, s. 18, for "for a Part A State" (w.e.f. 6-10-1951).

4. Ins. by Act 18 of 2010, s. 15 (w.e.f. 1-6-2010).

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

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

(*2*) The Corporation may enter into agreement with any [1]*** 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.

[2][(*3*) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families.]

[3][**59A. Provision of medical benefit by the Corporation in lieu of State Government.**—(*1*) Notwithstanding anything contained in any other provision of this Act, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to insured persons and where such medical benefit is extended to their families, to the families of such insured persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.

(*2*) In the event of the Corporation exercising its power under sub-section (*1*), the provisions relating to medical benefit under this Act shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.]

[4][**59B. Medical and para-medical education.**—The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employees' State Insurance Scheme.]

General

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

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

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

62. Persons not to commute cash benefits.—Save as may be provided in the regulations no person shall be entitled to commute for a lump sum any [5][disablement benefit] admissible under this Act.

[6][**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.]

1. The words and letter "Part B State" omitted by the A.O. (No. 4) 1957 (w.e.f. 1-11-1956).
2. Ins. by Act 18 of 2010, s. 16 (w.e.f. 1-6-2010).
3. Ins. by Act 44 of 1966, s. 28 (w.e.f. 17-6-1967).
4. Ind. by Act 18 of 2010, s. 17 (w.e.f. 1-6-2010).
5. Subs. by Act 29 of 1989, s. 24, for "periodical payment" (w.e.f. 20-10-1989).
6. Subs. by s. 25, *ibid*., for section 63 (w.e.f. 20-10-1989).

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

(*a*) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Act and shall carry out the instructions given by the medical officer or medical attendant in charge thereof;

(*b*) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(*c*) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and

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

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

(*a*) both sickness benefit and maternity benefit; or

(*b*) both sickness benefit and disablement benefit for temporary disablement; or

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

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

66. [*Corporation's right to recover damages from employer in certain cases*.] *Omitted by the Employees' State Insurance* (*Amendment*) *Act*, 1966 (44 *of* 1966), *s*. 29 (*w.e.f.* 17-6-1967).

67. [*Corporation's right to be indemnified in certain cases*.] *Omitted bys*. 29, *ibid*. (*w.e.f.* 17-6-1967).

68. Corporation's 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—

[2][(*i*) the difference between the amount of benefit which is paid by the Corporation to the said person and the amount of the benefit which would have been payable on the basis of the contributions which were in fact paid by the employer; or]

(*ii*) twice the amount of the contribution which the employer failed or neglected to pay, whichever is greater.

(*2*) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue [3][or under section 45C to section 45-I.]

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

(*i*) 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

1. The words "or sick visitor" omitted by Act 29 of 1989, s. 26 (w.e.f. 20-10-1989).
2. Subs. by Act 53 of 1951, s. 19, for clause (*i*) (w.e.f. 6-10-1951).
3. Added by Act 29 of 1989, s. 27 (w.e.f. 20-10-1989).

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

71. Benefit payable up to and including day of death.—[2][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 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.

1. Added by Act 29 of 1989, s. 27 (w.e.f. 20-10-1989).

2. Subs. by s. 28, *ibid*., for "Except as provided in the proviso to sub-section (*2*) of section 50, if a person dies " (w.e.f. 1-2-1991). Earlier these words were substituted for "If a person dies" by Act 44 of 1966, s. 30 (w.e.f. 28-1-1968).

(*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.

[1][CHAPTER VA

SCHEME FOR OTHER BENEFICIARIES

73A. Definitions.—In this Chapter,

(*a*) "other beneficiaries" means persons other than the person insured under this Act;

(*b*) "Scheme" means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;

(*c*) "underutilised hospital" means any hospital not fully utilised by the persons insured under this Act;

(*d*) "user charges" means the amount which is to be charged from the other beneficiaries for medical facilities as may be notified by the Corporation in consultation with the Central Government from time to time.]

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

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

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

(*i*) the other beneficiaries who may be covered under this Scheme;

(*ii*) the time and manner in which the medical facilities may be availed by the other beneficiaries;

(*iii*) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;

(*iv*) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

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

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

1. Subs. by Act 18 of 2010, s. 18, for Chapter VA (w.e.f. 1-6-2010).

CHAPTER VI

ADJUDICATION OF DISPUTE AND CLAIMS

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

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

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

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

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

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

(*a*) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or

(*b*) the rate of wages or average daily wages of an employee for the purposes of this Act, or

(*c*) the rate of contribution payable by a principal employer in respect of any employee, or

(*d*) the person who is or was the principal employer in respect of any employee, or

(*e*) the right of any person to any benefit and as to the amount and duration thereof, or

1[(*ee*) any direction issued by the Corporation under section 55A on a review of any payment of dependant's benefits, or]

2* * * * *

(*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 3[or any other matter required to be or which may be decided by the Employees' Insurance Court under this Act],

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

(*2*) 4[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;

[2]* * * * *

(*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.

1. Subs. by Act 44 of 1966, s. 32, for clause (*ee*) (w.e.f. 28-1-1968).
2. Omitted by s. 32, *ibid*. (w.e.f. 28-1-1968).
3. Ins. by s. 32, *ibid*. (w.e.f. 28-1-1968).
4. Subs. by s. 32, *ibid.,* for "The following claims" (w.e.f. 28-1-1968).

[3][(*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 sub-section (*2*) of section 54A in which case the Employees' Insurance Court may itself determine all the issues arising before it.

[1][(*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 [2][a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court].

76. Institution of proceedings, etc.—(*1*) Subject to the provisions of this Act and any rules made by the 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 State, it may, subject to any rules made by the 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 State Government may transfer any matter pending before any Employees' Insurance Court in the State to any such Court in another State with the consent of the State Government of that State.

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

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

[3][(*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 de dants 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];

[4][(*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;

1. Ins. by Act 29 of 1989, s. 29 (w.e.f. 20-10-1989).

2. Subs. by Act 44 of 1966, s. 32, for "the Employees' Insurance Court" (w.e.f. 28-1-1968).

3. Ins. by s. 33, *ibid*. (w.e.f. 28-1-1968).

4. Subs. by Act 29 of 1989, s. 30, for clause (*b*) (w.e.f. 20-10-1989).

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

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

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

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

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

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

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

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

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

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

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

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

(*4*) The provisions of sections 5 and 12 of the [2][Limitation Act, 1963 (36 of 1963)] shall apply to appeals under this section.

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

CHAPTER VII

PENALTIES

84. Punishment for false statement.—Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorised by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to [1][six months] or with fine not exceeding [2][two thousand] rupees, or with both:

[3][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].

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

(*a*) fails to pay any contribution which under this Act he is liable to pay, or

(*b*) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, or

(*c*) in contravention of section 72 reduces the wages or any privileges or benefits admissible to an employee, or

(*d*) in contravention of section 73 or any regulation dismisses, discharges, reduces or otherwise punishes an employee, or

(*e*) fails or refuses to submit any return required by the regulations, or makes a false return, or

(*f*) obstructs any Inspector or other official of the Corporation in the discharge of his duties, or

(*g*) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided,

[4][he shall be punishable—

[5][(*i*) where he commits an offence under clause (*a*), with imprisonment for a term which may extend to three years but—

(*a*) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of ten thousand rupees;

(*b*) which shall not be less than six months, in any other case and shall also be liable to fine of five thousand rupees:

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

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

[6][**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 [7][two years and with fine of five thousand rupees]:

1. Subs. by Act 45 of 1984, s. 9, for "section 195 Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 27-1-1985).

2. Subs. by Act 29 of 1989, s. 31, for "Indian Limitation Act, 1908 (9 of 1908)" (w.e.f. 20-10-1989).

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 [8][five years but which shall not be less than two years and shall also be liable to fine of twenty-five thousand rupees].

1. Subs. by Act 29 of 1989, s. 32, for "three months" (w.e.f. 20-10-1989).

2. Subs. by s. 32, *ibid*., for "five hundred" (w.e.f. 20-10-1989).

3. The proviso shall stand Inserted (date to be notified) by s. 32, *ibid*.

4. Subs. by Act 38 of 1975, s. 4, for certain words (w.e.f. 1-9-1975).

5. Subs. by Act 29 of 1989, s. 33, for clauses (*i*) and (*ii*) (w.e.f. 20-10-1989).

6. Ins. by Act 38 of 1975, s. 5 (w.e.f. 1-9-1975).

7. Subs. by Act 29 of 1989, s. 34, for "one year or with fine which may extend to two thousand rupees, or both" (w.e.f. 20-10-1989).

8. Subs. by s. 35, *ibid*., for certain words (w.e.f. 20-10-1989).

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 may recover, [1][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:

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

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

85C. Power of Court to make orders.—(*1*) Where an employer is convicted of an offence for failure to pay any contribution payable under this Act, the Court may, in addition to awarding any punishment, by order, in writing, require him within a period specified in the order (which the Court may if it thinks fit and on application in that behalf, from time to time, extend), to pay the amount of contribution in respect of which the offence was committed, [3][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 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 [4][one thousand] rupees for every day after such expiry on which the order has not been complied with.]

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

[7][(*2*) No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence under this Act.]

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

[9][**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

1. Subs. by Act 29 of 1989, s. 35, for certain words (w.e.f. 1-1-1992).
2. Ins. by s. 35, *ibid*. (w.e.f. 1-1-1992).
3. Added by s. 36, *ibid*. (w.e.f. 20-10-1989).
4. Subs. by s, 36, *ibid.,* for "one hundred" (w.e.f. 20-10-1989).
5. Added by Act 53 of 1951, s. 22 (w.e.f. 6-10-1951).
6. Subs. by Act 44 of 1966, s. 35, for "Central Government" (w.e.f. 17-6-1967).
7. Subs. by Act 29 of 1989, s. 37, for sub-section (*2*) (w.e.f. 20-10-1989).
8. Certain words omitted by s. 37, *ibid*. (w.e.f. 20-10-1989).
9. Ins. by s. 38, *ibid*. (w.e.f. 20-10-1989).

or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*i*) "company" means any body corporate and includes a firm and other associations of individuals; and

(*ii*) "director" in relation to—

(*a*) a company, other than a firm, means the managing director or a whole-time director;

(*b*) a firm means a partner in the firm.]

CHAPTER VIII

MISCELLANEOUS

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

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

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

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

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

90. Exemption of factories or establishments belonging to Government or any local authority.—The appropriate Government may 2[after consultation with the Corporation,] by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment belonging to 3*** any lo 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.

1. Ins. by Act 18 of 2010, s. 20 (w.e.f. 1-6-2010).

2. Ins. by Act 44 of 1966, s. 36 (w.e.f. 17-6-1967).

3. The words "The Government or" omitted by Act 29 of 1989, s. 39 (w.e.f. 20-10-1989).

4. Ins. by Act 44 of 1966, s. 36 (w.e.f. 17-6-1967).

[1][**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 [2][prospectively] on such date as may be specified therein.]

[3][**91AA. Central Government to be appropriate Governmen**t.—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.]

[4][**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 (16 of 1926) having members in the factory or establishment.

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

92. Power of Central Government to give directions.—[5][(*1*)] The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

[6][(*2*) The Central Government may, from time to time, give such directions to the Corporation as it may think fit for the efficient administration of the Act, and if any such direction is given, the Corporation shall comply with such direction.]

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

[7][**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 section 49 of the Presidency-towns Insolvency Act, 1909 (3 of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920), [8][or under any law relating to insolvency in force [9][in the territories which, immediately before the 1st November, 1956 were comprised in a Part B State]], [10][or under section 530 of the Companies Act, 1956 (1 of 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 where for accured before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

1. Ins. by Act 44 of, 1966, s. 37 (w.e.f. 17-6-1967).

2. Subs. by Act 18 of 2010, s. 21, for "either prospectively or retrospectively" (w.e.f. 1-6-2010).

3. Ins. by s. 22, *ibid*. (w.e.f. 1-6-2010).

4. Ins. by Act 29 of 1989, s. 40 (w.e.f. 20-10-1989).

5. Section 92 renumbered as sub-section (*1*) thereof by s. 41, *ibid*. (w.e.f. 20-10-1989).

6. Ins. by s. 41, *ibid*. (w.e.f. 20-10-1989).

7. Ins. by Act 38 of 1975, s. 6 (w.e.f. 1-9-1975).

8. Ins. by Act 53 of 1951, s. 23 (w.e.f. 6-10-1951).

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

10. Subs. by Act 29 of 1989, s. 42, for "or under section 230 of the Indian Companies Act, 1913 (7 of 1913)" (w.e.f. 20-10-1989).

[1][**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, [2][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:—

[3][(*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;]

[4][(*ac*)] the manner in which [5][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 [6][Director General and the Financial Commissioner] and the conditions of their service;

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

[7][(*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;

[8][(*eff*) the income of dependant parents from all sources;]

(*eg*) the conditions for grant of medical benefits for insured persons who cease to be in insurable employment on account of permanent disablement;

(*eh*) the conditions for grant of medical benefits for persons who have attained the age of Superannuation;]

1. Ins. by Act 53 of 1951, s. 24 (w.e.f. 6-10-1951).
2. Ins. by Act 44 of 1966, s. 38 (w.e.f. 28-1-1968).
3. Ins. by Act 29 of 1989, s. 43 (w.e.f. 20-10-1989).
4. Clause (*a*) re-lettered as clause (*ac*) by s. 43, *ibid.* (w.e.f. 20-10-1989).
5. Subs. by s. 43, *ibid*., for "nominations" (w.e.f. 20-10-1989).
6. Subs. by s. 43, *ibid*., for "Principal Officers" (w.e.f. 20-10-1989).
7. Ins. by s. 43, *ibid*. (w.e.f. 20-10-1989).
8. Ins. by Act 18 of 2010, s. 23 (w.e.f. 1-6-2010).

1[(*ehh*) the conditions under which the medical benefits shall be payable to the insured person and spouse of an insured person who has attained the age of superannuation, the person who retires under Voluntary Retirement Scheme and the person who takes pre-mature retirement;]

2[3[(*ei*)] the manner in which and the time within which appeals may be filed to medical appeal tribunals or Employees' Insurance Courts;]

(*f*) the procedure to be adopted in the execution of contracts;

(*g*) the acquisition, holding and disposal of property by the Corporation;

(*h*) the raising and repayment of loans;

(*i*) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation ;

(*j*) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made;

(*k*) the bank or banks in which the funds of the Corporation may be deposited, the procedure to be followed in regard to the crediting of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payment may be authorised;

(*l*) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited;

(*m*) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged;

(*n*) the preparation of budget estimates and of supplementary estimates and the manner in which such estimates shall be sanctioned and published;

(*o*) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation; 4***

5[(*oa*) the period of non-entitlement for cash benefit in case of conviction of an insured person;]

(*p*) any matter which is required or allowed by this Act to be prescribed by the Central Government.

6[(*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 section shall be published in the Official Gazette and thereupon shall have effect as if enacted in this Act.

7[(*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 8[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 of both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Ins. by Act 18 of 2010, s. 23 (w.e.f. 1-6-2010).
2. Ins. by Act 44 of 1966, s. 38 (w.e.f. 28-1-1968).
3. Clause (*ee*) relettered as Clause (*ei*) by Act 29 of 1989, s. 43 (w.e.f. 20-10-1989).
4. The word "and" omitted by s. 43, *ibid*. (w.e.f. 20-10-1989).
5. Ins. by s. 43, *ibid*. (w.e.f. 20-10-1989).
6. Ins. by Act 45 of 1984, s. 10 (w.e.f. 27-1-1985).
7. Ins. by Act 44 of 1966, s. 38 (w.e.f. 28-1-1968).
8. Subs. by Act 38 of 1975, s. 7, for certain words (w.e.f. 1-9-1975).

96. Power of State Government to make rules.—(*1*) The State Government may, [1][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;

[2][(*ee*) the organisational structure, functions, powers, activities and other matters for the establishment of the organisation;]

(*f*) the nature and extent of the staff, equipment and medicine 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.

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

97. Power of Corporation to make regulations.—(*1*) The Corporation may, [4]*** subject to the condition of previous publications, 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;

[5][(*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;

1. Ins. by Act 44 of 1966, s. 39 (w.e.f. 28-1-1968).
2. Ins. by Act 18 of 2010, s. 24 (w.e.f. 1-6-2010).
3. Ins. by Act 45 of 1984, s. 11 (w.e.f. 27-1-1985).
4. The words "with the prior approval of the Central Government" omitted by Act 29 of 1989, s. 44 (w.e.f. 20-10-1989).
5. Ins. by Act 44 of 1966, s. 40 (w.e.f. 28-1-1968).

[1][(*iiia*) the rate of interest higher than twelve per cent. on delayed payment of contributions;]

(*iv*) reckoning of wages for the purpose of fixing the contribution payable under this Act; [2][(*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.

[3][(*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 [4][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 sablement 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 dependant's 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;

3[(*xiia*) specifying the authority competent to give certificate of eligibility for maternity benefit;

(*xiib*) the manner of nomination by an insured woman for payment of maternity benefit in case of her or her child's death;

(*xiic*) 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;

5* * * * *

(*xvi*) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates;

3[(*xvia*) the qualification and experience which a person should possess for giving certificate of sickness;

(*xvib*) 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;

2[(*xviia*) the amount of damages to be recovered as penalty;

(*xviib*) the terms and conditions for reduction or waiver of damages in relation to a sick industrial company;]

1. Subs. by Act 29 of 1989, s. 44, for clause (*iiia*) (w.e.f. 20-10-1989).
2. Ins. by s. 44, *ibid*. (w.e.f. 20-10-1989).
3. Subs. by Act 44 of 1966, s. 40, for clause (*vi*) (w.e.f. 28-1-1968). 4. Subs. by s. 40, *ibid*., for "and the form in which" (w.e.f. 28-1-1968). 5. Omitted by Act 29 of 1989, s. 44 (w.e.f. 20-10-1989).

(*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;

1[(*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 2[Social Security Officers] and other officers and servants of the Corporation;

3[(*xxa*) the constitution of the appellate authority and the interest on amount deposited by the employer with the Corporation.]

4[(*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 5[Director General and Financial Commissioner]];

(*xxii*) the procedure to be followed in remitting contributions to the Corporation; and

(*xxiii*) any matter in respect of which regulations are required or permitted to be made by this Act.

6[(*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.

[7][(*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 sessiion immediatly following the session 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 any thing previously done under that regulation.]

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

[8][**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.]

[9][**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.]

1. Subs. by Act 53 of 1951, s. 25, for clause (*xix*) (w.e.f. 6-10-1951).
2. Subs. by Act 18 of 2010, s. 25, for "Inspectors" (w.e.f. 1-6-2010).
3. Ins. by s. 25, *ibid*. (w.e.f. 1-6-2010).
4. Subs. by Act 53 of 1951, s. 25, for clause (*xxi*) (w.e.f. 6-10-1951).
5. Subs. by Act 29 of 1989, s. 44, for "Principal Officers" (w.e.f. 20-10-1989).
6. Ins. by Act 53 of 1951, s. 25 (w.e.f. 6-10-1951).
7. Ins. by Act 45 of 1984, s. 12 (w.e.f. 27-1-1985).
8. Subs. by Act 29 of 1989, s. 45, for section 99 (w.e.f. 20-10-1989).
9. Ins. by Act 44 of 1966, s. 41 (w.e.f. 17-6-1967).

[1][**100. Repeals and savings**.— If, immediately before the day on which this Act comes into force [2][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 [3][that part] any law corresponding to this Act, that law shall, on such day, stand repealed:

Provided that the repeal shall not affect—

(*a*) the previous operations of any such law, or

(*b*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or

(*c*) any investigation or remedy in respect of any such penalty, forfeiture or punishment;

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

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

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1. Ins. by Act 53 of 1951, s. 27 (w.e.f. 6-10-1951).
2. Subs. by the A.O. (No. 3) 1956, for "in a Part B State".
3. Subs., *ibid*. 1956, for "that State".

[1][[*THE FIRST SCHEDULE] Omitted by the Employees' State Insurance (Amendment*) *Act*, 1989 (29 *of* 1989*), s.* 46(*w.e.f.* 1-2-1991).

THE SECOND SCHEDULE

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

Sl. No.	Description of injury	Percentage 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 cm. from tip of acromion.	80
9.	Amputation from 20.32 cm. from tip of acromion to less than 11.43 cm. 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 cm. 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
[2][16A.	Guillotine amputation of the tip of the thumb without loss of bone. .	10]
17.	Amputation of both feet resulting in end-bearing stumps. . . .	90

1. Subs. by Act 44 of 1966, s. 42, for the First Schedule and Second Schedule (w.e.f. 28-1-1968).
2. Ins. by Act 29 of 1989, s. 47 (w.e.f. 20-10-1989).

Sl. No.	Description of injury	Percentage of loss of earning capacity
	Amputation—lower limbs	
18.	Amputation through both feet proximal to the metatarso-phalangeal joint.	80
19.	Loss of all toes of both fee angeal 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 cm. in length measured from tip of great trenchanter.	80
24.	Amputation below hip with stump exceeding 12.70 cm. in length measured from tip of great trenchanter but not beyond middle thigh	70
25.	Amputation below middle thigh to 8.89 cm. below knee.	60
26.	Amputation below knee with stump exceeding 8.89 cm. but not exceeding 12.70 cm.	50
27.	Amputation below knee with stump exceeding 12.70 cm.	[1][50]
28.	Amputation of one foot resulting in end-bearing.	[1][50]
29.	Amputation through one foot proximal to the metatarso-phalangeal joint.	[1][50]
30.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
	Other Injuries	
31.	Loss of one eye, without complications, the other being normal,	40
32.	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal.	30
[2][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

1. Subs. by Act 29 of 1989, s. 47 (w.e.f. 20-10-1989).
2. Ins. by s. 47, *ibid*. (w.e.f 20-10-1989).

Sl. No.	Description of injury	Percentage of loss of earning capacity
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	

Two toes of one foot, excluding great toe

49.	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.

[1][THE THIRD SCHEDULE

(*See* section 52A)

LIST OF OCCUPATIONAL DISEASES

Sl. No.	Occupational disease	Employment
(1)	(2)	(3)
	PART A	
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination	(*a*) All work involving exposure to health or laboratory work; (*b*) All work involving exposure to veterinary work; (*c*) Work relating to handling animals, animal carcasses, part of such carcasses, or

		merchandise which may have been contaminated by animals or animal carcasses; (*d*) Other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes	All work involving exposure to the risk concerned.
5.	Poisoning by organphosphorus compounds.	All work involving exposure to the risk concerned.
	PART B	
1.	Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned.

1. Subs. by Act 45 of 1984, s. 14, for the Third Schedule (w.e.f. 27-1-1985).

Sl. No.	Occupational disease	Employment
(1)	(2)	(3)
	PART B—*Contd.*	
3.	Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations	All work involving exposure to the action of radioactive substances or ionising radiations.
8.	Primary epithelomatous cancer of the skin caused by tar, pitch,	All work involving

	bitumen, mineral oil, anthracene, or the compounds, products of residues of these substances	exposure to the risk concerned.
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series)	All work involving exposure to the risk concerned.
10.	Diseases caused by the carbon disulphide	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances	All work involving exposure to the risk concerned.

Sl. No.	Occupational disease	Employment
(1)	(2)	(3)
16.	Diseases caused by beryllium or its toxic compounds	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned.
18.	Occupational asthama caused by recognised sensitising agents inherent to the work process	All work involving exposure to the risk concerned.
19.	Diseases caused by flourine or its toxic compounds	All work involving exposure to the risk concerned.
20.	Diseases caused by nitro-glycerine or other nitroacid esters	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.

PART B—*Contd.*

22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulfide	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving

		exposure to the risk concerned.
24.	Primary neoplasm of the epithelial, lining of the urinary bladder or the kidney or the ureter	All work involving

PART C

1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraoosilicosis asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death	All work involving exposure to the risk concerned.
2.	Bagassosis	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by the cotton, flax hemp and sisal dust (Byssinosis)	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveelitis caused by the inhalation of organic dusts	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals	All work involving exposure to the risk concerned.]].

ANNEXURE

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

Date	Provisions	Areas	Notification numbers. etc.
1	2	3	4
1-9-1948	Chapters I, II, III and VIII	All the Provinces of India	SS. 21(*2*), dated the 31st
1-4-1950	Sections 44 and 45 of Chapter IV and Chapter VII.	All Part A States, Ajmer, Coorg, Delhi and Andaman and Nicobar Islands.	SS. 121(32), dated the 3rd April, 1950, Gazette of India, 1950, Part I, sec. 1.
1-12-1950	Chapters I, II, III, VII and VIII and sections 44 and 45 of Chapter IV.	Himachal Pradesh, Bilaspur, Kutch, Bhopal, Tripura, Vindhya Pradesh and Manipur.	SRO 997, dated the 2nd December, 1950, Gazette of India, 1950, Part II, sec. 3.
24-11-1951	Do.	All Part B States except the State of Jammu and Kashmir.	SRO 1832, dated the 24th November, 1951,
24-11-1951	Chapter VA	Whole of India except the State of Jammu and Kashmir.	Do.
24-2-1952	Chapter IV (except sections 44 and 45).	State of Delhi and Kanpur area of Uttar Pradesh.	SRO 251, dated the 1st February, 1952, Gazette of India, 1952, Part II, sec. 3.
		Chapter V and Chapter VI.	
1-9-1952	Sub-section (1) of section 76, sections 77, 78, 79 and 81 of Chapter VI.	Whole of India except the State of Jammu and Kashmir, State of Delhi, Kanpur area of Uttar Pradesh.	SRO 1576, dated the 3rd September, 1952, Gazette of India, 1952, Part II, sec. 3.
1-9-1954	Chapters I, II, III, V-A, VII, VIII and sections 44 and 45 of Chapter IV.	United Khasi-Jaintia Hills District, Garo Hills District, Lushai Hills District, North Cachar Hills, Mikir Hills.	SRO 2972, dated the 1st September, 1954, Gazette of India, 1954, Part II, sec. 3.
1-9-1971	Chapters I, II, III, V-A,	a, Daman	S.O. 3262, dated the 1st

	VII and VIII and sections 44 and 45 of Chapter IV.	and Diu.	September, 1971,
20-11-1971	Chapters I, II, III, VII and VIII and sections 44 and 45 of Chapter IV.	The State of Jammu and Kashmir.	SRO 6163, dated the 26th October, 1971, Gazette of India, 1971, Part II, sec. 3(*ii*).

For notifications by which Chapter IV (except sections 44 and 45), Chapter V and Chapter VI [except sub-section (*1*) of section 76, sections 77, 78 and 79 and 81] were brought into force in different areas,