

Chapter - 3: Coverage of the Scheme

One of the objectives of the performance audit was to examine effectiveness of mechanism for coverage of new establishments. For this, Audit examined the process for inclusion of new areas/ establishments under ESIS so as to deliver its benefits to the insured persons. Audit also looked for evidences whether eligible establishments were left out from the ambit of ESIS' coverage. Significant issues from Audit examination are as follows.

3.1 Planning for coverage

The State Governments are empowered to extend the provisions of the ESI Act to various classes of establishments, industrial, commercial, agricultural or otherwise in nature. Under these provisions, most of the State Governments have extended the Act to classes of establishments such as, shops, hotels, restaurants, cinemas, theatres, medical and educational institutions, motor transport undertakings, newspaper and advertising establishments, etc. employing 10 or more persons. The ESIS has so far been implemented in 24 States and three Union Territories¹³.

The ceiling on monthly wages for coverage was ₹10000 with effect from 1 January 2006 to 30 April 2010 and ₹15000 with effect from 1 May 2010. Ceiling for physically challenged employees was ₹25000. Thus, employee comes out of the social security net of ESIC on crossing the wage ceiling limits.

As discussed earlier in paragraph 1.3, at present ESI covers only about four *per cent* of the total work force and 67 *per cent* of organized workforce.

ESIC stated (May 2014) that at present the ESI Act covers only organized sector, although threshold limit of coverage of establishments has been reduced to 10 employees by many states.

¹³ ESIS is yet not implemented in Mizoram, Manipur, Arunachal Pradesh and Sikkim.

3.2 Surveys, Inspections and Test Inspections

ESIC does surveys, inspections and test inspections for effective coverage of the ESIS, which are described as under:

Surveys: The Social Security Officer (SSO) is expected to keep constant vigil over uncovered establishments in his/her area and recommend coverage as soon as the Act becomes applicable to them. Surveys are conducted by SSO to assess coverage potential of new establishments.

Inspections: While surveys are carried out for possibility of coverage of new establishments, inspections are done for already covered establishments to ensure that all coverable employees are covered and to ascertain whether all components of wages are taken into account for payment of contribution. Under Section 45 of the Act, the SSOs have been vested with duties, functions and powers for examination of records, books and documents relating to employment of persons and wages maintained at any office, establishment, or factory and exercise such other powers.

Test Inspections: The Regional Director/Joint Director cross-checks a sample of inspection which is called test inspection.

The Inspection Policy framed in 2008, prescribed target of 20 inspections and 20 surveys per month for each SSO. Audit examined compliance to this stipulation and found shortfalls as under:

3.2.1 Surveys: Test check of records of the following states revealed substantial shortfalls in conducting surveys as detailed below:-

Table 3.1: Details of Survey conducted during 2008-09 to 2012-13

Sl. No	Name of the state	Period	Target for Surveys	Actually conducted	Shortfall (per cent)
1.	Delhi	2008-13	37770	11515	69.51
2.	Assam	2008-13	4800	1071	77.69
3.	West Bengal	January 2013 and February 2013	2010	810	59.70

ESIC stated (May 2014) that shortfalls were due to acute shortage of SSOs and the field offices had been advised to conduct surveys as per the Inspection Policy.

3.2.2 Inspections of Establishments

As already stated, under the Inspection Policy of ESIC (June 2008), each SSO has to conduct 20 inspections per month. Further, it was mandatory to conduct inspection of units employing more than 250 employees (major units) once in two years and units with lesser number of employees once in three years. Details of inspections conducted in various States vis-à-vis target is given below:-

Table 3.2: Details of inspections conducted

Sl No.	Name of the State	Number of Inspections to be conducted as per norms during 2008-09 to 2012-13	Number of inspections actually conducted during 2008-09 to 2012-13	Percentage of Shortfall
1.	Andhra Pradesh	16340	6520	60.10
2.	Assam	4800	1071	77.69
3.	Bihar	1988	979	50.75
4.	Chandigarh (UT)	7897	2452	68.95
5.	Chhattisgarh	1889	617	67.34
6.	Delhi	26900	4293	84.04
7.	Goa	5396	770	85.73
8.	Gujarat	20243	8126	59.86
9.	Haryana	12915	8193	36.56
10.	Himachal Pradesh	2873	2778	3.31
11.	Jammu & Kashmir	3360	393	88.30
12.	Karnataka	28257	6999	75.23
13.	Kerala	24170	5312	78.02
14.	Maharashtra	106704	26693	74.98
15.	Madhya Pradesh	18871	1291	93.16
16.	Odisha	13188	4932	62.60
17.	Puducherry (UT)	5160	1845	64.24
18.	Punjab	10192	5270	48.29
19.	Rajasthan	34514	8298	75.96
20.	Tamil Nadu	124264	27305	78.03
21.	Uttar Pradesh	8292	6263	24.47
22.	West Bengal	33464	5830	82.58
	Total	511677	136230	72.14

It would be evident that there were substantial shortfalls in conducting inspections ranging from 22.68 to 93.16 *per cent* (except Himachal Pradesh). Audit observed that the shortfall had a direct bearing on the recoverable amounts as the outstanding arrears from defaulters had increased by 30.62 *per cent* from ₹1267.32 crore (March 2009) to 1655.42 crore (March 2013).

ESIC accepted (May 2014) the observations and stated that reasons for shortfalls were shortage of SSOs, non-production of records on fixed date of inspection, closure of units fixed for inspections, etc. It further stated that efforts were being made to sensitize the SSOs for showing outputs as per new inspection policy. The recruitment process of SSOs was also in progress to meet the shortage of SSOs.

3.3 Non-coverage of new areas/establishments

As per Section 1(5) of the Act, respective State Governments may, in consultation with the ESIC and with the approval of the Central Government, extend the provisions of this Act to any establishment. Regulation 10(14) (c) also provides that the Regional Board of the state shall decide on extension of the scheme to new areas. For implementation of the ESIS, the ESIC may enter into an agreement with the State Government (Section 58(3) of the Act). Audit examination revealed many coverable areas in different states were left uncovered under the scheme.

a) Gujarat: ESIC Headquarters issued instructions (June 2003 and May 2005) to extend the ESIS to educational institutions and medical institutions and requested the State Government to issue notification to extend the benefit of the ESIS after seeking approval of the Central Government.

Audit, however, observed that even after a lapse of 10 years, no intention notification was issued by the State Government. As a result the ESIS could not be implemented in 420 educational and medical institutions¹⁴ having approximately 22000 employees.

¹⁴ As per survey in November, 2006

b) West Bengal: The benefits of the ESIS could not be extended to more than 25000 employees in nine centers due to non-issuing of no-objection to ESIC by the State Government for setting up of medical facilities. ESIC did not cover 3880 employees in three centers (Darjeeling, Kurseong and Kalimpong) though State Government had issued no-objection to ESIC in July 2012 for setting up of medical facilities in these centers.

c) Tamil Nadu: The ESIS was yet to be implemented in 25 areas covering 49023 employees identified during 2008-09 to 2012-13 due to non availability of survey reports, proposal pending with State Government, non-issuance of notification, non-identification of rented building to house the dispensaries, etc.

d) Karnataka: Though 77 specified areas under Bruhat Bangalore Mahanagara Palika were notified in January 2007, the ESIS could not be implemented due to delay in pre-implementation survey, etc. thereby denying the benefits to 44000 employees working in these areas.

ESIC stated (May 2014) that the matter was being pursued with the State Governments.

3.4 Exempted Establishments

Establishments, wherein benefits being provided are substantially similar or superior to those under the Act, can be exempted from applicability of the Act. As per Section 87 of the Act, 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 the Act for a period not exceeding one year and may from time to time by like notification renew such exemptions for periods not exceeding one year at a time.

Audit observed that:

a) Gujarat: In 27 establishments the exemption granted by the State Government had expired between 1970 and 2010. Period since expiry of exemption ranged between three years and 33 years. Thus, employees of these 27 units remained outside the purview of ESIC for such periods.

ESIC stated (May 2014) that the matter would be taken up with the State Government.

b) Kerala: As per notifications dated 6 September 2007 and 8 October 2007, State Government extended the provisions of Act and ESIS to all private medical institutions and unaided educational institutions.

Audit observed that M/s Mata Amrithanandamayi Math, a Charitable Trust, had control of 29 educational and medical institutions located at different places which were coverable under the provisions of the Act. However, on the basis of representation of the Trust, State Government granted exemption through notification dated 6 January 2010. Since the Trust was granted exemption only from 6 January 2010, ESI dues for uncovered period were recoverable.

ESIC stated (May 2014) that the regions were being advised to take up the matter with State Government and to enforce recovery wherever exemption was not there.