

**EMPLOYEES STATE INSURANCE CORPORATION,
PANCHDEEP BHAVAN, KOTLA ROAD, NEW DELHI.**

No.P/12(11)/11/27/99/INS.IV

Instruction No.4/99

Dated : 14th June, 1999

To,
The Regional Director / Director,
Joint Director (In charge),
Regional Office / Sub Regional Office,
E.S.I. Corporation.

Sub: Coverage of construction agencies / offices of the builders under the
E.S.I. Act, 1948 / Clarification thereof.

Sir,

References have been received from some Regional Directors seeking clarification regarding coverage of construction agencies / offices of builders particularly on the point as to whether the constructions workers working in the construction sites are to be taken into consideration for the purpose of coverage of the constructions agencies / offices of builders u/s 1(5) of the E.S.I. Act as a 'Shop'.

The matter was examined at Head Quarter office and it is informed that it has been the policy of the E.S.I. Corporation not to cover the workers engaged by the construction agency who belong to the unorganized sector due to the peculiar characteristics of the construction industry and the peculiar nature of employment of workers engaged in it. In construction industry the work is carried out through the construction workers at the construction site where the projects are situated. The workers engaged in it are mobile and migratory in nature. The criteria and duration of employment also vary from work to work. Due to the nature of employment and the nature of work place involving the construction workers, enforcement of the E.S.I. Act in respect of such workers and organizing medical and other facilities for them which are normally available under the E.S.I. Scheme will be difficult. Therefore, the existing scheme under the E.S.I. Act is neither applicable nor suitable for workers engaged in construction sites. Hence the following actions may please be taken for coverage of construction agencies / officers of the builders :-

- 1) Such construction agencies which are employing 20 or more persons in their offices and the offices are situated in implemented areas are coverable under the scheme. However, it may be ensured that the criterion of 20 or more person is applicable to such employees who are coverable under Section 2(9) of the E.S.I. Act.
- 2) Such workers who are engaged by construction agencies and are working on the site of the project, should not be considered for the

- 3) Such construction workers are to be taken into consideration for coverage u/s 2(9) as employee who are engaged directly in a covered factory by the Principal Employer or through an immediate employer.
- 4) Only employees of construction agencies who are posted in the office are to be taken into consideration for the coverage of the unit.
- 5) Some of the regular employees of the construction agencies mostly technical staff such as engineers, supervisors etc. who are regular employees of the construction agency but are normally sent to the work site periodically, are to be taken into account for the purpose of coverage of the establishment u/s 1(5).
- 6) In respect of those employees who are though regular employees of the construction agency but remain on tour at the site(s) of the construction in non-implemented areas for a period of more than 7 months in a year, contribution may not be charged subject to the employer seeking exemption u/s 88 of the E.S.I. Act in respect of those employees.

Yours faithfully,