



Worker Education Series

# Safeguarding Workers' Health

Are you covered under the Employees  
State Insurance Act?

Cividep India  
November 2014



## ESI Act, 1948

“An act to provide certain benefits to employees in case of sickness, maternity and employment injury and to make provisions for certain other matters in relation thereto” Mission Statement - ESI Act, 1948.

Is your employer providing you with health coverage? Are you aware of the government sponsored health scheme called Employee State Insurance (ESI)? In this series, we shall examine the salient features of the ESI Act and the importance of being covered under this social security scheme.

### Who comes under this Act?

All factories or premises employing more than 10-20 workers (unless exempted by the government)

### Why was this Act brought into law?

To take care of employees health in case of sickness, maternity or injury during work

### Who can claim benefits?

Any worker earning less than Rs. 15,000/ month (inclusive of benefits)

## Benefits to workers under this Act

### Medical Benefit

#### What are the range of services available?

- full range medical care to all insured person and family through ESI local dispensaries and hospitals<sup>1</sup>
- super specialty treatment services through approved government/ private hospitals<sup>2</sup>

### Sickness Benefit

#### What is the wage rate and how long can this benefit be utilized?

- cash benefit during sickness is 70% of your current daily wage rate
- maximum period covered is 91 days
- long term sickness can be extended up to 2 years with special recommendations. This applies to 34 cancerous and long-term diseases such as TB, occupational diseases and others<sup>3</sup> at 80% of your current daily wage rate

### Maternity Benefit

#### How about women specific issues?

- this applies to all pregnancy related issues

- cash benefit is equivalent to your current wages
- leave period is issue specific. For example, for child delivery – 3 months (this can be extended to 1 extra month in case of complications)

## Disablement Benefit

### What happens if you are injured during work?

- injury during work is classified into temporary, partial-permanent and permanent disablement
- cash benefit is 90% of your current daily wage rate for permanent disability and in case of partial disability for life, it is proportionate to the loss of your earning capacity

## Dependents Benefit

### What happens in case of sudden death?

- assured family pension due to deaths that are work related or occupational. For example, in case of industrial accidents
- cash benefit is equivalent to 90% daily wage rate
- beneficiaries include widow, children and others under certain conditions

## Other Benefits

- Funeral Expenses - Rs. 10,000 in case of death that is work related
- Unemployment Benefits - in case of layoffs, guaranteed income at 50% daily wage rate for a maximum period of 1 year, including medical care for family members<sup>4</sup>
- Old age Medical care - for both husband and wife on payment of Rs. 120/- per annum

## Rate of Contribution

Employers – 4.75%

Employees – 1.75%

**Total – 6.5%**

### Agenda for Action

- if your employer fails to register you with the ESI authority, he/ she is liable under law and can be jailed
- you can register your grievances online or in person at all levels and also approach the Employee Insurance court<sup>5</sup>

**For more details, contact your local union now!**

### Remember

- benefits under ESI are your right and your employer cannot deny them to you under any circumstances

- your employer cannot dismiss you during sickness or disability caused by accidents during work and even during strikes or lockouts
- if you are earning less than Rs. 100 a day, you are exempted from contributions

## Employer's Duty

- depositing both employee's as well as employer's contribution at the local ESI branch<sup>6</sup> every month
- getting registered under ESI within 15 days at the appropriate regional office, if ESI is applicable
- getting all employees registered
- maintenance of Accident Book is a must and should be submitted within 24 hours in case of death or serious injury to the nearest branch office and insurance medical officer

### Agenda for Action

- Is your employer following all the rules and regulations?
- if not, you need to inform your local union and the concerned local ESI branch now!

## Role of ESI Corporation/ State Government

- appointment of inspectors, with authority to enter any premises (falling under ESI) and examine any documents relating to workers' wages
- taking action against those employers found in violation of the ESI Act
- setting up of ESI dispensaries, hospitals and reimbursing claims
- providing quality care and free medicines to the beneficiaries and their dependents
- addressing grievances

### Agenda for Action

- Are the services provided by your local ESI facility satisfactory?
- Are your claims being reimbursed on time?
- Are your grievances addressed effectively?
- Are actions being taken against those employers who do not comply with regulations?
- if not, you need to claim your rights, use Right to Information (RTI) Act and demand provision of quality services through your local union and political representatives

### Remember

- The State government has powers to amend ESI laws for their respective states.
- If you bring pressure on your political representatives, ESI, along with other social security provisions, can be made pro- worker and accountable to the public.

### Claim your ESI rights now!

## Endnotes

<sup>1</sup> For more information on general medical benefits, please visit the following page of the central government ESI website: [www.esic.nic.in/other\\_scale\\_mb.php](http://www.esic.nic.in/other_scale_mb.php)

<sup>2</sup> For more information on all the specialty treatment services available, please visit the following page of the central government ESI website - [www.esic.nic.in/other\\_specialist\\_consultation.php](http://www.esic.nic.in/other_specialist_consultation.php)

<sup>3</sup> For details, visit the following page of the central government ESI website [www.esic.nic.in/esb\\_benefits.php](http://www.esic.nic.in/esb_benefits.php)

<sup>4</sup> Also known as Rajiv Gandhi Shramik Kalyan Yojana

<sup>5</sup> Please visit the following page of central government ESI website – [www.esic.nic.in/grievances.php](http://www.esic.nic.in/grievances.php) for more information.

<sup>6</sup> For details regarding your local ESI branch, please visit the directory page of the central government ESI website: [www.esic.nic.in/directory.php](http://www.esic.nic.in/directory.php)



Worker Education Series

# Safety & Health

Is your workplace safe?

Cividep India  
November 2014



What are the rules and regulations protecting workers in their workplaces?  
What are the duties of the management?  
And what is the role of the government/ labour department in enforcing labour laws?  
Whom do you contact in case of violations?

**Factories Act, 1948** is one of the most important labour legislations with regard to industrial safety and health. In this series we shall give a broad overview of this act.

For more details visit the Ministry of Labour & Employment website<sup>1</sup>.

## Who comes under this Act?

Any manufacturing industry employing more than 10-20 workers

## Why was this Act brought into law?

To protect the health, safety and welfare of all workers

## Did you know, under Factories Act 1948, all workers are entitled towards:

### Clean Environment - Is your workplace clean?

- a clean working environment, work spaces that are well ventilated, free from dust and indoor pollution
- no overcrowding and adequate space<sup>2</sup> for each worker

### Safety - Are all safety measures in place?

- provision of safety gear while operating machinery
- one first aid box with a trained personnel per 150 workers and ambulance room for 250 plus workers
- information on all the dangers and general health policy

### Basic Provisions

- adequate clean drinking water facilities
- provision for sitting, rest/ lunch room for 150 plus workers and canteen for 250 plus workers
- adequate basic facilities, including washing and storing facilities
- clean latrines and urinals, separate for males and females (respecting privacy)
- provision of spittoons, fine in case of violation not to exceed Rs.5

## **Working hours and rest period**

- a 48 hour week and not more than 9 hours per day
- ½ hour rest every 5 hours
- overtime (OT) = double pay
- one day paid leave every 20 Days
- weekly and compensatory holidays

## **Women Specific Provisions**

- guaranteed maternity leave up to 3 months
- well-equipped child care facility with trained personnel, if more than 30 women workers are employed
- no night shift for women

## **Agenda for Action**

- Does your employer provide you with all these basic rights?
- if not, inform your employer that he/she is violating basic worker rights and he/she can be held accountable as per law!
- if no immediate action is taken, report this to your local union or approach the appropriate officer in the labour department. Grievances can be registered online through the Central 'Public Grievances' portal<sup>9</sup> and you can also approach the Industrial Tribunal Cum Labour Court if the situation persists.

**For more information, contact your local union now!**

## **Duties of the Employer**

### **Environment**

- sufficient lighting
- cleanliness of the premises and the work floor
- walls cleaned and painted periodically
- effective drainage and waste disposal system, including treatment

### **Health**

- general policy on health and safety of workers with all arrangements in place
- information on health hazards to be displayed prominently

### **Safety**

- periodic safety inspections
- all dangerous machinery must be well protected
- young people must not be allowed to operate dangerous machinery, unless supervised by seniors



- appointment of safety officer, in factories employing 1000 plus workers
- sending notice to labour department immediately in case of accidents/ occupational diseases or in case of suspected danger

### **Workers**

- register of all workers must be maintained by the manager of factory and made available for inspection
- provision of all basic facilities without discrimination
- no overtime or exploitation above the specified work time

### **Agenda for Action**

- Is your employer following all these rules and regulations?
- if your employer is violating safety rules, inform your local department immediately! Do not compromise on your health and safety for fear of consequences from your employer.
- for all work and welfare related issues of all workers in the factory, stay in touch with your local union.

## **Role of Labour Department/ State Government**

- granting and cancellation of license
- enforcement of all the rules as per the Act
- appointment of inspectors
- regular inspection and advice for precautionary measures
- welfare officer for factories with more than 500 workers, safety officer per 1000 workers and factory medical officer for more than 500 workers
- humidification standards (permissible levels of heat in the premises)
- prohibition of child labour (below 14 years)
- inquiry into accident/ occupation disease

### **Remember**

- the objective of this Act is to safeguard health, rights, safety and welfare of all workers in a factory
- factory management is ultimately responsible for the health, safety and welfare of all workers

### **Agenda for Action**

- appropriate officials can be informed through the labour department in case of negligence by the management. You can also approach the Industrial Tribunal as well as apply for Right to Information (RTI) Act, wherever appropriate.
- health officials can examine workers in case of illness due to occupational hazards

**In order to protect your rights, stay in touch with your local unions**

## Endnotes

<sup>1</sup> Ministry of Labour & Employment can be accessed through the following website – [www.labour.gov.in/](http://www.labour.gov.in/)

<sup>2</sup> Factories Act mandates 14.2 cubic meters of space for every worker employed

<sup>3</sup> Central 'Public Grievances' portal can be accessed through the following website – [www.pgportal.gov.in/Grievance.aspx](http://www.pgportal.gov.in/Grievance.aspx)



Worker Education Series

# Freedom of Association

## Why should workers join a Trade Union?

Cividep India  
November 2014



## Are you facing these conditions at work?

Long working hours?

Low pay?

No social security?

Abuses and harassment from your supervisors/ employer?

Lack of job security?

## It is high time you and your fellow workers form a union.

### But how?

Will we lose our job?

Is it not difficult to register a union?

We know nothing about the laws?

Can we really gain anything?

**The Trade Union Act, 1926** and **Industrial Disputes Act, 1947** give workers the legal right to form a trade union and negotiate with the employer on equal terms and conditions, without threat of reprisal. In this series, we shall examine what you as workers need to know about forming a trade union and procedures for settling long standing disputes.

## What is a Trade Union (TU)?

An organized association of workers in a trade, group of trades, or profession, formed to protect and further workers' rights and interests<sup>1</sup>. This includes negotiating wages on behalf of workers, regulating work conditions, taking strike actions, help settle grievances etc.

## Who can Form a Union?

Seven or more workers can register to form a trade union<sup>2</sup>. But registration requires union membership of 10 percent or 100 workers employed in your workplace/ factory.

## What are benefits of a union?

- better pay, improved working conditions such as safety, job and social security, general advice on a variety of issues
- secure protection from sudden economic distress and accidents
- can campaign on a variety of issues ranging from work related issues to industry related issues to political campaigns
- advocate government policy in favour of workers
- ensure all workers are treated fairly and equally, without any discrimination

## Why is it important for the union to be recognized by the employer?

- right to take part in union activities without threat of dismissal
- voting in union elections
- attending annual union conferences

## What are the powers of a union?

- recognition as “body corporate” (legal body)
- admission of members (including minors), right to hold periodic elections and elect leaders and office bearers
- maintenance of separate funds for administration and political purposes
- right to hold movable and immovable property
- fight legal cases on behalf of workers or individual member arising out of dispute with the employer
- providing allowance or insurance for members/ dependents in case of sudden death and unemployment
- provision for social and educational programmes
- maintaining periodicals and publications
- right to collect subscription from members
- right to change name of the union as well as amalgamation with other unions
- right to dissolve the union

Note: For more details regarding the rights, change of name, amalgamation and dissolution of trade union, please refer to Section 15 to 28 of the Trade Union Act, 1926.

## What are the basic requirements for running a union?

- name of the union
- objective for forming the union
- general rules and regulation
- purposes for which funds are applicable
- maintaining list of members
- formation of the executive and its term being not more than 3 years
- manner of appointment and removal of office bearers
- manner in which rules can be amended

- rules for conducting periodic elections
- accountability through annual audits and safe custody of funds
- filing annual audit statement to the registrar
- manner of dissolving the union

Note: For more details, refer to Section 6 of the Trade Union Act, 1926

## Agenda for Action

- Are you allowed to discuss and give feedback to your management on the issues faced by you at your workplace? If not, you have every right to not only air your grievances to the management, but also take action such as strikes or legal action if the need arises
- contact other local unions and gain experience from them on how to form and run unions
- start discussing the advantages of forming a union with your co-workers and find out if they are interested to join
- it is illegal to establish a management sponsored union, discourage union membership and victimize/ dismiss worker for union activity
- your management has no right in stopping you from forming a union. They can be prosecuted under law.
- your rights are not restricted to your workplace alone, but extend to the industry as a whole and political/ social sphere as well
- forming a union is a basic right guaranteed under the Indian constitution - Article 19(1)(c)

**Spread the word and act now!**

## What is an industrial dispute?

Any dispute which impacts your employment or conditions of work, even if it affects just a single worker, constitutes an industrial dispute. It applies to all establishments with 100 or more workers.

## What are the mechanism available to address industrial disputes?

### 1. With State Intervention

- Primary level – Works Committee will initially look into the matter and must be present in workplaces employing more than 100 workers. It should include equal representation from both the management and workers
- Secondary level – Conciliation officer appointed by the government will try to mediate the dispute. This may also be referred to the Board of Conciliation.
- Tertiary level – Unresolved disputes are usually referred to a labour court/ industrial tribunal/ national tribunal depending on the issue

## 2. Without State Intervention

- Collective Bargaining – Involves workers/ union representatives directly negotiating with the management
- Voluntary Arbitration - Both parties try to settle the dispute by way of arbitration (mediation) involving a third party

## What is the difference between Settlements and Awards?

- Settlement is any agreement arrived by both parties through conciliation proceedings or even outside of it. It is only binding for the period agreed upon by both parties or six months.
- An award is the interim or final judgment given by the court or tribunal. It is binding for a period of one year.

## Agenda for Action

- it is legal to go on strikes, except during negotiations or after settlement/ award has been reached
- lock outs are illegal if the mandatory notice is not given in advance<sup>3</sup>
- no employer can retrench<sup>4</sup>, lay-off<sup>5</sup> workers or declare closure<sup>6</sup> without a proper notice period, compensation, valid reason and prior approval from the appropriate government
- it is illegal for employers to break strikes by recruiting new workers, transfer workers, ask workers to sign good conduct bond, to discriminate between workers, use violence and other coercive means
- employers cannot refuse collective bargaining
- employers can also be prosecuted for failing to adhere to the settlement/ award

**Get started and contact your local union now!**

### Endnotes

<sup>1</sup> Source: Oxford dictionary ([www.oxforddictionaries.com](http://www.oxforddictionaries.com))

<sup>2</sup> The details regarding the registration can be found in Section 3 to 14 of the Trade Union Act, 1926.

<sup>3</sup> For details on notice period for lock outs, please refer to Section 22(2) of the Industrial Disputes Act, 1947

<sup>4</sup> Retrenchment' means termination of service of a workman for any reason, other than as a punishment inflicted by a disciplinary action. However, retrenchment does not include voluntary retirement or retirement on reaching age of superannuation or termination on account of non-renewal of contract or termination on account of continued ill-health of a workman.

<sup>5</sup> When an employee is not given work due to reasons beyond the powers of the employer. It could be due to shortage of raw materials/ power, accumulation of stocks, break down of machinery or. natural calamity

<sup>6</sup> Closure means permanent closing down of a place of employment

# Colophon

Worker Education Series

## **Freedom of Association. Why Should Workers Join a Trade Union?**

November 2014

Author	Cividep India
Published by	GoodElectronics
Images	Cividep India



This work is licensed under a Creative Commons Attribution - NonCommercial - NoDerivs 4.0 License.



This publication has been produced with the assistance of the European Union. The content of this publication is the sole responsibility of GoodElectronics and can in no way be taken to reflect the views of the European Union.

## **Cividep India**

Cividep India is an NGO based in Bangalore, which works to empower workers and communities and to ensure that businesses comply with human rights, labour rights, and environmental standards. With this objective Cividep educates workers, studies effects of corporate conduct, dialogues with various stakeholders, and advocates for policy change. Cividep's workers' rights initiatives have been in the garment manufacturing and electronics manufacturing as well as plantation and leather sectors.



The GoodElectronics Network accommodates networks, organisations and individuals that are concerned about human rights, including labour rights, and sustainability issues in the global electronics supply chain, including but not limited to trade unions, grass roots organisations, campaigning and research organisations, academia, and activists. The Network has a strict civil society-only profile.





**GoodElectronics**  
Sarphatistraat 30  
1018 GL Amsterdam  
The Netherlands

+31 (0)20 639 12 91  
[info@godelectronics.org](mailto:info@godelectronics.org)  
[www.godelectronics.org](http://www.godelectronics.org)

