

THE UNITED REPUBLIC OF TANZANIA



CHAPTER 263

THE WORKERS' COMPENSATION ACT

[PRINCIPAL LEGISLATION]

REVISED EDITION OF 2015

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Dar es Salaam,
30th March, 2016

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CAP. 263

THE WORKERS' COMPENSATION ACT

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CHAPTER 263

THE WORKERS' COMPENSATION ACT

An Act to provide for compensation to employees for disablement or death caused by or resulting from injuries or diseases sustained or contracted in the course of employment; to establish the Fund for administration and regulation of workers' compensation and to provide for related matter.

Act No.
20 of 2008

[1st March, 2011] FOR
PART; I, II, III AND XII
EXCEPT, S. 98]

PART I
PRELIMINARY PROVISIONS

Short title

1.-(1) This Act may be cited as the Workers' Compensation Act.
(2) Notwithstanding sub-section (1), the Minister may appoint different dates of commencement for commencement for different Parts or provisions of this Act.

Application

2.-(1) This Act shall apply to Mainland Tanzania.
(2) Subject to sub-section (1), this Act shall apply to-
(a) all employers and employees including those in the public service of the Government of Tanzania in Mainland Tanzania;
(b) employees while:
(i) employed in any capacity on a Tanzanian ship or aircraft;
(ii) Subject to section 25(1), employed outside Tanzania on any other ship or aircraft; and

(c) employees who subject to section 24, are injured in occupation accidents or contract occupational diseases while employed outside Tanzania.

(3) Notwithstanding any other written Law, any Compensation Scheme existing at, or established after the commencement of this Act shall award compensation not below the minimum compensation rate set out in accordance with this Act.

Objectives of
the Act

3. The objectives of this Act shall be to-

- (a) provide for adequate and equitable compensation for employees who suffer occupational injuries or contract occupational diseases arising out of, and in the course of their employment, and in the case of death, for their dependants;
- (b) provide for the rehabilitation of employees who have suffered occupational injuries or contracted occupational diseases in order to assist in restoring their health, independence and participation in society;
- (c) provide for a framework for the effective, prompt and empathetic consideration, settlement and payment of compensation benefits to employees and their dependants;
- (d) provide for the establishment, control and administration of the workers compensation fund, and the legal framework for the workers compensation fund, and the legal frame work for contributions to and payments from the Fund;
- (e) give effect to the international obligations with respect to workers; compensation; and
- (f) promote prevention of occupational accidents and occupational diseases.

Interpretation

4. In this Act, unless the context otherwise requires-
“accident” means an accident arising out of and in the course of an employee’s employment and resulting in a person injury, illness or death of the employee;

- “actuary” means any actuary approved by the Board in accordance with section 86(1);
- “annual earnings” means-
- (a) the amount referred to in section 73(1)(a) if accepted by the Director-General as correct;
 - (b) the amount determined by the Director-General if he believes that the amount referred to in paragraph (a) is less than the amount actually paid; or
 - (c) the estimated amount referred to in section 73(5) or (6);
- “assessor: means an assessor appointed under section 9;
- “authorized person” means an authorized person appointed under section 8;
- “Board” means the Board of Trustees of the Workers Compensation Fund established under section 12;
- “business” means any industry, undertaking, trade, occupation or any activity in which an employee is employed;
- “contractor” means any person engaged or contracted as such by an employer to perform independently any task for and on behalf of the employer;
- “dependent of an employee” means any of the following person who at the time of the death of the employee was wholly or partly financially dependent upon the employee-
- (a) a spouse, who at the time of the death of the employee was married to the employee according to the law of marriage;
 - (b) if there is no spouse referred to in paragraph (a), a person with whom the employee was at the time of the employee’s death living as husband and wife;
 - (c) a child of the employee or of the employee’ spouse, under the age of eighteen years;
 - (d) a child over eighteen years of the employee or the employee’s spouse, and a parent or any person who the Director-General believes was acting in the place of a parent, a brother, a sister, a half-brother or half-sister, a grandparent or a grandchild of the employee;
- “Director-General” means the Director-General of the Fund appointed under section 6;
- “disablement” means temporary partial disablement, temporary total disablement, permanent total disablement or serious

disfigurement, as the case may be;

“earnings” means the remuneration of an employee at the time of the accident the commencement of the occupational disease as calculated under this Act;

“employee” means-

(a) any person, including an apprentice but excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and

(b) any other person who in any manner assists in carrying on or conducting the business of an employer;

“employer” means any person, including the Government and an executive Agency, who employs an employee;

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“employers’ organization” has the meaning ascribed to it under the Employment and Labour Relations Act;

“formal hearing” means a hearing between the parties in a workers’ compensation formally brought under the provision of this Act prescribed over by the Director-General for the purpose of solving differences, disagreement, and the like in order to provide appropriate compensation benefits to a claimant;

“Fund” means the Workers Compensation Fund established under section 5;

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“Labour Court” means the Labour Division of the High Court established under the Labour Institutions Act;

“mandatory” means a person engaged or subcontracted as such by a contractor to perform any task in part or in whole for and on behalf of the contractor under this supervisions;

“medical aid” means medical, surgical or hospital treatment, skilled nursing services, any remedial treatment approved by the Director-General, the supply and repair of any prosthesis or any device necessitated by disablement, and ambulance services;

“medical practitioner” has the meaning ascribed to it under the Medical Practitioner and Dentists Act;

- “Minister” means the Minister responsible for labour;
- “occupational disease” means any disease referred to in section 22;
- “occupational injury” means a personal injury sustained as a result of an accident;
- “periodical payment” means a periodical payment of compensation in respect of temporary disablement;
- “permanent disablement” in relation to an employee means the permanent inability of the employee to perform any work as a result of an accident or occupational disease for which compensation is payable;
- “person under disability” means a minor, a lunatic or any person who by law is subject to curatorship or tutorship;
- “serious and willful misconduct” means-
- (a) being under the influence of intoxicating liquor or a drug having a narcotic effect;
 - (b) a contravention of any law for the protection of the health of employees or for the prevention of accidents, if the contravention was committed willfully or with a reckless disregard of the provisions of the law; or
 - (c) any other kind or form of willful conduct that is likely to cause disablement to a person;
- “Tanzanian aircraft” means an aircraft registered or licensed in Tanzania under the laws governing the registration or licensing of aircraft;
- “Tanzanian ship” means a vessel used in navigation which-
- (a) is registered in Tanzania under the laws governing the registration of ships and is not registered in any other state under similar laws; or
 - (b) is owned or chartered by a person whose head office or place of business is in Tanzania or by a person who resides in Tanzania;
- “temporary partial disablement” means the temporary partial inability of the employee to-
- (a) perform the whole of the work at which the employee was employed at the time of the accident or occupational disease; or
 - (b) resume work at a rate of earnings not less than that which the employee was receiving at the time of the

accident or occupational disease, as a result of an accident or occupational disease for which compensation is payable;

“temporary total disablement” means the temporary total inability of the employee to perform-

- (a) the work at which the employee was employed at the time of the accident or at the time of contracting the occupational disease; or
- (b) a work similar to that work, as a result of an accident or occupational disease for which compensation is payable;

“trade union” has the meaning ascribed to it under the Employment and Labour Relations Act.

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PART II WORKERS' COMPENSATION FUND

Establishment of the Workers Compensation Fund

5.-(1) There is established a Fund to be known as the Workers Compensation Fund.

- (2) The funds of the Fund shall consist of-
 - (a) the assessments paid by the employers under this Act;
 - (b) any other moneys paid by employers to the Fund under this Act;
 - (c) any penalty imposed under this Act, other than by a court;
 - (d) any interest on investments of the Fund;
 - (e) any subvention from the Government; and
 - (f) any other monies legally acquired.

Appointment of the Director-General administration and management of the Fund

6.-(1) There shall be a Director-General appointed by the President from amongst three qualified persons of high integrity and who possess knowledge and experience in labour issues, insurance, social security or workers compensation matters recommended by the Minister.

(2) The Minister shall by regulation prescribe the manner and procedure of getting the three persons to be recommended to the President under subsection (1).

(3) The Director-General shall be the Chief Executive Officer of the Fund and shall be responsible for daily activities of the Fund.

(4) The administration and management of the Fund shall vest in the Board.

(5) The Board shall determine the remuneration and the terms and conditions of employment of the Director-General.

Functions of the
Director- General

7.-(1) Subject to the provisions of this Act, the Director- General shall-

- (a) inquire into accidents and occupational diseases;
- (b) Receive notices of accidents and occupational diseases, claims for compensation, medical reports and accounts, objections applications, returns of earnings and payments due to the Fund;
- (c) by notice in the *Gazette*, prescribe the forms to be used and the particulars to be furnished in connection with a notice of occupational injuries and diseases, claims for compensation or any other form or matter which he may deem necessary for the administration of this Act.
- (d) adjudicate on claims and other matters coming before the Director-General for decision;
- (e) issue an order for the payment of compensation in respect of an award made by the Director-General;
- (f) decide whether a person in an employee, employer, a mandatory or a contractor for the purposes of this Act;
- (g) decide any issue relating to-
 - (i) a right to compensation;
 - (ii) the submission, consideration and adjudication of claims for compensation;
 - (iii) the calculation of earnings;
 - (iv) the degree of disablement of any employee;
 - (v) the amount and manner of payment of compensation;

- (vi) the award, withholding, review, discontinuance, suspension, increase or reduction of compensation; and
- (vii) the liability for payment of compensation for temporary total or partial disablement;
- (h) decide whether a person is a dependant of an employee and, if so, the percentage of dependence, and, in the case where there is more than one dependant who shall receive compensation and the allocation of compensation among them;
- (i) decide upon-
 - (i) the need for, and the nature and sufficiency of medical aid;
 - (ii) the reasonableness of the cost of medical aid, and the amount and manner of payment of such cost;
- (j) decide upon the liability for assessment, tariffs of assessment, the amount of assessments, the manner of payment of assessment and related matters;
- (k) decide upon any other issue falling within the functions of the Director-General in connection with the administration of this Act;
- (l) administer the Fund subject to the directions of the Board;
- (m) recover amounts due to the Fund, including amounts which should not have been paid out or with the approval of the Board write off such amounts if, in his opinion, they cannot be recovered;
- (n) record statistics and information regarding the occurrence and causes of accidents and occupational diseases, and the award of benefits under this Act; and
- (o) institute such inquiries and perform such other functions as may be prescribed, or as he may deem necessary for the administration of this Act.

(2) The Director-General shall seek direction or approval of the Board in determining or reviewing the amount of award to compensation, appointment of member of a medical advisory panel and assessors.

Authorized persons

8.-(1) The Director-General may authorize any assessor, employee of the Fund or any medical practitioner to investigate any matter that he may deem necessary for the performance of his functions under this Act.

(2) A person authorized under subsection (1) shall be furnished with a certificate to that effect signed by the Director-General.

(3) An authorized person may-

- (a) at any reasonable time, with prior notice enter any premises, and may be accompanied by an interpreter or other assistant or a police officer;
- (b) while the authorized person is on the premises, or at any time thereafter, question any person who is or was on the premises, either alone or in the presence of any other person on any matter to which this Act relates;
- (c) order any person who has control over or custody of any book, document or thing on or in those premises to produce without delay, or at such time and place as may be determined by the authorized person, such book, document or thing;
- (d) at any time and place order any person who has the possession or custody of or is in the control of a book, document or thing relating to the business of an employer or previous employer, to produce without delay or at such time and place as may be determined by the authorized person, such book, document or thing;
- (e) seize any book, document or thing which in the opinion of the authorized person may serve as evidence in any matter under this Act;
- (f) examine or cause to be examined, make extracts from or copies of any book, document or thing produced to or seized by the authorized person and order any person who, in the opinion of the

authorized person, is qualified to do so to explain any entry in the book, document or thing;

(g) order an employee to appear before the authorized person at such time and place as may be determined by the authorized person, and question the employee.

(4) An authorized person performing any function under this section shall, on demand, produce the certificate referred to in subsection (2).

(5) Any person commits an offence if he-

(a) pretends to be an authorized person;

(b) refuses or without reasonable cause or excuse fails to answer full and satisfactorily any question put to that person by an authorized person in the performance of this functions;

(c) refuses or fails to comply with any lawful request or order by an authorized person; or

(d) hinders or obstructs an authorized person in the performance of his functions.

Appointment of assessors

9.-(1) The Director-General may appoint such number of persons as assessors as he may deem necessary in order to assist in the performance of his functions under this Act.

(2) The assessors referred to in subsection (1) shall be persons who are suitably qualified and experienced and may include medical practitioners.

(3) An assessor shall be appointed for such period and on such conditions as the Director-General may determine, but he may, at any time, terminate the appointment of an assessor who-

(a) has been guilty of misconduct or neglect of duty; or

(b) is not able to perform properly the functions of an assessor under this Act.

(4) An assessor shall be paid the prescribed remuneration and traveling and subsistence allowances out of the Fund.

Appointment of
medical advisory
panels

10.-(1) The Director-General may appoint medical advisory panels which shall consist of such members as he may deem necessary to-

- (a) assist the Director-General with regard to the diagnosis of occupational diseases in individual cases;
- (b) advise the Director-General and the Board regarding the inclusion of occupational diseases set out in the Third Schedule to this Act; or
- (c) advise the Director-General and the Board regarding general policy concerning the diagnosis of, and disablement as a result of occupational diseases

(2) The Director-General shall appoint a member of a medical advisory panel as Chairman of the panel.

(3) The members of medical advisory panels shall be appointed by the Director-General for such period and on such conditions and such allowances as he may determine but he may at any time terminate the appointment of any member who-

- (a) is guilty of misconduct or neglect of duty; or
- (b) is not able to perform properly the functions of a member of a medical advisory panel as provided under this Act.

Delegation of
powers and
assignment of
duties by the
Director-General

11.-(1) The Director-General may delegate any powers or assign any duties to an employee of the Fund and may at any time cancel any such delegation or assignment.

(2) A delegation or assignment under subsection (1) shall-

- (a) be subject to such conditions as the Director-General may determine;
- (b) not divest the Director-General of the power delegated or duty assigned, and he may at any time amend or set aside any decision made under the delegation or assignment; and
- (c) not prevent the exercise of the power or the performance of the duty concerned by the Director-General.

PART III
BOARD OF TRUSTEES OF THE WORKERS
COMPENSATION FUND

Establishment of
the Board

12.-(1) There is established a Board to be known as the Board of Trustees of the Workers Compensation Fund.

(2) The Board shall in its Corporate name be capable of -

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of property, movable or immovable; and
- (c) entering into contracts and performing all such other acts for the proper performance of its functions under this Act which may lawfully be performed by a body corporate.

(3) The provisions of the First Schedule to this Act shall have effect as to the composition of the Board, the appointment and termination of appointment of its members, the proceedings of the Board and such other matters in relation to the Board and members.

Function of the
Board

13. The Board shall, subject to any other applicable written law-

- (a) control and administer the Fund;
- (b) formulate, implement and review policy relating to workers compensation in accordance with this Act;
- (c) advise the Minister on-
 - (i) any matter relating to workers compensation;
 - (ii) any amendments to this Act or any other related law;
 - (iii) any Regulations made under this Act;
- (d) invest surplus monies of the Fund;
- (e) provide technical assistance and advisory services for the purpose of promoting workers compensation;
- (f) promote occupational safety and health measures

in collaboration with the Occupational Safety and Health Authority and other relevant authorities;

- (g) promote public awareness of the rights and obligations of employees, dependants and employers under this Act;
- (h) provide an accessible and transparent procedure for the lodging and investigation of any complaints regarding the administration of this Act, including the conduct of the Fund and its employees; and
- (i) do all such acts and enter into all such transactions as, in the opinion of the Board may be necessary for the proper and efficient administration and management of the Fund.

Powers of the Board

14. The Board shall-

- (a) cause to be carried out actuarial valuation of the Fund after every three years;
- (b) appoint and employ upon such terms as it may think fit, consultants, agents and contractors as the Board may deem necessary; and
- (c) do all such other acts necessary to give effect to the provisions of this Act.

Fiduciary duties of the Board

15.-(1) The Board shall-

- (a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the Fund;
 - (b) act with fidelity, honesty, integrity and in the best interested of the Fund in managing the financial affairs of the Fund.
- (2) A member of the Board shall not-
- (a) act in a way that is inconsistent with the responsibilities of the Board under this Act; or
 - (b) use the position or privileges of, or confidential information obtained as a member of the Board, for personal gain or to improperly benefit another person.
- (3) A member of the Board shall-
- (a) disclose to the Board any direct or indirect personal

or private business interest that the member or any spouse, partner of close family member may have in any matter before the Board; and

- (b) withdraw from the proceedings of the Board, when the matter mentioned in paragraph (a) is considered, unless the Board decides that the member's direct or indirect interest in the matter is trivial or irrelevant.

General duties of
the Board

16.-(1) The Board shall ensure that it has and maintains a regular review system of administration for benefits of its members in a manner that ensures adequate and equitable compensation in accordance with the objectives and purpose of this Act.

(2) The Board shall take effective and appropriate steps to-

- (a) collect all revenue due to the Fund;
- (b) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the Fund; and
- (c) establish, maintain and review system of administration of the benefits and to monitor in a manner that ensures adequate and equitable compensation in accordance with the objects of this Act.

(3) The Board shall be responsible for the management, including the safeguarding of the assets, management of the revenue, expenditure and liabilities of the Fund.

(4) The Board shall take effective and appropriate disciplinary steps against any employee of the Fund who-

- (a) contravenes or fails to comply with the provisions of this Act;
- (b) commits an act which undermines the financial management and internal control system of the Fund; or
- (c) makes or commits funds towards an irregular expenditure or a fruitless and wasteful expenditure.

Board may establish and subsidize organisations

17.-(1) The Board may establish an organization or scheme or recognize and subsidize any existing organization or scheme whose objectives shall include one or more of the following-

- (a) the prevention of occupational accidents or of any occupational disease which is due to the nature of a particular activity;
- (b) the promotion of health or safety of employees, including health and safety research or training;
- (c) the promotion of rehabilitation of injured employees suffering from occupational diseases;
- (d) the provision of facilities designed to assist injured employees and employees suffering from occupational diseases to return to their work or to reduce or remove any disability resulting from their injuries or disease; or
- (e) the promotion of the general welfare of injured employees or employees suffering from occupational diseases.

(2) The Board may subsidize or assist in the funding of the organisation or scheme established pursuant to subsection (1).

Delegation of powers and functions by the Board

18.-(1) The Board may, in writing and subject to such conditions as it may determine, delegate any of its powers, functions or duties to the Director-General or an employee of the Fund, and may at any time revoke such delegation.

- (2) A delegation under subsection (1) shall not-
- (a) divest the Board's power, function or duty delegated, and the Board may at any time amend or set aside any decision made under the delegation; and
 - (b) prevent the exercise of the power or the performance of the function or duty concerned by the Board itself.
- (3) The Board shall not delegate-
- (a) its power to delegate;
 - (b) the power to approve the annual budget or any supplementary budget of receipts and expenditure,

the annual balance sheet or any statement of account.

PART IV
RIGHT TO COMPENSATION AND PROTECTION

Right to
compensation for
occupational
injury

19.-(1) Where an employee has an accident resulting in the employee's disablement or death, the employee or the dependants of the employee shall, subject to the provisions of this Act, be entitled to the compensation provided under this Act.

(2) Where an accident is attributable to the serious or willful misconduct of the employee, no compensation shall be payable unless-

- (a) the accident results in permanent total disablement;
- (b) the employee dies as a result of the accident leaving a dependant wholly financially dependent upon the employee.

(3) Notwithstanding subsection (2), the Director-General may, on behalf of the Fund, pay the whole or any portion of the cost of medical aid in respect of such accident.

(4) Where the Director-General believes that an employee at the time of an accident was acting for the purposes, or in the interests of, or in connection with the business of an employer, the accident shall, for the purposes of this Act, be deemed to have arisen out of, and in the course of employment of the employee, notwithstanding that the employee was at the time of the accident-

- (a) acting contrary to any law applicable to the employee's employment or to any instruction given by or on behalf of the employer; or
- (b) the employee was acting without any instruction of the employer.

(5) For the purpose of this section "serious disablement" means disablement which may render the employee incapable of engaging in his employment or require him to be hospitalized beyond a period of twenty four months.

Accidents during conveyance by employer

20. Any accident during the conveyance of an employee to or from his place of employment for the purpose of his employment by any means of conveyance shall be deemed to take place in the course of the employee's employment.

Accidents during training for or performance of emergency services

21. An accident shall, for the purposes of this Act, be deemed to have arisen out of, and in the course of employment if, at the time of the accident, the employee-

- (a) with the consent of the employer, was being trained in organized first aid, ambulance or rescue work, fire-fighting or any other emergency service;
- (b) was engaged in the employer's mine, works or premises in organized first aid, ambulance or rescue work, fire-fighting or any other emergency service; or
- (c) with the consent of the employer, was engaged in any organized first aid, ambulance or rescue work, fire-fighting or other emergency service on any mine, works or premises other than the employer's.

Right to compensation for occupational diseases

22.-(1) Where an employee contracts a disease set out in the Third Schedule to this Act, or any other disease, and the disease has arisen out of, and in the course of the employee's employment, the employee shall, subject to the provisions of this Act, be entitled to the compensation.

(2) Where an employee dies as a result of a disease referred to under subsection (1), the dependants of the employee shall, subject to the provisions of this Act, be entitled to the compensation.

(3) Where an employee has contracted a disease referred to in subsection (1) and the Director-General believes that his recovery is being delayed or that the temporary total disablement of the employee is being prolonged by another diseases, the Director-General may approve medical aid for the other disease.

(4) Where an employee has contracted a disease referred to in subsection (1) resulting in permanent disablement and the disease is aggravated by another disease, the Director-General may, in determining the degree of permanent disablement, take into account the effect of the other disease.

(5) The provisions of this Act shall, with regards to accidents apply, *mutatis mutandis*, to a disease referred to in subsection (1), except where such provisions are clearly inappropriate.

Presumption for cause of occupational disease

23. Where an employee who has contracted an occupational disease set out in the Third Schedule to this Act was employed in any work involving the handling of or exposure to any agent mentioned in the Schedule in respect of that disease, it shall be presumed, unless the contrary is proved that the disease arose out of, and in the course of the employee's employment.

Accidents or diseases contracted outside Tanzania

24.-(1) Where an employer carries on business mainly in Tanzania and his employee who is ordinarily working in Tanzania gets an accident or contracts an occupational disease while temporarily working outside Tanzania, the employee shall be entitled to compensation as if the accident or occupational disease had happened or been contracted, as the case may be, in Tanzania.

(2) The amount of compensation referred to in subsection (1) shall be determined on the basis of the earning which the Director-General believes the employee would have received if the employee had remained in Tanzania.

(3) Subsection (1) shall not apply, if the employee has been employed outside Tanzania for a continuous period of more than twelve months, unless the Director-General, employee and the employer concerned, otherwise agree.

Accidents or diseases contracted in Tanzania

25.-(1) Where an employer carried on business mainly outside Tanzania and his employee who is ordinarily working outside Tanzania gets an accident while temporarily or contracts an occupational disease working in Tanzania, the employee shall not be entitled to compensation, unless the employer has paid the necessary assessments in respect of the employee.

(2) An employee referred to in subsection (1) who is temporarily working in Tanzania for a continuous period of more than twelve months shall be deemed to be ordinarily employed by the employer in Tanzania.

(3) Where an employee entitled to compensation under this Act may lawfully claim for compensation under other laws applicable in another country, that employee shall, by written notice to the Director-General, elect to claim compensation under one law only and not otherwise.

(4) Where an employee who is a Tanzanian gets an accident or contracts an occupational disease while working or employed in, on or above the continental shelf, the employee shall be entitled to compensation as if the accident or the occupational disease had happened or been contracted, as the case may be, in Tanzania.

Refusal to pay compensation

26. The Director-General may refuse to pay the whole or any portion of compensation under this Act or any portion of the cost of medical aid if-

- (a) the employee at any time knowingly, represented to the employer or the Director-General, false information, or was not then suffering from or had not previously suffered from a serious injury or occupational disease or any other serious disease, and the accident was caused by, or the death or disablement resulted from or was aggravated by such injury or disease; or
- (b) the Director-General believes that the death, or disablement was caused, prolonged or aggravated, by the unreasonable refusal or willful neglect of the employee to submit to medical aid in respect of any injury or disease, whether caused by the accident or existing before the accident.

Compensation may not be alienated or reduced

27.-(1) Notwithstanding the provisions of any other written law, compensation shall not be-

- (a) ceded or pledged;
- (b) attached in any form of execution under a judgment or order of a court of law; or
- (c) set off against any debt of the person entitled to the compensation.

(2) Notwithstanding subsection (1), the Director-General shall pay compensation accrued to the employee in whole or in part to an employer if the employer has made payments to the employee in respect of disablement arising out of an occupational injury or disease.

Cession or
relinquishing of
compensation

28. Any agreement under which an employee cedes or purports to cede or relinquish any right to compensation under this Act shall be void.

Compensation
not to form part of
employees estate

29. Any compensation due owing to the death of an employee shall be paid to the dependants of the employee, or to any other person on behalf of the employee, and shall not form part of or become the subject of the employee's estate.

Civil liability of
employer and third
party not limited

30.-(1) Nothing in this Act shall limit or in any way affect any civil liability of an employer or any other person in respect of an occupational injury or disease resulting in the disablement or death of an employee if the injury or disease was caused by negligence, breach of statutory duty or any other wrongful act or omission of the employer, or any person for whose act or omission the employer is responsible, or of any other person.

(2) Any damage awarded to an employee or dependant of an employee in an action at common law or any other law in respect of the negligence, breach of statutory duty or other wrongful act or omission of the employer or any other person, shall be reduced by the value of any compensation which has been paid or is payable by the Fund under this Act in respect of the injury, death or disease.

Recovery of
compensation
from employers
and third parties

31. Where an occupational injury, death or disease in respect of compensation which is payable under this Act, was caused in circumstances resulting in the employer or any other person being liable for damages in respect of such injury, death or disease, the Director-General may institute a case in a court of law against the employer or such other person for the recovery of compensation that the Director-General is obliged to pay under this Act.

Threats and
compulsion
prohibited

32.-(1) No person shall threaten an employee or in any manner compel or influence him to do anything resulting in or directed at the deprivation of his right to compensation under this Act.

(2) Any person who contravenes subsection (1) commits an offence.

PART V
CLAIMS FOR COMPANSATION

Notice of accident
by employee
to employer

33.-(1) An employee or any person on behalf of the employee shall, as soon as possible after an accident has occurred, give written or verbal notice of the accident to the employer and he may also give notice of the accident to the Director-General in a prescribed form.

(2) Failure to give notice to an employer as required in subsection (1) shall not bar a right to compensation if it is proved that the employer had knowledge of the accident from any other source at or about the time of the accident.

(3) Subject to section 39, failure to give notice to an employer as required in subsection (1) of this section or any error or inaccuracy in the notice, shall not bar a right to compensation if the Director-General believes that-

(a) the Funds is not or would not be seriously prejudiced by the failure, error or inaccuracy if notice is then given or the error or inaccuracy is corrected; and

(b) the failure, error or inaccuracy was caused by an oversight, absence from Tanzania or other reasonable cause.

(4) Where an employee who is employed in any capacity in an aircraft or on board a ship by the owner or person in command of the ship meets with an accident, the person in command or the owner of the ship or aircraft shall be deemed to be the employer of the employee.

Notice of accident
by employer to the
Director-General

34.-(1) Subject to this section, an employer shall, within seven days after receiving a notice of an accident from the employee or having learned in some other way that an accident has occurred, report the accident to the Director-

General in a prescribed form.

(2) An employer shall, at the request of an employee or the dependant of an employee furnish the employee or dependant with a copy of the notice of the accident furnished by the employer to the Director-General in respect of a claim for compensation by the employee or dependant.

(3) Any employer who contravenes this section commits an offence.

(4) For the purposes of this section-

(a) "an accident" includes any injury reported by an employee to the employer, if the employee when reporting the injury alleges that it arose out of, and in the course of employment, irrespective of whether the employer believes that it did not;

(b) "compensation" includes the cost of medical aid and any other amount paid or payable under sections 46, 48, 52, 53 or 61(2) and, in the case of a pension, the capitalized value of the pension as determined by the Director-General, irrespective of whether a lump sum is at any time paid *in lieu* of the whole or a portion of the pension under section 49 or 57 and periodical payments or allowances, as the case may be.

Notice of occupational disease by employee and employer

35.-(1) An employee or a trade union, on behalf of the employee, as soon as possible, after the occurrence of an occupational disease shall give a written notice to his employer or to the employer where the employee was last employed.

(2) Subject to the provisions of subsection (1), the employee may give a written notice of the disease in the prescribed manner to the Director-General.

(3) An employer shall, within seven working days after receiving notice or learning in some other way that an employee has contracted an occupational disease, report the disease in the prescribed manner to the Director-General, irrespective of whether the employer believes that the employee did not contract the disease while in the employment of the employer or in the employment of a previous employer.

(4) Any employer who contravenes subsection (3) commits an offence.

Inquiry by the
Director-General
into accident

36.-(1) The Director-General shall, after receiving notice of an accident or learning in some other way that an employee has had an accident, make any inquiry which he may deem necessary to decide upon any claim or liability under this Act.

(2) Any employee or employer shall, at the request of the Director-General, furnish other particulars regarding the accident, injury, death or disease as the Director-General may require.

(3) An employer who fails within a period of twenty one working days to comply with the provisions of subsection (2) commits an offence.

(4) The Director-General may refuse to entertain a claim of any employee who, within a period of six months from the date of such request fails to comply with subsection (2).

(5) The Director-General shall, at the request of an employee or employer, furnish any information which the Director-General may deem necessary to enable the employee or employer to comply with the provision of this Act.

(6) Where the Director-General fails to furnish information under subsection (5) that information shall have no effect to the employee.

Particulars in
support of claim

37.-(1) An employee who has had an accident shall, when reporting the accident or subsequently at the request of the employer or the Director-General, furnish information and documents as may be prescribed or as the employer or the Director-General may require.

(2) An employer shall within seven working days after receiving a claim, medical report or other documents or information concerning the claim, send the claim report, documents or information to the Director-General.

Employee to submit
to medical
examination

38.-(1) An employee who claims compensation or to whom compensation has been paid or payable shall, if

required by the Director-General and after reasonable notice, submit himself to be examined by a medical practitioner appointed by the Director-General at the time and place mentioned in the notice.

(2) Any expenses incurred by an employee in order to comply with the provisions of subsection (1) which the Director-General may deem necessary and reasonable, and the prescribed remuneration for a medical examination under this section, shall be paid by the Director-General.

(3) Where in the opinion of the appointed medical practitioner, the employee is not capable of calling upon the medical practitioner appointed by the Director-General, the medical practitioner shall inform the Director-General, and he shall examine the employee at another time and place as may be agreed between the Director-General and medical practitioner.

(4) An employee shall be entitled at his own expense to have a medical practitioner of his choice present at an examination by the appointed medical practitioner.

Claim for
compensation

39.- (1) A claim for compensation shall be lodged by or on behalf of the claimant in a prescribed form to the Director-General within twelve months after the date of the accident or the date of death.

(2) Where a claim for compensation is not lodged within the period stipulate in subsection (1), the claim shall not be considered under this Act, except where the accident concerned has been reported under sections 34 or 35.

(3) Notwithstanding subsection (2), a claim for compensation by any employee in an aircraft or on board of a ship may be lodged with the person in command of the aircraft or ship concerned.

(4) Where any employee referred to in sub-section (3) meets with an accident outside Tanzania resulting in death, a claim for compensation shall be instituted within twelve months after news of the death has been received by any dependant claiming compensation.

(5) The provisions of section 33 shall apply, *mutatis mutandis*, to any failure to institute a claim or in respect of any error or inaccuracy in a claim instituted.

Prescription of
claim for
compensation

40.-(1) A right to compensation shall lapse if the accident in question is not brought to the attention of the Director-General within twelve months after the date of the accident.

(2) A right to compensation under this Act shall lapse if any occupational disease is not brought to the attention of the Director-General within twelve months from the occurrence of that disease.

(3) For the purpose of this Act the occurrence of an accident or occupational disease shall be deemed to be the date on which a medical practitioner diagnosed the disease for the first time and notified the employee of the diagnosis or such earlier date as the Director-General may determine.

Consideration of
claim by the
Director-General

41.-(1) The Director-General shall decide on any claim for compensation, and for that purpose may-

- (a) carry out any inquiry; or
- (b) formally hear the claim.

(2) Where the Director-General decides upon a formal hearing, he shall give notice of the date, time and place of the hearing to the claimant and the employer in the prescribed manner.

(3) The Director-General-

- (a) may adjourn a formal hearing to another date, time and place; and
- (b) shall keep or cause to be kept a record of the proceedings as a formal hearing.

(4) The Director-General shall, upon payment of the prescribed fees, provide any person with a copy of the record.

Appearance of
parties at formal
hearing

42.-(1) Every party or his representative to a claim for compensation shall appear before the Director-General at a formal hearing.

(2) The Director-General may designate any person with relevant competence to investigate a claim, preside at or attend a formal hearing cross-examine witnesses, adduce rebutting evidence and present arguments.

Caps. 297
and 300

(3) Notwithstanding subsection (2), the Chief Inspector and all inspectors appointed in accordance with section 5 of the Occupational Health and Safety Act, the Labour Commissioner, the Deputy Labour Commissioner and Labour Officers appointed in accordance with sections 43 and 44 of the Labour Institutions Act may represent a party or any employee for a claim of compensation before the Director-General.

Powers of the
Director-General
regarding witnesses

43.-(1) The Director-General may, by written notice, summon any person who-

- (a) in the opinion of the Director-General is able to give information concerning the subject of any inquiry under this Act; or
- (b) is suspected to have in his possession, custody or control any book, document or thing which has a bearing on the inquiry to appear before him to be questioned or to produce such book, document or thing

(2) Notwithstanding sub-section (1), the Director-General may, upon application by a claimant or employer and by written notice, summon for the appearance of any person as a witness.

(3) The Director-General may issue a written notice to summon witness if the applying party deposits a sum sufficient to cover the necessary expenses to be incurred by the witness summoned pursuant to sub-section (2) as well as the cost of the service of the notice.

(4) Where a person has been summoned to appear under sub-section (1) and the Director-General is satisfied that as a result of his appearance he has suffered any pecuniary loss or incurred any expense, the Director-General may pay out of the Fund the prescribed allowances or the amount of the loss or expense, whichever is the lesser.

Power to administer
oath

44. The Director-General or an authorized person may administer an oath to, or accept an affirmation from, any witness summoned under section 43.

Offences by
Witnesses etc.

45.-(1) A person commits an offence if he-

- (a) has been duly summoned under section 43 and fails without sufficient cause to attend at a time and place specified in the summons;
- (b) fails to remain in attendance until excused by the Director-General from further attendance;
- (c) refuses or fails to answer fully and satisfactorily any question lawfully put to him;
- (d) refuses or fails to produce any book, document or thing in his possession, custody or control which he has been required to produce;
- (e) hinders or obstruct the Director-General or an assessor in the performance of any of their functions under this section.

(2) A person who, after having been sworn as a witness or having made an affirmation, makes a false statement knowing it to be false, commits an offence.

(3) The law relating to privilege as applicable to a witness testifying in a court of law shall be applicable at an inquiry under this Act.

PART VI DETERMINATION OF COMPENSATION

Compensation for
temporary total or
partial disablement

46.-(1) Compensation for temporary total disablement shall be calculated on the basis of seventy percent of the employee's monthly earnings at the time of the accident, subject to any minimum and maximum amounts as may be set out in regulations made by the Minister.

(2) Compensation for temporary partial disablement shall consist of the portion of the amount calculated under subsection (1) and if the Director-General considers it equitable in the circumstances.

(3) Notwithstanding any provision of this Act the employer in whose service an employee is at the time of the accident shall be liable for the payment of the compensation referred to in subsection (1), of the first month from the date of accident.

(4) After expiry of the first month, the Director-

General shall refund the compensation paid by the employer under subsection (3).

(5) Any employer who fails to comply with subsection (3) commits an offence and shall on conviction be liable to a fine not exceeding ten million or imprisonment for a term not exceeding seven years.

(6) Payment of compensation under subsections (1) and (2) shall take place in the form of periodical payments at such intervals, not exceeding one month, as the Director-General may determine.

(7) No periodical payments shall be made in respect of temporary total disablement or temporary partial disablement that lasts for three days or less.

(8) Periodical payments shall take place for as long as the temporary total disablement continues, but shall not exceed twenty-four months.

(9) Where temporary total disablement continues-

- (a) for longer than twelve months, the Director-General may order the continuation of the payments for a further period or twelve months; and
- (b) for more than twenty four months, the Director-General may treat the disablement as permanent disablement.

Expiry of
compensation for
temporary total or
partial disablement

47.-(1) The right to compensation for temporary total or partial disablement shall expire-

- (a) upon the ending of the disablement;
- (b) if the employee resumes the work in which he was employed at the time of the accident or occurrence of the occupational disease;
- (c) if the employee resumes any other work at the same or greater earnings; or
- (d) if the employee is awarded compensation for permanent disablement.

(2) Notwithstanding the provisions of subsection (1), the Director-General may award compensation for temporary total or partial disablement if-

- (a) the disablement of the employee recurs or

deteriorates; or

- (b) the employee receives further medical aid requiring further absence from service, which the Director-General believes shall reduce the employee's disablement.

(3) Where the Director-General awards compensation under subsection (2), the Director-General may suspend any pension payments to the employee concerned in respect of the same accident, so long as the employee receives periodical payments for temporary total or partial disablement.

Compensation for permanent disablement

48.-(1) Where an employee has sustained an injury set out in the second schedule to this Act, he shall, for the purposes of this Act, be deemed to be permanently disabled to the degree set out in the Second Schedule to this Act.

(2) Where an employee has sustained an injury not mentioned in the second schedule to this Act which leads to permanent disablement, the Director-General shall determine the percentage of disablement in respect of the injury which he believes shall lead to a result consistent with the Second Schedule.

(3) Where an injury referred to in subsections (1) and (2) has unusually serious consequences for an employee as a result of the special nature of the employee's occupation, the Director-General may determine a higher percentage not exceeding fifty percent of the normal rate, as he deems equitable.

(4) Compensation for permanent disablement shall be paid, subject to the minimum and maximum amounts set out in regulations made by the Minister if-

- (a) the employee is one hundred percent permanently disabled, a monthly pension based on seventy percent of the employee's monthly earnings at the time of the accident; or
- (b) the employee is less than one hundred per cent permanently disabled, the percentage of the monthly pension provided in paragraph (a) proportionate to the degree of permanent disability of the employee.

(5) No payment for temporary total or partial

disablement shall be deducted from compensation payable under this section.

(6) For the purposes of this section “monthly pension” means a pension payable monthly during the lifetime of the employee and which expires at the end of the month in which the employee dies.

Payment of lump sum in lieu of pension

49.-(1) Where a pension does not exceed the prescribed amount set out in the regulations made by the Minister, the Director-General may, upon application by a pensioner, pay or direct the payment of a lump sum in lieu of that pension or a portion of that pension.

(2) Where a pension exceeds the prescribed amount, the Director-General may, upon application by a pensioner, in lieu of a portion of that pension not exceeding the prescribed amount, pay or direct the payment of a lump sum.

(3) Where a pension payable under this Act is less than the prescribed amount per month, the Director-General may decide to pay or direct the payment of a lump sum in lieu of the whole of the pension.

(4) No pension or portion of a pension due to a child shall be paid in a lump sum.

(5) Any lump sum to be paid under this section shall be as prescribed in the regulations made by the Minister.

Compensation to an employee who has previously received compensation

50.-(1) In awarding compensation to an employee or reviewing it in respect of permanent disablement, the Director-General may take into account any compensation awarded to the employee as provided under this Act or any other law as a result of permanent disablement.

(2) Where an employee who has received compensation for permanent disablement subsequently meets with an accident resulting in further permanent disablement in respect of which compensation is payable under this Act, the Director-General may calculate the employee’s compensation on the basis of the earnings that the employee received at the time of any of the accidents.

(3) An employee shall not be paid compensation in the form of a pension under this Act that exceeds the pension payable in respect of one hundred percent disablement.

Constant Attendant
care grants

51. Where the injury or disease in respect of which compensation is payable under this Act causes disablement that renders the employee unable to perform essential functions of his life without the constant attendant care of another person, the Director-General may, in addition to any other compensation, grant an allowance towards the cost of the care.

Dependents' grants
if an employees dies

52.-(1) Subject to this section, if an employee dies as a result of an injury caused by an accident, compensation shall be payable as follows if-

- (a) the employee leaves a spouse or a person or person provide for under paragraph (b) of the definition of "dependant of an employee" in section 4 as a dependant-
 - (i) a lump sum based on twice the monthly pension provided under section 48(4)(a);
or
 - (ii) a monthly pension based on forty percent of the monthly pension provided for under section 48(4)(a).
- (b) the employee leaves a child under the age of eighteen years as a dependant or a child over the age of eighteen years who the Director-General believes is unable to earn an income owing to a physical or mental disability as a dependant, a monthly pension based on twenty percent of the monthly pension provided under section 48(4)(a);
- (c) the employee at the time of death does not leave a spouse or a person referred to in paragraph (b) of the definition of "dependant of an employee" or where the spouse or person later dies, the aggregate amount of a pension payable under paragraph (b) may be increased by an amount which the Director-General deems equitable but not exceeding forty percent of the pension provided under section 48(4)(a);
- (d) the employee leaves no spouse or child as a dependant but leaves as a dependant a parent or any person who the Director-General believes

was acting in the place of a parent, brother, sister, half-brother or half-sister, a grand-parent or a grand child:

- (i) who was wholly financially dependent upon the employee, a monthly pension not exceeding forty percent of the monthly pension provided under section 48(4)(a), for as long as the Director-General believes it may reasonably have been expected that the employee would have contributed to the maintenance of that person; or
- (ii) who was partly financially dependent upon the employee and there is no dependent provided under subparagraph (i), a lump sum as set out in item 8 of the Fourth Schedule to this Act.

(2) Where an employee leaves two or more dependants-

- (a) the compensation payable to the dependants shall, notwithstanding the provisions of this section, be awarded in the manner determined by the Director-General, but the compensation payable shall not exceed the lump sum of pension which would have been payable under this section if the employee had left only one dependant;
- (b) the Director-General may, if one of the dependants referred to in paragraph (a) dies, allocate the pension which was payable to that dependant to the children, if any, of the dependant or, if there are no children, to the other dependant or dependants referred to in paragraph (a).

(3) No pensions payable under this section in respect of the death of an employee shall, in all, exceed the pension for one hundred percent permanent disablement which would have been payable to the employee under section 48(4)(a).

(4) Any person payable to a child under the age of eighteen years shall lapse at the end of the month in which the child reaches the age of eighteen years, except-

- (a) where the child is unable to earn an income owing

to a physical or mental disability;

(b) until the child complete secondary education, or

(c) while the child is undergoing higher education and where it could reasonably have been expected that the employee would have contributed to the maintenance of that child

(5) The pension payable to a child over the age of eighteen years who is unable to earn an income owing to a physical or mental disability, shall cease on a date determined by the Director-General in a manner that he believes it may reasonably have been expected that the employee would no longer have contributed towards the maintenance of that child.

(6) A pension payable to a spouse or a person provided under paragraph (b) of the definition of "dependant of an employee" in section 4, shall lapse on the last day of the month in which the spouse or the person dies.

(7) For the purposes of this section a dependant referred to in paragraph (a) or (c) of the definition of "dependant of an employee" in section 4 shall be deemed to have been wholly financially dependant upon the employee at the time of the accident unless the contrary is proved.

(8) No amount shall be deducted from pension or lump sum awarded under this section to a dependent in respect of any compensation awarded to the employee in respect of the same or any other accident.

Funeral grants

53.-(1) The Director-General shall pay out of the Fund an amount of compensation, within the limits set out in item 9 of the Fourth Schedule, for the funeral costs of an employee who dies as a result of an injury caused by an accident.

(2) Without prejudice to subsection (1) the Minister may make regulations prescribing the manner in which calculation of the amount of compensation to be paid shall be made.

Increase of monthly pensions

54.-(1) The Minister may, on the recommendation of the Board and by notice in the Gazette, increase the monthly pensions payable under sections 48 and 52 by such percentage as he may determine.

(2) At least sixty days before any increase, the Minister shall publish a notice in the Gazette-

- (a) of the intention to increase the monthly pensions; and
- (b) inviting any person who wishes to comment on the proposed increase to submit such comment in writing to him within the period mentioned in the notice.

(3) In determining the percentage referred to in subsection (1), the Minister may differentiate between accidents which happened on different dates.

Advances on
compensation

55. Where the Director-General believes the best interests of an employee so requires, he may, in anticipation of an award of compensation advance to or on behalf of the employee such amount as he may deem equitable, subject to such conditions as the Director-General may determine.

Control over
payment of
compensation

56.-(1) Compensation payable under this Act by the Director-General may be-

- (a) paid to the employee or the dependant of an employee entitled or to any other person on behalf of the employee or dependant, in installments or in any other manner;
- (b) invested or applied to the advantage of the employee or the dependants of an employee;
- (c) paid to trustee or any other person to be applied in accordance with conditions determined by the Director-General;
- (d) applied in accordance with the combination of paragraphs (a), (b) and (c);

(2) On the death of an employee or a dependant of an employee, the unpaid balance of any compensation awarded shall not form part of that person's estate and-

- (a) shall be paid to dependant; or
- (b) where there is no dependant, the Director-General may pay the whole or a portion of the balance to the estate of the deceased.

Pensioner resident
outside Tanzania

57.-(1) Where an employee or a dependant of an employee to whom a pension is payable under the provisions of this Act is resident outside Tanzania or is absent from Tanzania for a period of more than six months, the Director-General may award a lump sum in lieu of the pension, and upon payment of the lump sum the right to the pension shall expire.

(2) Before the Director-General awards a lump sums provided for under subsection (1), he shall notify the employee or dependant of the intention to award the amount and request him to submit any representations for consideration within the period specified by the Director-General.

Manner of
calculating earnings

58.-(1) In order to determine compensation, the Director-General shall calculate the earnings of an employee in the monthly rate at which the employee was being remunerated by the employer at the time immediately before the accident.

(2) For purposes of subsection (1), earning shall-

(a) include-

(i) the value of any food or quarters or both supplied by the employer to the date of the accident; or

(ii) any overtime payment or other special remuneration in cash or in kind of a regular nature or for work ordinarily performed.

(b) exclude

(i) payment for intermittent overtime;

(ii) payment for non-recurrent occasional services;

(iii) amounts paid by an employer to an employee to cover any special expenses; and

(iv) *ex gratia* payments whether by the employer or any other person.

(3) Where an employee's remuneration is determined in accordance with a rate calculated upon work performed, earnings shall be deemed to be the remuneration for similar

work upon the same conditions of remuneration prior to the accident but not exceeding twelve months.

(4) Where by reason of the short duration of the service of an employee with an employer it is not practicable to calculate earnings in such service, the employee's earnings shall, if possible, be calculated-

- (a) on the basis of the amount which the employee with similar work at the same conditions of remuneration earned with another employer during the twelve months prior to the accident; or
- (b) on the basis of the amount which during the twelve months prior to the accident was earned by other employees of the first-mentioned employer with similar work and on the same conditions of remuneration, or would have been earned by the employee during the previous twelve months had the employee been so employed.

(5) Where an employee has entered into contracts of service with two or more employers, earnings shall be calculated as if the earnings under all such contracts were earnings in the employment of the employer for whom the employee was working at the time of the accident.

(6) Where it is not practicable to calculate the earnings of an employee in accordance with the preceding provisions, the Director-General may calculate the earnings in a manner that he may deem appropriate and equitable.

(7) Where earnings are calculated on a weekly basis, the monthly earnings shall be calculated as equal to four and one third times the amount of such weekly earnings.

Calculation of
compensation for
occupational disease

59.-(1) Compensation for an occupation disease shall be calculated on the basis of-

- (a) the earnings of the employee calculated, with the changes required by the context, in accordance with the provisions of section 58; and
- (b) the disablement of the employee at the time of the occurrence of the disease or an earlier date determined by the Director-General, if the employee was suffering from the disease at earlier

date, whichever earnings are more favourable to the employee.

(2) Where an employee is no longer in employment at the time of the occurrence of the disease, the employee's earnings shall be calculated on the basis of the earnings that the Director-General believes the employee would have been earning had the employee still been working.

Deductions from employees prohibited

60.-(1) An employer shall not deduct from the earnings of an employee any amount or receive any amount from the employee to compensate the employer directly or indirectly for any amount which the employer is liable to pay under this Act.

(2) Any employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding seven years or to both.

(3) Any court convicting an employer of contravening subsection (1) shall, in addition to any penalty it may impose, order the employer to pay to the Director-General within a specified period, the amount the employer has received contrary to the provisions of subsection (1).

(4) The Director-General shall pay the amount received under subsection (3) to the employee from whose earnings that amount has been deducted or from whom the amount has been received.

PART VII MEDICAL AID AND REHABILITATION BENEFITS

Conveyance of injured employee

61.-(1) Where an employee meets with an accident which necessitates the employee's conveyance to a hospital or to a medical practitioner or from hospital or medical practitioner to the employee's residence, the employer shall, without delay, make the necessary conveyance available.

(2) The Director-General shall pay the reasonable cost incurred in respect of that conveyance.

(3) Any employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a

fine not exceeding one million shillings or imprisonment for a term of twelve months.

Medical aid costs

62.-(1) The Director-General shall, for a period of not more than two years from the date of an accident or the contracting of an occupational disease pay the reasonable cost incurred by or on behalf of an employee in respect of medical aid necessitated by the accident or disease.

(2) The Director-General may subject to the provisions of sub-section (1), after two years of medical aid, treat the employee referred to in subsection (1), to have permanent disablement.

(3) Where the Director-General believes that further medical aid, in addition to that referred to in subsection (1), may reduce the disablement from which the employee is suffering, the Director-General may pay the cost incurred in respect of the further medical aid.

Submission of
Medical report

63.-(1) A medical practitioner shall furnish a medical report to the employer concerned in the prescribed manner within fourteen days after-

- (a) examining for the first time an employee injured in an accident; or
- (b) diagnosing an occupational disease in an employee.

(2) Where the employee at the time of the diagnosis of an occupational disease was not in the service of the employer, the medical report shall be furnished in the prescribed form to the Director-General.

(3) Where the Director-General requires further medical report regarding an employee, the medical practitioner who has treated or is treating the employee shall, upon request, furnish the required reports in the form or manner to be provided in the regulations.

(4) Where a medical practitioner fails to furnish a medical report under this section or fails to complete it in a satisfactory manner the Director-General may defer the payment of the costs of the medical aid concerned until the report has been furnished or completed in a satisfactory manner.

(5) Subject to sub-section (4), no remuneration shall be payable to a medical practitioner for the completion and furnishing of a report under this subsection.

(6) A medical practitioner shall, at the request of an employee or the dependant of an employee, furnish the employee or dependant with a copy of the report under this section.

Director General to decide on medical aid benefits

64. The Director-General may decide on all issues regarding the need, nature and sufficiency of any medical aid benefits supplied or to be supplied under this Act.

Fees for medical aid

65.-(1) Subject to the provisions of this section, the cost of medical aid shall be calculated in accordance with a tariff of fees determined by the Director-General.

(2) Where the Director-General is liable for the payment of the cost of medical aid-

(a) no amount shall be recoverable for the medical aid concerned in excess of that determined in the tariff of fees or, if no amount has been determined for particular medical aid, no amount in excess of that deemed reasonable by the Director-General; and

(b) no amount shall be recoverable from the employee or an employer for the medical aid concerned.

Contributions by employees towards cost of medical aid prohibited

66.-(1) No employer shall demand or receive from an employee a contribution towards the cost of medical aid supplied or to be supplied under this Act.

(2) Any employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding seven years or to both.

(3) The court convicting an employer under subsection (2), shall in addition to any penalty it may impose, order the employer to pay to the Director-General within a specified period as the court may determine, the amount the employer has received contrary to sub-section (1).

(4) The Director-General shall pay the amount received under subsection (3) to the employee from whose earnings that amount was deducted or received by the employer.

Medical aid
provided by
employer

67.-(1) Where an employer makes arrangements to provide medical aid to employees who are injured in accidents which the Director-General believes they are not less favorable to the employees than that provided for in this Act, the Director-General may, subject to conditions, approve such arrangements.

(2) Where the Director-General has approved the arrangements referred in subsection (1)-

- (a) the employees shall be entitled to medical aid in accordance with the arrangements;
- (b) the employer shall not be required to provide or pay for medical aid except in accordance with the said arrangements;
- (c) the Director-General may reimburse an employer out of the Fund or reduce the employer's assessment to the extent that the Director-General may deem equitable.

(3) The Director-General may, at any time, withdraw the approval or vary the conditions referred to under subsection (1).

Director-General
may consult
representatives of
medical authorities
and associations

68. The Director-General may consult any medical authority or association concerning matters connected with or arising out of the application of the provisions of this Act with regard to medical aid, including the tariff of fees referred to under section 65 and may, for the purpose, disclose any information relating to a matter in respect of which the views of the authority or association are required.

Director-General to
provide
rehabilitation

69.-(1) Where an employee suffers an accident or contracts an occupation disease, the Director-General may, subject to consent by the employee, provide the employee with rehabilitation benefits to assist in restoring the employee's health, independence and participation in society to the maximum extent practicable.

- (2) The rehabilitation benefits provided in subsection (1) may consist of-
- (a) clinical rehabilitation for the purpose of physical and psychological recovery of the employee;
 - (b) vocational rehabilitation to assist an employee to maintain employment, obtain employment or regain or acquire vocational independence; and
 - (c) social rehabilitation to assist in restoring an employee's independence to the maximum extent practicable.
- (3) For the purpose of clinical rehabilitation, medical aid costs provided for under section 62 shall include the costs of clinical rehabilitation.

Director-General
may require
assessments and
rehabilitation plans

- 70.**-(1) The Director-General before providing vocational or social rehabilitation to an employee under this Act, may require the employee to-
- (a) undergo any assessment required by him at the cost of the Funds;
 - (b) co-operate with him in developing and implementing an individual rehabilitation plan; or
 - (c) undergo assessment of present and likely capabilities for the purposes of rehabilitation at the Fund's expense.
- (2) An individual rehabilitation plan under paragraph (b) of subsection (1) shall-
- (a) identify the employee's needs for rehabilitation;
 - (b) identify the assessments to be done;
 - (c) identify the services appropriated for those needs; and
 - (d) specify the rehabilitation services to be provided to an employee.
- (3) An employee who receives rehabilitation benefits shall, to the extent practicable, comply with the terms of an individual rehabilitation plan.

PART VIII
OBLIGATIONS OF EMPLOYERS

Employers to register with the Director-General

71.-(1) An employer carrying on business in Tanzania shall within the prescribed period and in the prescribed form register himself to the Director-General and furnish the Director-General with-

- (a) the prescribed particulars of the employer's business; and
- (b) any additional particulars he may require.

(2) The particulars referred to in subsection (1) shall be furnished separately in respect of each business carried on by the employer.

(3) An employer shall, within seven days of any change in the particulars so furnished, notify the Director-General of the change.

(4) Any person who fails to comply with the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding fifty million shillings or imprisonment for a term not exceeding five years or to both.

Employers to keep records

72.-(1) An employer shall keep a register or other record of the earnings and other prescribed particulars of all employees employed by the employer and shall, at all reasonable times, produce the register or record or a satisfactory reproduction on demand to an authorized person for inspection.

(2) An employer shall retain the register, record or reproduction for a period of at least three years after the date of the last entry on that register or record.

(3) An employer who fails to comply with a provision of this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty million shillings or imprisonment for a term not exceeding five years or to both.

Cap. 366

(4) A health and safety representative elected under any other law governing occupational health and safety and a trade union representative appointed under the Employment and Labour Relations Act, shall have the right to inspect and bring to the attention of the Director-General, any register, record or document which the employer maintains, keeps or completes under this Act.

Employers to
furnish returns of
earnings

73.-(1) Subject to subsection (2), an employer shall, not later than the 31st day of March in each year, furnish the Director-General with a return in the prescribed form, certified by the employer, as correct, showing-

- (a) the amount of earnings up to the maximum contemplated in section 74(7) paid by the employer to its employees during the period with effect from the first day of March of the immediately preceding year up to and including the last day of February of the following year; and
- (b) such further information as may be prescribed or as the Director-General may require.

(2) An employer who commences business after the last day of February of a particular year shall, within seven working days after commencement of his business, furnish the Director-General with a return in the prescribed form, certified by the employer as correct, showing the estimated earnings of its employees for the period with effect from the commencement of the business up to and including the last day of February of the following year.

(3) Where an employer carries on business at more than one place or carries on more than one class of business, the Director-General may require a separate return for each place or class of business from the employer.

(4) Where in a return referred to in subsection (1), the amount shown as earning, excluding earnings exceeding the maximum referred to in section 74(7), is less than the amount actually paid, the Director-General may order the employer to pay the difference between the amount shown and the actual amount.

(5) Where an employer fails to furnish a return or if the estimate of the earnings which an employer expects to pay during a particular period is in the opinion of the Director-General too low, the Director-General may estimate the earnings concerned.

(6) Where it appears that the actual earnings are less than the earnings assessed under sub-section (5), the Director-General may make the necessary adjustment.

(7) An employer who fails to comply with the provisions of this section commits an offence and shall on conviction, be liable to a fine not exceeding twenty million or to imprisonment for a term not exceeding three years or to both.

Assessment of an employer

74.-(1) Subject to the provisions of this section, an employer shall be assessed or provisionally assessed by the Director-General according to a tariff of assessment calculated on the basis of the percentage of the annual earnings of the employer's employees as the Board may with due regard to the requirements of the Fund for the year of assessment deem necessary.

(2) For the purpose of this section, earnings shall be calculated in the prescribed form.

(3) Notwithstanding subsection (1), the Director-General may-

(a) assess a particular employer or category of employers by the degree of risk exposure or on such other objective basis as he may prescribe in writing and publish in the *Gazette*; and

(b) levy a minimum assessment in respect of a particular employer or category of employers.

(4) In determining the tariff of assessment, the Director-General shall provide for the capitalized value of pensions.

(5) Where the earnings paid by an employer in respect of a particular period differ from the earnings shown in respect of that period in the return concerned, the Director-General shall adjust the employer's assessment accordingly.

(6) An assessment of an employer shall be paid at such time and in such manner as the Director-General may

determine.

(7) The Minister may, on the recommendation of the Board, prescribe by notice in the *Gazette*, a maximum amount of earnings on which an assessment of an employer shall be calculated by the Director-General.

Assessment to be paid by an employer to the Director-General

75.- (1) An assessment shall be paid to by an employer within thirty working days after the date of the notice of assessment or, with the approval of the Director-General, in such installments and at such times and on such conditions as he may determine.

(2) Interest shall be payable on any overdue assessment at a rate determined by the Director-General, which shall not exceed a standard rate of interest determined by the Minister.

(3) An employer who contravenes this section commits an offence and shall, on conviction, be liable to a fine of fifty million shillings or imprisonment for a term of ten years or to both.

(4) The court convicting an employer under subsection (3) shall, in addition to any penalty it may impose, order the employer to pay to the Fund within a specified period as the court may determine the assessment due and the interest thereon.

Mandators and contractors

76.-(1) Where a mandator in the course of, or for the purposes of his business enters into an agreement with a contractor for the execution by or under the supervision of the contractor of the whole or any part of any work undertaken by the mandator the contractor shall, in respect of the employees of the contractor employed in the execution of the work, register as an employer in accordance with the provisions of this Act and pay the necessary assessment.

(2) Where a contractor fails to register or pay any assessment referred to under subsection (1), the employees of the contractor shall be deemed to be the employees of the mandator, and the mandator shall pay the assessments in respect of the employees.

(3) Where a mandator has paid an assessment or compensation for which the mandator would not have been

liable as provided for under the provisions of subsection (1), the mandator may recover that assessment or compensation from the contractor.

(4) Where a mandator under this section paid an assessment or compensation to the Director-General, the mandator may set off the amount so paid against any debt to the contractor.

(5) Notwithstanding the provisions of this section, the Director-General may recover compensation from the contractor instead of the mandator, and if the full amount cannot be recovered from one, the remaining amount can be recovered from the other.

(6) A mandator shall not be liable in respect of any accident which happened at a place which is not on or about the premises on which the mandator undertook to execute the work, or which is not otherwise under the control or management of the mandator.

Employers or Trade Unions to inform employees of their rights

77. Every employer or a trade union shall display a statement of employee's rights under this Act in the prescribed manner-

- (a) at the place where employees work; and
- (b) where it can be read by employees.

Employers to assist employees

78. An employer or the relevant trade union shall notify any employee who is injured in an accident or who contracts an occupational disease of his rights and the procedures to be followed in order to claim compensation under this Act.

PART IX DISPUTES SETTLEMENT

Director-General may review decisions

79.-(1) The Director-General may review any decision in connection with a claim for compensation or the award of compensation on the ground-

- (a) that the employee has not submitted himself for an examination referred to in section 38;
- (b) that the disablement giving rise to the award is

prolonged or aggravated by the unreasonable refusal or failure of the employee to submit to medical aid;

- (c) that compensation awarded in the form of a periodical payment or a pension is excessive or insufficient because of existing or change of circumstances;
- (d) that the decision or award was based on an incorrect view or misrepresentation of the facts, or that the decision or award would have been otherwise in the light of evidence available at present but which was not available when the Director-General made the decision or award.

(2) In reviewing the decision in accordance with subsection (1), the Director-General shall issue notice inviting a party concerned to make representation.

(3) The Director-General may, after considering the evidence and representations submitted and making such inquiry as the Director-General may deem necessary, confirm, amend or set aside its decision, and may suspend, discontinue, reduce or increase compensation awarded.

Appeal against decisions of the Director-General and the Minister

80.-(1) Any person aggrieved by the decision of the Director-General may appeal against the decision within thirty working days to the Minister.

(2) Any person aggrieved by a decision of the Minister may, within sixty working days, from the date of decision, appeal against that decision to the Labour Court.

PART X FINANCIAL PROVISIONS

Application of funds

81. The funds of the Fund shall be applied to-

- (a) the payment of compensation benefits to or on behalf of, or in respect of employees;
- (b) the prescribed remuneration and allowances to members of the Board, assessors, and authorized persons;
- (c) the cost of or in connection with the medical

- examination of employees;
- (d) the cost of or in connection with the assessment of employees for purposes of rehabilitation;
- (e) the cost involved in court proceedings arising from administration of this Act;
- (f) any other expenditure incurred by the Board or the Director-General in or in connection with the performance of the functions under this Act;
- (g) promote maintenance of occupational safety and health measures; and
- (h) any expenditure authorized by this Act.

Bank accounts of the Fund

82.-(1) The Board shall open and maintain with a bank or banks approved by the Minister-

- (a) an account known as the Workers' Compensation Fund Account into which all moneys payable to the Fund shall be deposited; and
- (b) a reserve account into which any surplus money in the Fund may be deposited and from which any investments referred to in section 83 may be made.

(2) The objects of the reserve account under subsection (1)(b) shall be to-

- (a) provide for unforeseen demands on the Fund; and
- (b) stabilize the tariffs of assessment.

(3) the Board shall determine the amounts to be held in the reserve account and shall authorize payments from the reserve account.

Investment of funds

83. The Board may, subject to regulations or guidelines prescribed by the Minister or relevant supervisory authority, invest surplus funds of the Fund with due regard to-

- (a) maintenance, growth and preservation of the Fund; and
- (b) economic and commercial viability of any investment.

Annual budget of the Fund

84.-(1) The Director-General shall submit to the Board, at least six months before the start of the financial year

or such other period determined by the Board, a budget of estimated revenue and expenditure for that financial year, for approval by the Board.

(2) The Board may not, in respect of the administrative expenditure of the Fund in any financial year, approve the budget or expenditure of an amount exceeding fifteen percent of the estimated revenue for that financial year, unless the Board is satisfied that there exist extenuating circumstances.

Annual report and financial statements of the Fund

85.-(1) The Fund shall-

- (a) keep full and proper records of the financial affairs of the Fund;
- (b) prepare financial statements for each financial year in accordance with generally accepted accounting practice;
- (c) submit within five months of the end of the financial year to the Board-
 - (i) an annual report on the activities of the Fund during that financial year;
 - (ii) the audited financial statements for that financial year; and
 - (iii) the report of the auditors on those statements.

(2) The Director-General shall, within three months of the approval by the Board of the annual report and financial statements submit the report and financial statements to the Minister.

(3) The Minister shall table the report and statements referred to in subsection (1) before the National Assembly.

Periodic Valuation of the Fund

86.-(1) The assets and liabilities of the Fund shall, from time to time, as the Board may consider necessary, but in any event at intervals of not more than three years, be valued by an actuary appointed by the Board to determine the sufficiency of the Fund.

(2) The result of the valuation referred to in subsection(1) shall be included in the next annual report of the Fund following completion of the valuation.

Auditing

87. Not later than six months after the close of every financial year the accounts and the statement of the financial affairs of the Fund for that financial year shall be audited by the Controller and Auditor General.

PART XI
GENERAL PROVISIONS

Reasons for decisions

88. Where the Director-General or any authorized person makes a decision, the Director-General or the authorized person, as the case may be, shall furnish reasons to a person affected by that decision.

Evidence

89.-(1) The record of any decisions or award made by the Director-General, and a copy of or extract from a record or document kept by him or lodged with him which purports to be certified by him as a true copy or extract shall, upon its mere production in a court, be *prima facie* evidence of the content of such record or document.

(2) In any proceedings under this Act, or in any court, any document purporting to be a sworn statement made by the Director-General or an authorized person and in which it is stated that-

- (a) any person is an employer, a mandator, a contractor; an employee or a dependant of an employee under this Act;
- (b) any person is or was required under this Act to pay an amount to the Director-General or to an employee or other person specified in the statement;
- (c) an amount referred to in paragraph (b), or any portion thereof, has or has not been paid on a date specified in the statement; and
- (d) the Director-General has exercised a power under this Act, shall, upon its mere production, be *prima facie* evidence of the facts stated therein.

Compensation payable to assessors etc.

90.-(1) Where an assessor or a member of a medical advisory panel is involved in an accident arising out of and in the course of performing the functions as an assessor or a

member of a medical advisory panel resulting in personal injury, illness or death, the assessor or member of a medical advisory panel shall be entitled to compensation as if such assessor or a member of medical advisory panel is an employee at the time of the accident.

(2) Subsection (1) shall apply to assessors who are not employed.

(3) The Director-General shall pay out of the Fund any compensation under this section.

PART XII MISCELLANEOUS PROVISIONS

Access to
information

91. Any employee or any dependant of a deceased employee is entitled to inspect and, at own expense, make copies of any documents held by the Fund or the Director-General which relate to any accident, injury, occupational disease or claim for compensation involving the employee or dependant of the employee, as the case may be.

Disclosure of
information

92.-(1) No person shall disclose any information obtained in the performance of that person's functions under this Act, except-

- (a) to the extent to which it may be necessary for the proper administration of this Act;
- (b) for the purposes of the administration of justice; or
- (c) at the request of the Minister or any other person entitled thereto.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

Amendment of
Schedules

93.-(1) The Minister may, after consulting the Board and by order in the *Gazette*, amend any Schedule to this Act.

(2) At least sixty working days before any such amendment, the Minister shall publish a notice in the *Gazette*-

- (a) of the intention to effect an amendment and the proposed content of the amendment; and
- (b) inviting any person who wishes to comment on the proposed amendment to submit such comment

in writing to the Director- General within the period mentioned in the notice.

Regulations

94.-(1) The Minister may, upon advise of the Board, make regulations for the better carrying out the provisions of this Act, and in particular, prescribing-

- (a) the place of meeting and the procedure to be followed at any meeting of the Director-General and assessors or at any proceedings under this Act with which the assessors are concerned or at any investigation under this Act;
- (b) subject to section 65, the fees payable to medical practitioners in respect of services rendered under this Act;
- (c) the procedure to be followed in paying assessments to the Fund;
- (d) the persons to whom the places and the manner in which payment of assessments under this Act shall be made;
- (e) the determination of the amount and the conditions and manner of payment of benefits to assessors or classes of assessors;
- (f) the disposal of moneys payable under this Act to any person other than the Director-General and not claimed within the prescribed period by the person entitled thereto;
- (g) the determination of time for the consideration and finalization of compensation claims, the payment of compensation and the adjudication of appeals against decisions of the Director-General under this Act;
- (h) any matter which may be or is prescribed under this Act.

(2) The Minister may, after consultation with the Board, make regulations under subsection (1) in respect of different classes of employers and employees and of different areas.

False statements

95. Any person who in connection with a claim for compensation under this Act, or in any return, notice, report or

statement to be given, made or furnished under this Act, makes or causes to be made any statement which is false in a material respect, knowing it to be false, commits an offence.

Penalties

96. Any person who is convicted of an offence where no specific penalties have been provided under this Act shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

Compounding
of offences

97.-(1) The Director-General may compound any of the offences to which no penalty have been prescribed in this Act.

(2) Subject to subsection (1), the Director-General may order the person alleged to commit an offence under this Act to pay a fine not exceeding three hundred thousand shillings.

Repeal and
savings
Cap. 263
R.L.

98.-(1) The Workers' Compensation Act is hereby repealed.

(2) Notwithstanding subsection (1), any regulation made, direction, order or directive made or issued by the repealed Act and which could be made, issued, prescribed or done under a provision of this Act, shall be deemed to have been made, issued, prescribed or done under this Act.

(3) Any claim for compensation or medical aid arising out or accruing from the repealed law in respect of an accident that happened or occupational disease contracted prior to the commencement of this Act shall be dealt with under that laws as if this Act had not been passed and any right or privilege acquired or accrued under such law shall not be affected by such repeal.

SCHEDULES

FIRST SCHEDULE

(Made under section 12(3))

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

- Composition of the Board
- 1.**-(1) The membership of the Board shall consist of persons with integrity, knowledge and experience in labour issues, insurance, social security or workers' compensation as follows-
- (a) Chairman who shall be appointed by the President;
 - (b) other members appointed by the Minister as follows:
 - (i) the Director-General who shall be the Secretary;
 - (iii) the Labour Commissioner;
 - (iv) a State Attorney from the Attorney' General-Office;
 - (v) a representative from Bank of Tanzania;
 - (vi) a member from Occupational Safety and Health Authority;
 - (vii) three members from the employers association at least one of whom shall be a woman;
 - (viii) three members from the Federation of Trade Unions, at least one of whom shall be a woman;
 - (ix) two members from association of persons with disabilities arising from work related injuries or disease; and
 - (x) one member from the Higher Learning Institution.
- (2) Members of the Board shall elect one of their number to be the Vice Chairman who shall subject to his continuing to be a member, hold office for a term of three years from the date of his election and shall eligible for re-election.
- Tenure of office
- 2.** A member of the Board shall hold office for a period of three years on such terms and conditions as may be specified in the instrument of appointment and may be eligible for re-appointment for one more term.
- Vacation of office
- 3.**-(1) A member other than the Director-General and persons who are members by virtue of their position may-
- (a) at any time resign from office by notice in writing to the Minister;
 - (b) be removed from office by the Minister if the member:
 - (i) has been absent from three consecutive meetings of

the Board without permission from the Chairman;

- (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude;
- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months,
- (v) is incapacitated by prolonged physical or mental illness; or
- (vi) is otherwise unable to discharge his functions.

(2) In the case of a member who is a member by virtue of holding some other office, he shall cease to be a member upon ceasing to hold that office.

(3) A member, other than a member referred to in subparagraph (2) may at an time resign by giving notice in writing to the President or, as the case may be, to the Minister, and as from that date of the receipt of the notice by the President or the Minister as the case may be, he shall cease to be a member.

Meetings

4.-(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The quorum for the conduct of the business of the Board shall be half of the total number of members.

(3) The Chairman shall preside at every meeting of the Board, and in his absence, members present shall elect one among them to be the Chairman.

(4) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairman or the person presiding shall have a casting vote.

(5) Subject to sub-paragraph (3), no proceedings of the Board shall be invalid by reason only of a vacancy among the members of the Board.

(6) Subject to subparagraph (2), the Board may determine its own procedure and for the attendance of any other person at its meetings.

The Common seal

5.-(1) The affixing of the common seal of the Board shall be authenticated by the signatures of the Secretary and the Chairman and any document required by law to be made under seal.

(2) The decision of the Board may be authenticated by the signatures of the Secretary and the Chairman.

Contracts and
instruments
Minutes

6. Any contract or instrument which, if entered into or executed by a person not being body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Minutes

7. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

SECOND SCHEDULE

(Made under section 48)

PERCENTAGE OF PERMANENT DISABLEMENT

| <i>Injury</i> | <i>Percentage of Injury of permanent disablement</i> |
|--|--|
| 1. Loss of two limbs | 100 |
| 2. Loss of both hands, or of all fingers and both thumbs | 100 |
| 3. Total loss of sight | 100 |
| 4. Total paralysis | 100 |
| 5. Injuries resulting in employee being permanent bedridden | 100 |
| 6. Any other injury causing permanent total disablement | 100 |
| 7. Loss of arm at shoulder | 70 |
| 8. Loss of arm between elbow and shoulder | 68 |
| 9. Loss of arm at elbow | 67 |
| 10. Loss of arm between wrist and elbow | 65 |
| 11. Loss of hand at wrist | 60 |
| 12. Loss of four fingers and thumb of one hand | 60 |
| 13. Loss of four fingers | 40 |
| 14. Loss of thumb - both phalanges | 40 |
| 15. One phalanx | 15 |
| 16. Loss of index finger - three phalanges | 10 |
| 17. Two phalanges | 8 |
| 18. One phalanx | 15 |
| 19. Loss of Two phalanges middle finger -three phalanges | 8 |
| 20. Two phalanges | 6 |
| 21. One phalanx | 4 |
| 22. Loss of ring finger - three phalanges | 6 |
| 23. Two phalanges | 5 |
| 24. One phalanx | 3 |
| 25. Loss of little finger - three phalanges | 4 |
| 26. Two phalanges | 5 |
| 27. One phalanx | 3 |
| 28. Loss of metacarpals -first, second or third (additional) | 4 |
| 29. -(fourth or fifth addition) (additional) | 2 |
| 30. Loss of toes - at hip | 70 |
| 31. Between knee and hp | 70 |

| | | | |
|------------------------|---|-------------------------------------|----|
| 32. | - | below knee | 45 |
| 33. Loss of toes | - | all | 15 |
| 34. Big both phalanges | | | 7 |
| 35. | - | big one phalanx | 3 |
| 36. | - | toes other than big one | |
| 37. | - | four toes | 7 |
| 38. | - | four toes | 5 |
| 39. | - | two toes | 3 |
| 40. | - | one toe | 1 |
| 41. Loss of eye - | - | whole eye | 30 |
| 42. | - | sight | 30 |
| 43 | - | sight except perception of light | 30 |
| 44. Loss of hearing | - | both ears | 50 |
| 45. | - | one ear | 7 |
| | | | |

1 If there are two or more injuries the sum of the percentage for such injuries may be increased, in the discretion of the Director-General.

2 Total permanent loss of the user of a limb shall be treated as the loss of the limb.

3 If an employee has sustained an injury not mentioned in this Schedule, the Director-General shall determine the percentage of disablement in respect of the injury which the Director-General believes will lead to a result consistent with the Schedule.

4 If an injury has unusually serious consequences for an employee as a result of the special nature of the employee's occupation, the Director-General may determine a larger percentage which the Director-General deems equitable.

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THIRD SCHEDULE
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(Made under section 22(1))
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OCCUPATIONAL DISEASES

1. The list of Occupational Diseases contained in this Schedule reflects the list of occupational diseases appended to International Labour Organization R 194, List of Occupational Diseases Recommendation, 2002.

2. For purposes of this Schedule, work shall mean-

- (a) any work involving the handling of or exposure to any agent or agents mentioned in the List of Occupational Diseases;
- (b) any work involving the handling of, or exposure to the specified agent or agents, the work processes, work activities and work environments mentioned in the List of Occupational Diseases.

LIST OF OCCUPATIONAL DISEASES

I. DISEASES CAUSED BY AGENTS

Diseases caused by chemical agents:

- (a) Diseases caused by beryllium or its toxic compounds;
- (b) Diseases caused by cadmium or its toxic compounds;
- (c) Diseases caused by phosphorous or its toxic compounds;
- (d) Diseases caused by chromium or its toxic compounds;
- (e) Diseases caused by manganese or its toxic compounds;
- (f) Diseases caused by arsenic or its toxic compounds;
- (g) Diseases caused by mercury or its toxic compounds;
- (h) Diseases caused by lead or its toxic compounds;
- (i) Diseases caused by fluorine or its toxic compounds;
- (j) Diseases caused by carbon disulphide;
- (k) Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons;
- (l) Diseases caused by benzene or its toxic homologues;
- (m) Diseases caused by toxic nitro-and-amino-derivatives of benzene or its homologues;
- (n) Diseases caused by nitroglycerine or other nitric acid esters;
- (o) Diseases caused by alcohols; glycols or ketones
- (p) Diseases caused by asphyxiants; carbon monoxide, hydrogen cyanide or its toxicderivaties, hydrogen sulphide;

- (q) Diseases caused by acrylonitrile;
 - I Diseases caused oxides of nitrogen;
- (s) Diseases caused by vanadium or its toxic compounds;
- (t) Diseases caused by antimony or its toxic compounds;
- (u) Diseases caused by hexane;
- (v) Diseases of teeth caused by mineral acids;
- (w) Diseases caused by pharmaceutical agents;
- (x) Diseases caused by thallium or its compounds;
- (y) Diseases caused by osmium or its compounds;
- (z) Diseases caused by selenium or its compounds;
- (aa) Diseases caused by copper or its compounds;
- (bb) Diseases caused by tin or its compounds;
- (cc) Diseases caused by zinc or its compounds;
- (dd) Diseases caused by ozone, phosgene;
- (ee) Diseases caused by benzoquinone;
- (ff) Diseases caused by chlorine;
- (gg) Diseases caused by pesticides and/or herbicides;
- (hh) Diseases caused by oxides of sulphur;
- Diseases caused by physical agents;
 - (a) Hearing impairment caused by noise;
 - (b) Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves);
 - I Diseases caused by work in compressed air/abnormal atmospheric or water pressure;
 - (d) Diseases caused by ionizing radiations;
 - (e) Diseases caused by extreme temperatures (cold and hot);
 - (f) Diseases caused by ultraviolet radiation;
 - Diseases caused by biological agent;
 - (a) Infectious or parasitic diseases contracted in an occupation where there is a particular risk of contamination;
 - (b) Toxic/inflammatory syndromes (inhalation fever, toxic pneumonitis, organic dust toxic syndrome) associated with exposure to bacterial and fungal contaminants (endotoxin, mycotoxins, (1-3)-B-D-glucans, volatile organic compounds).

2. DISEASES BY TARGET ORGAN SYSTEMS

Occupational respiratory diseases

- (a) Pneumoconiosis-fibrosis of the parenchyma of the lung caused by fibrogenic dust;
- (b) Pleural thickening caused by asbestos dust exposure;
 - I Silicotuberculosis;
- (d) Bronchopulmonary diseases caused by hard-metal dust.
- (e) Bronchopulmonary diseases caused by cotton, flax, hemp or sisal dust (byssinosis)
- (f) Occupational asthma caused by one of the following recognized sensitizing agents or irritants inherent to the work process;
 - (a) isocyanats;
 - (ii) platinum, nickel, cobalt, vanadium or chromium salts;

- (a) hardening agents, including epoxy resins;
 - (iv) acrylic acids or derived acrylates;
 - (a) soldering or welding fumes;
 - (vi) substances from animals or insects;
 - (a) fungi or spores;
 - (a) proteolytic enzymes;
 - (ix) organic dust;
 - (x) vapours or fumes of formaldehyde, anhydrides, amines
 - (xi) Latex;
 - (g) extrinsic allergic alveolitis caused by the inhalation of the following organic dusts and chemicals inherent to the work process; moulds, fungal spores or any other allergenic proteinaceous material, 2, 4 toluence-di-isocyanates
 - (h) Siderosis;
 - (i) Chronic obstructive pulmonary diseases;
 - (j) Diseases of the lung caused by aluminium;
 - (k) Upper airways disorders caused by recognized sensitizing agents or irritants inherent to the work process;
 - (l) Diseases caused by chronic or repetitive exposure to products of combustion
- Occupational skin diseases;
- (a) Allergic or irritant contact dermatitis caused by physical, chemical or biological agents;
 - (b) Occupational vitiligo.
- Occupational musculo-skeletal disorders

Musculo-skeletal diseases caused by specific work activities or work environment where particular risk factors are present. Examples of such activities or environment include:

- (a) rapid or repetitive motion;
- (b) forceful exertion;
- (c) excessive mechanical force concentration;
- (d) awkward or no-neutral postures;
- (e) vibration.

3. OCCUPATIONAL CANCER

Cancer caused by the following agents

- (a) Asbestos
- (b) Benzidine and its salts
- (c) Bis chloromethyl ether (BCME)
- (d) Chromium and chromium compounds.
- (e) Coal tars, coal tar pitches or soots
- (f) Beta-naphthylamine
- (g) Vinyl chloride
- (h) Benzene or its toxic homologues
- (i) Toxic nitro-and aminon-derivatives of benzene or its homologues
- (j) Ionizing radiations
- (k) Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residue of these substances

- (l) Coke oven emissions
- (m) Compounds of nickel
- (n) Woods dust
- (o) Crystalline silica
- (p) Mycotoxins
- (q) Arsenic.

4. OTHER DISEASES

- (a) Miners' nystagmus

FOURTH SCHEDULE

(Made under section 46)

MANNER OF CALCULATING COMPENSATION

| (i) <i>Item</i> | (ii) <i>Section</i> | (iii) <i>Nature and degree of disablement</i> | (iv) <i>Nature of benefits</i> | (v)..... <i>Manner calculating benefits</i> |
|--------------------|------------------------|--|-----------------------------------|---|
| 1 | 46(1) | Temporary total disablement | Periodical payments | 70% of an employee's monthly earnings at the time of the accident subject to minimum and maximum compensation of such monthly amounts as set out in regulations made from time to time by the Minister. |
| 2. | 48(4)(a) | Permanent disablement of 100% | Monthly pension | 70% of an employee's monthly earnings at the time of the accident subject to minimum and maximum compensation of such monthly amounts as set out in regulations made from time to time by the Minister |
| 3 | 48(4)(b) | Permanent disablement of less than 100% | Monthly pension | A monthly which bears pension to a pension calculated under item 2 the same proportion as the degree of permanent disablement to 100%. |
| 4 | 49 | n/a | Lump sum in lieu of pension | The prescribed amount for purposes of section 49 of the Act shall be such monthly amount as set out in regulations made from time to time by the Minister. |
| 5 | 5 52(1) (a)(i) | Fatal | Lump sum | Twice the employee's monthly pension that would have been payable to the employee under item 2 had the employee been totally permanently disabled. |

| | | | | |
|---|------------------|-------|-----------------|---|
| 6 | (a)(ii) | Fatal | Monthly pension | 40% of the monthly pension that would have been payable to the employee under item 2 had the employee been totally permanently disabled. |
| 7 | 52(1)(b) | Fatal | Monthly pension | 20% of the monthly pension that would have been payable to the employee under item 2 had the employee been totally permanently disabled, to each child. |
| 8 | 52(1) (d)(ii) | Fatal | Lump sum | Percentage dependence as a portion of such amount as set out in regulations made from time to time by the Minister. |
| 9 | 53 | Fatal | Funeral grant | A reasonable amount of funereal costs to a maximum such amount as set out in regulation made from time to time by the Minister or the actual amount, whichever is the lesser. |