

N D A Update – ESI compliance by new companies having number of employees below threshold limit of ESI Act

A new company incorporated in India shall get registration under ESIC (Employee's State Insurance Corporation) automatically through MCA Portal at the time of incorporation. It is not required to obtain separate registration under ESIC. Although provisions of ESI are applicable to factories and other establishments if the number of employees exceed threshold limit, but in case of newly incorporated companies, the registration is automatic irrespective of the number of employees whether more than or less than the threshold limit.

ESIC has issued a circular No. P - IL / 14 / t9 IMisc/02i2022-Rev. II dt 21.11.2022 specifying that where the companies registered through MCA portal are found not coverable as per the provisions of the ESI Act, they need not make compliance for next 6 months or till they reach the threshold of ESIC coverage, whichever is earlier. It has been further specified that Companies having employees less than threshold limit or zero number of employees and who have obtained ESI number through MCA portal, are now required to apply for 'dormant' status after expiry of six months.

It has been specified that companies who have obtained ESI number through Ministry of Corporate Affairs portal, are now required to apply for "dormant" status, if they are having employees less than threshold limit or zero no. of employees for the coverage under ESIC Scheme as on 31 October 2022. Further, if the MCA registered unit does not reach the threshold of the ESIC coverage within the next 6 months, then it has to login on the ESIC website to further extend the 'dormant' status, failing which the registration will "automatically be activated" and the employers of the unit will have to start compliance under the Employees' State Insurance Act, 1948 ("ESI Act").

The extension of dormant status is required to be updated every six months.

If the company which is having employees less than threshold limit or zero no. of employees, and which fails to apply or update the dormant status will lead to necessary action for non-compliance under the provisions of the ESI Act.

<https://esic.gov.in/attachments/circularfile/4047c7be36e4971979e1e22322aa1c20.pdf>