



# LAWS OF MALAYSIA

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**Act 273**

## **WORKMEN'S COMPENSATION ACT 1952**

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**WORKMEN'S COMPENSATION ACT 1952**

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# LAWS OF MALAYSIA

## Act 273

### WORKMEN'S COMPENSATION ACT 1952

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**LAWS OF MALAYSIA****Act 273****WORKMEN'S COMPENSATION ACT 1952**

An Act to provide for the payment of compensation to workmen for injury suffered in the course of their employment.

*[Peninsular Malaysia—1 April 1953,  
L.N. 162/1953;  
Sabah and Sarawak—1 June 1981,  
P.U. (A) 157/1981]*

**Short title**

1. This Act may be cited as the Workmen's Compensation Act 1952.

**PART I****INTERPRETATION AND APPLICATION****Meaning of "workman"**

2. (1) In this Act, unless the context otherwise requires, the expression "workman", subject to the proviso to this subsection, means any person who has, either before or after the commencement of this Act, entered into or works under a contract of service or of apprenticeship with an employer, whether by way of manual labour or otherwise, whether the contract is expressed or implied or is oral or in writing, whether the remuneration is calculated by time or by work done and whether by the day, week, month or any longer period:

Provided that the following persons are excepted from the definition of "workman"—

- (a) any person employed otherwise than by way of manual labour whose earnings, calculated in accordance with section 9, exceed five hundred ringgit a month;

- (b) a person whose employment is of casual nature and who is employed otherwise than for the purposes of the employer's trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club;
- (c) a domestic servant;
- (d) any person who is a member of the armed forces or of any visiting force lawfully present in Malaysia;
- (e) any person in the civil employment of Her Britannic Majesty's Government in the United Kingdom, or in any other country of the Commonwealth whose contract of service was not made in Malaysia nor in Singapore;
- (f) a person employed, or selected for employment, in a civil capacity by the Government of Malaysia or by the Government of any State or by any local authority before 1 April 1953 in the application of this Act in Peninsular Malaysia, and before 1 January 1957 in the application of this Act in Sarawak where, in consequence of injury received by any such person in the discharge of his duties, a pension, gratuity or other allowance which would not be payable if such injury were received otherwise is paid to him or, in the case of his death, to any of his dependants as defined in this Act under any written law for the time being in force in Malaysia or any part thereof providing for the grant of such pension, gratuity or other allowance (this paragraph shall not apply in Sabah);
- (g) any police officer, and any other person engaged to perform police duties in accordance with the provisions of any written law while so performing such duties;
- (h) an out-worker;
- (i) a tributer;
- (j) any member of the family of the employer who dwells with him in his house;
- \*(k) any class of persons whom the Minister may declare not to be workmen for the purposes of this Act.



(2) If in any proceedings for the recovery of compensation under this Act it appears to the Commissioner or an Arbitrator or the Court that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, the Commissioner, the Arbitrator or the Court may, if having regard to all the circumstances of the case he or it thinks proper so to do, deal with the matter as if the injured person had at such time been a person working under a valid contract of service or apprenticeship.

(3) Any reference to a workman who has been injured shall, unless the context otherwise requires, where the workman is dead, include a reference to his legal personal representative or to his dependants or any of them or to any public officer whom the Minister may appoint to act on behalf of the dependants of the workman.

### **Interpretation**

3. (1) In this Act, unless the context otherwise requires—

“adopted” means—

- (a) in relation to Peninsular Malaysia, in reference to any child, a child adopted in accordance with the provisions of the Adoption Act 1952 [*Act 257*];
- (b) \*in relation to Sabah, in reference to any child, a child adopted or whose adoption has been registered in accordance with the provisions of any written law relating to the adoption of children from time to time in force in Sabah or where there is no written law then a child whom the Commissioner certifies as having been adopted, prior to the date of injury, in accordance with religious or racial custom;
- (c) in relation to Sarawak, in reference to any child, a child adopted in accordance with the provisions of any written law relating to the adoption of children from time to time in force in Sarawak;

“adult” means a person who has completed his sixteenth year of age and “minor” means a person who has not completed his sixteenth year of age;

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\*NOTE—For modification to Federal Territory of Labuan—see P.U. (A) 273/1984.

“approved hospital” means a hospital declared to be such under subsection 15(1);

“Arbitrator” means a person appointed by the Minister to be an arbitrator for workmen’s compensation for such area as may be specified in that appointment;

“Commissioner” means—

- (a) in relation to Peninsular Malaysia, the Director General of Labour and all Deputy Directors General of Labour, State Directors of Labour and Assistant State Directors of Labour appointed under the Employment Act 1955[*Act 265*] and includes such Labour Officers appointed under the said Act as the Minister may declare to be vested with all or any of the powers conferred or duties imposed upon the Commissioner by this Act;
- (b) \*in relation to Sabah, the Director of Labour appointed under the Labour Ordinance of Sabah [*Sabah Cap. 67*] and includes a Deputy Director, an Assistant Director and any Labour Officer appointed under the said Ordinance whom the Minister may declare to be vested with all or any of the powers conferred or duties imposed upon the Commissioner under this Act;
- (c) in relation to Sarawak, the Commissioner of Labour appointed under the Labour Ordinance of Sarawak [*Swk Cap. 76*] and includes a Deputy Commissioner, an Assistant Commissioner and any Labour Officer appointed under the said Ordinance whom the Minister may declare to be vested with all or any of the powers conferred or duties imposed upon the Commissioner under this Act;

“dependant” means any member of the family of a deceased workman who wholly or in part depended upon his earnings at the time of his death or would but for the disablement due to the accident have been so dependent:

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependant partially on contributions from that other person for the provision of the ordinary necessities of life;

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\*NOTE—For modification to Federal Territory of Labuan—see P.U. (A) 273/1984.

“domestic servant” means a person employed exclusively in the work or in connection with work of a private dwelling house and not of any trade, business or profession carried on by the employer in such dwelling house and includes a cook, house servant (including bedroom and kitchen servants), waiter, butler, child’s or baby’s nurse, valet, footman, gardener, washerman or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use;

“earnings” of a workman shall be deemed to include, in addition to his actual money earnings, any privilege or benefit the value of which is capable of being estimated in money, except—

- (a) a travelling allowance;
- (b) the value of any travelling concession;
- (c) a contribution paid by the employer towards any pension or provident fund;
- (d) a sum paid to the workman to cover any special expenses incurred by him by reason of the nature of his employment:

Provided that in the case of temporary disablement such privileges and benefits as the injured workman or any of his dependants continue to enjoy during the period of his said disablement to work shall not be deemed to be benefits for the purpose of calculating earnings;

“employer” includes the Government of Malaysia and the Governments of each of the States; in respect of civilian employees engaged in Malaysia or in Singapore of any visiting force lawfully present in Malaysia or of any person in the civil employment of the Government of any Commonwealth country, whose contract of service was made in Malaysia or in Singapore, the Government of that Commonwealth country; any local authority; any person or body of persons whether statutory or incorporated or not; the legal personal representative of a deceased employer; and in relation to a person employed for the purpose of any game or recreation and engaged or paid through a club, the manager or members of the managing committee of the said club:

Provided that where the services of a workman are temporarily lent or let on hire to another person by the person with whom the

workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person;

“insurer” includes any insurance society, association, company or underwriter;

“member of the family” means wife, husband, parent, grandparent, stepfather, stepmother, child, grandchild, stepchild, brother, sister, half-brother, half-sister, stepbrother and stepsister:

Provided that—

- (a) the child of a deceased workman shall be deemed to include the illegitimate child of such workman and his adopted child and any child whose adoption by him has been registered under the Registration of Adoptions Act 1952 [Act 253], and any child under the care, custody or control of such workman pursuant to Part III of the\*Children and Young Persons Act 1947 [Act 232]; and
- (b) the parent of a deceased workman shall be deemed to include the father and the mother of an illegitimate child and the person who has adopted any child or has registered the adoption of any child under the Registration of Adoptions Act 1952, and the person who has the care, custody or control of a child pursuant to Part III of the Children and Young Persons Act 1947;

“out-worker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in his disablement and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was able to undertake at the time of the accident:

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\*NOTE—The Children and Young Persons Act 1947 [Act 232] was repealed by the Child Protection Act 1999 [Act 468]—see subsection 50(2) of Act 468 and the Act 468 has since been repealed by the Child Act 2001 [Act 611]—see section 130.

Provided that every injury specified in Part II of the First Schedule shall be deemed to result in permanent partial disablement;

“registered medical practitioner” means a medical practitioner registered or exempted from registration under any written law relating to the registration of medical practitioners from time to time in force in Malaysia or any part thereof;

“registered ship” means any ship or vessel registered or licensed in Malaysia under any law relating to the registration or licensing of ships or vessels from time to time in force in Malaysia or any part thereof;

“seaman” means any person forming part of the crew of any registered ship and includes the master of any such ship;

“special hospital” means a hospital declared to be such under subsection 15(2);

“total disablement” means such disablement whether of a temporary or permanent nature as disables a workman for all work which he was capable of undertaking at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the First Schedule, or from any combination of injuries resulting from a single accident and specified in Part II of the First Schedule where the aggregate of the losses of earning capacity specified in the said Schedule against these injuries amounts to or exceeds one hundred per centum;

“tributer” means a person who is permitted to win minerals or produce of any kind from or on the land of another and who, in consideration of such permission, gives a proportion of the minerals or produce so won to that other person or pays to him the value of such proportion;

\*“West Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory.

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\*NOTE—All references to “West Malaysia” shall be construed as references to “Peninsular Malaysia”—see Interpretation (Amendment) Act 1997 [*Act A996*], subsection 5(2).

(2) The exercise and performance of the powers and duties of a department of the Government of Malaysia or of any State or of any other Government or of a local authority shall, for the purposes of this Act, be deemed to be the trade or business of such Government or local authority, as the case may be.

### **Power to exempt**

**3A.** The Minister may by order exempt, subject to such conditions as he may deem fit to impose, any person or class of persons from all or any of the provisions of this Act.

## PART II

### WORKMEN'S COMPENSATION FOR INJURY

#### **Employer's liability for compensation**

**4.** (1) (a) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, save as hereinafter provided, be liable to pay compensation and any expenses incurred in the treatment and rehabilitation of such workmen under section 15 in accordance with the provisions of this Act.

(b) An accident happening to a workman while he is, with the express or implied permission of his employer, travelling as a passenger by any vehicle, ship, vessel or aircraft to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by such means, be deemed to arise out of and in the course of his employment, if the accident would have been deemed so to have arisen had he been under such an obligation, and if at the time of the accident, the vehicle, ship, vessel or aircraft is being operated by or on behalf of his employer or by some other person by whom it is operated in pursuance of arrangements made with his employer and is not being operated in the ordinary course of a public transport service except when the injured workman is himself an employee of the public transport service concerned and would otherwise be entitled to receive compensation under paragraph (a) of this subsection.

(c) An accident happening to a workman in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and

in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimize damage to property.

(d) An accident happening to a workman shall be deemed to arise out of and in the course of his employment notwithstanding that he was at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he was acting without instructions from his employer, if—

- (i) the accident would have been deemed to have arisen had such act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and
- (ii) such act was done for the purposes of and in connection with the employer's trade or business.

(2) (a) An employer shall not be liable to pay compensation in respect of any injury which does not disable the workman for a period of at least four days from earning full wages at the work at which he was employed; and no compensation shall be payable in respect of the first four days of such disablement unless the disablement lasts for a period of at least fourteen days.

(b) An employer shall not be liable to pay compensation in respect of an injury to a workman resulting from an accident if it is proved that the injury to the workman is directly attributable to the workman having been at the time thereof under the influence of alcohol or a drug, unless such injury results in the death.

(3) No compensation shall be payable under this Act in respect of any disablement or death resulting from a deliberate self-injury or the deliberate aggravation of an accidental injury.

(3A) (a) If a workman is injured or dies as a result of an accident which occurs in Singapore or in any other territory which the Minister may from time to time by notification in the *Gazette* prescribe, in circumstances in which if such accident had happened in Malaysia such workman would have been entitled to compensation

under this Act, the employer of such workman shall be liable to pay compensation in accordance with this Act: provided that either the contract of service between such workman and his employer is made within Malaysia or the normal place of employment of such workman lies within Malaysia.

(b) If a workman is injured or dies as a result of an accident in Malaysia for which compensation is payable under the Workmen's Compensation Act of Singapore [*Singapore Cap.157*], the employer of such workman shall not be liable to pay compensation under this Act in addition to any compensation he is liable to pay under the Workmen's Compensation Act of Singapore.

(4) No compensation shall be payable under this Act in respect of any disablement or death resulting from personal injury, if the workman has at any time represented to the employer that he was not suffering or had not previously suffered from that or a similar injury, knowing that the representation was false.

(5) For the purposes of this Act an accident arising in the course of a workman's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.

### **Compensation for occupational diseases**

**5.** (1) If a workman who is employed in any occupation described in the Second Schedule contracts a disease or injury shown in the said Schedule to be related to that occupation, or if a workman who has been employed in such occupation contracts such a disease or injury within twelve months after ceasing to be so employed, and if disablement or the death of such workman results from that disease, compensation shall be payable as if the disease were a personal injury by accident arising out of and in the course of that employment, and all the other provisions of this Act shall apply accordingly, subject to the provisions of this section:

Provided that where the workman has developed any of the diseases mentioned in the said Schedule, that disease shall, unless the contrary is proved, be presumed to be due to the nature of the occupation if the workman has been employed in any of the specified occupations within thirty days of the date on which a registered medical practitioner certifies that in his opinion the workman is suffering from that disease.



(2) When a workman enters into a contract of service or apprenticeship with any employer to work in any occupation specified in the Second Schedule or is, with his consent, transferred by his employer to such an occupation, he shall, if requested to do so by the employer, submit himself for examination by a registered medical practitioner, the fee for which shall be paid by the employer; but such workman shall not be required to submit himself for examination by a registered medical practitioner otherwise than in accordance with Regulations made under this Act nor at shorter intervals than may be prescribed therein.

(3) No compensation shall be payable under this section in respect of the disablement or death of a workman if the disablement begins or the death happens, as the case may be, more than twelve months after the workman has ceased to be employed in any employment to the nature of which the disease is due by the employer from whom the compensation is claimed:

Provided that compensation shall be payable in respect of the death of a workman if his death has been preceded, whether immediately or not, by any period of disablement in respect of which compensation is payable under this section.

(4) For the purposes of calculating the monthly earnings of the workman in a claim for compensation under this section, the date of commencement of the disablement of the workman, or the date of his death, if there has been no previous period of disablement, shall be treated as the date of the happening of the accident, if he is then employed in any employment to the nature of which the disease is due by the employer from whom the compensation is claimed, and if he is not then so employed, the last day on which he was so employed shall for this purpose be deemed to be the date of the happening of the accident.

(5) For all other purposes of this Act the date of commencement of the disablement of the workman, or the date on which a registered medical practitioner certifies that in his opinion the workman is suffering from such disease, whichever date is the earlier, or the date of his death if there has been no previous period of disablement, shall be deemed to be the date of the happening of the accident.

(6) If the disease has been contracted by a gradual process, so that two or more employers are severally liable to pay compensation in respect thereof under this section, the aggregate amount of such compensation shall not exceed the amount that would have been

payable if those employers had been a single employer, and in such case each of those employers shall, in default of agreement, be liable for such proportion of the compensation payable as the Arbitrator thinks just.

(7) Any disease specified in the Second Schedule and any employment mentioned therein may be deleted therefrom, and new diseases and employments may be added thereto, by the Minister.

(8) Notwithstanding the foregoing provisions of this section, the Minister may, in respect of any disease specified in the Second Schedule, by order require that any such disease shall be certified by a Medical Board appointed under any Regulations made under section 43; and in respect of any disease referred to in such order this section and section 14 shall be construed as if for references to a registered medical practitioner there were substituted references to such Medical Board.

### **Compensation limited to injuries received at work**

**6.** Save as provided in sections 4 and 5 no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of the relevant employment.

### **Persons entitled to compensation**

**7.** (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Act.

(2) Where there are both total and partial dependants nothing in this Act shall be construed as preventing the compensation from being apportioned partly to the total and partly to the partial dependants.

(3) Where a dependant dies before a claim under this Act is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the legal personal representative of the dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

**Amount of compensation**

**8.** Subject to this Act the amount of compensation shall be as follows, namely—

- (a) where death has resulted from the injury, a lump sum equal to sixty months earnings or eighteen thousand ringgit, whichever is the less:

Provided that if the deceased workman did not leave any dependants, the lump sum shall be the actual amount of the expenses of the funeral of the workman or one thousand ringgit whichever is the less;

- (b) where permanent total disablement results from the injury—
  - (i) in the case of an adult who has completed the eighteenth year of his age, a lump sum equal to sixty months earnings or twenty-three thousand ringgit, whichever is the less;
  - (ii) in the case of any other adult, a lump sum equal to eighty-four months earnings or twenty-three thousand ringgit, whichever is the less; and
  - (iii) in the case of a minor, a lump sum equal to one hundred and eight months earnings or twenty-three thousand ringgit, whichever is the less:

Provided that where an injury results in permanent total disablement of such a nature that the injured workman must have the constant help of another person, additional compensation shall be paid amounting to one quarter of the amount which is otherwise payable under this paragraph;

- (c) where permanent partial disablement results from the injury such percentage of the compensation which would have been payable in the case of permanent total disablement as is proportionate to the permanent loss of earning capacity caused by the injury:

Provided that in the case of an injury specified in the First Schedule the compensation payable shall not be less than such percentage of the compensation which is payable in the case of permanent total disablement as is set opposite to that injury in the said Schedule:

And provided further that if death follows a period of total or partial temporary disablement, the total of all half-monthly payments paid under paragraph (e) below and the lump sum payable in respect of such death shall together not exceed twenty-three thousand ringgit;

- (d) where more injuries than one are caused by a single accident and permanent disablement results the amounts of compensation payable in respect of all such injuries shall be aggregated but not so as to exceed in any case the amount which would have been payable in respect of permanent total disablement;
- (e) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter, of one hundred and sixty-five ringgit or an amount equal to one-third of his monthly earnings, whichever is the less:

Provided that—

- (i) where permanent disablement follows a period not exceeding twelve months of total or partial temporary disablement there shall not be deducted from the lump sum payable in respect of such permanent disablement any half-monthly payments or allowance to which the injured workman is entitled and which he has received from his employer by way of compensation;
- (ii) where permanent disablement follows a period exceeding twelve months of total or partial temporary disablement there shall be deducted from the lump sum payable in respect of such permanent disablement any half-monthly payments or allowance to which the injured workman is entitled and which he has received from his employer by way of compensation in respect of any period in excess of twelve months, subject to a maximum deduction equivalent to the said lump sum;

- (iii) where resident treatment in a hospital or outpatient medical treatment is necessary as a result of the accident, abstention from work for such treatment shall be regarded as total temporary disablement for the purposes of payment of compensation:

And provided further that no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly earnings of the workman before the accident exceed half the monthly amount which he is earning or is in the opinion of the Commissioner able to earn in some suitable employment or business after the accident:

And provided further that if the disablement ceases before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month an amount proportionate to the duration of the disablement during that half-month.

### **Method of calculating earnings**

**9.** (1) For the purposes of this Act the earnings of a workman shall be computed in such manner as is best calculated to give his true monthly earnings at the date of the accident, subject to the following provisions:

- (a) where the workman has been exclusively employed by the employer who is liable to pay compensation during a continuous period of not less than six months immediately preceding the accident in the grade in which he was employed at the time of the accident, his monthly earnings shall be deemed to be the average amount of his earnings during the last six completed months of that period;
- (b) where the workman has been exclusively employed by the employer who is liable to pay compensation in the grade in which he was employed at the time of the accident during a continuous period of less than six months immediately preceding the accident and there is another workman who has been exclusively employed on similar work by the same employer for a continuous period of not less than six months immediately preceding the accident, the monthly earnings of the former workman shall be deemed to be the average amount of the earnings of the latter workman during the last six completed months of that period;

- (c) where reliable evidence of the earnings of the relevant workman under paragraph (a) or (b) does not exist or cannot be adduced without undue delay or expense, regard may be had to evidence of the earnings of workmen employed on similar work in the same locality at or about the date of the accident;
- (d) where the earnings of a workman cannot be determined according to the provisions of paragraph (a), (b) or (c) or where the earnings of a workman have been determined according to the provisions of paragraph (a), (b) or (c) and are less than one hundred and twenty-six ringgit a month, then the earnings of the workman shall be deemed to be one hundred and twenty-six ringgit a month.

(2) Where a workman is employed in the same occupation under contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his monthly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

(3) For the purposes of this section a period of service shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

(4) Subsections (1) and (2) shall apply to the calculation of monthly earnings for the purposes of the definition of “workman” in section 2.

### **Distribution of compensation**

**10.** (1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or to a minor, shall be made otherwise than by deposit with the Commissioner, and any such payment made directly to any dependant of a deceased workman or to any woman or minor shall be deemed not to be a payment of compensation for the purposes of this Act.

(2) Any other money which is payable as compensation may, and where the person to whom it is payable so requests shall, be deposited with the Commissioner.

(3) The receipt of the Commissioner shall be a sufficient discharge for any compensation deposited with him.

(4) On the deposit of any money under subsection (1) as compensation in respect of an accident resulting in the death of a workman, the Commissioner may deduct there from the actual amount of the expenses of the funeral of the workman or one thousand ringgit, whichever is the less, and may pay the same to the person by whom such expenses were incurred.

(5) The Commissioner shall make such inquiry under section 27 as he may deem necessary to determine the number of dependants of a deceased workman and the extent to which they were dependent upon him, and may in respect of any dependant or alleged dependant not being within Malaysia accept as evidence the certificate of a competent authority holding an equivalent position appointed under any law relating to workmen's compensation in force in the country or territory in which such dependant or alleged dependant resides:

Provided that nothing herein contained shall prevent the Commissioner from taking into consideration any other evidence as to the existence of dependants and the extent of dependence.

(6) Compensation deposited in respect of an accident resulting in the death of a workman shall, subject to any deduction made under subsection (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(7) (a) Where any lump sum deposited with the Commissioner is payable to a woman or to a minor or other person under a legal disability, or where any lump sum has been deposited with the Commissioner at the request of the person to whom it is payable, such sum may be invested, applied or otherwise dealt with for the benefit of the woman or of such minor or of such other person during his disability or of the person at whose request the said sum was so deposited, as the case may be, in such manner as the Commissioner may direct.

(b) Where a half-monthly payment is payable to any workman under a legal disability the Commissioner may, of his own motion or on application made to him in that behalf, order that the payment

be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

(c) In all other cases compensation whether or not deposited with the Commissioner shall be paid to the person entitled thereto.

(8) If the Commissioner is satisfied after such inquiry as he may deem necessary that no dependant of a deceased workman exists or can be traced and the circumstances are such that there is no reasonable likelihood that any dependant can be traced he shall repay the balance of the money deposited with him under subsection (1) to the person by whom it was deposited.

(9) The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(10) Where after inquiry made of his own motion or on application made to him the Commissioner is satisfied that, because of neglect of children on the part of a parent, or of the death or a change in the circumstances of any dependant, or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of that order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall in any case involve the repayment by a dependant of any sum already paid to him.

(11) Any party aggrieved by any order or decision of the Commissioner under this section may, at any time within fourteen days of the communication to him of such order or decision, apply to the Arbitrator to vary such order or decision.

### **Compensation not to be assigned, attached or charged**

**11.** Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any



person other than the workman by operation of law nor shall any claim be set off against the same.

**Notice and claim**

**12.** (1) Except as provided in this section proceedings for the recovery of compensation for an injury under this Act shall not be maintainable unless notice of the accident in respect of which such compensation is claimed has been given to the employer within seven days after the happening thereof and unless a claim for compensation with respect to such accident has been made within six months from the happening of the accident causing the injury, or, in case of death, within six months from the date of the death.

(2) No notice to the employer shall be necessary where a fatal accident has occurred.

(3) The want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not be, if a notice or amended notice were then given and the hearing postponed, prejudiced in his defence by such want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from Malaysia or other reasonable cause.

(4) The failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from Malaysia or other reasonable cause.

(5) Notice to the employer, or if there is more than one employer, to one of such employers, in respect of an injury may be given either in writing or orally or to the foreman or other person under whose supervision the workman was employed, or to any person designated for the purpose by the employer, and shall state in ordinary language the cause of the injury and the date at which the accident happened.

(6) The notice if in writing may be given by delivering the same at, or sending it by registered post addressed to, the residence or place of business of the person to whom it is to be given.

(7) Where the employer is a body of persons, corporate or unincorporate, the notice, if in writing, may be given by delivering it or by sending it by registered post addressed to the employer, at the office, or, if there be more than one office, any one of the offices, of such body.

(8) The notice hereby required may be given by the Commissioner on behalf of any workman, and a notice so given shall have the same effect as if given by the workman himself.

### **Notice to Commissioner by employer**

**13.** (1) Every employer shall give notice in writing to the Commissioner of the occurrence of any accident on his premises in connection with anything done for the purposes of the employer's trade or business and which results in the death or immediate disablement total or partial of any person injured.

(2) Such notice shall be given within ten days of the occurrence of the accident.

(3) For the purpose of this section an employer's premises shall be deemed to include any premises under his control or management whether exclusive or not and the approaches thereto and any other land in fact occupied in connection therewith, whether such approaches or other land form part of a public road or are otherwise open to the public or not, and any place where the person injured was required to work by his employer or his employer's foreman or other agent; and an accident to or in connection with any vehicle belonging to the employer or driven by a person employed by him shall be deemed to have occurred on the employer's premises.

(4) A notice under this section may contain a denial of liability to pay compensation and shall not be construed as an admission unless liability be admitted by clear and express words.

(5) Any employer failing or omitting to give notice as required by this section shall be guilty of an offence and shall be liable,

on conviction, to a fine not exceeding five thousand ringgit for a first offence, and a fine not exceeding ten thousand ringgit for any subsequent offence:

Provided that no court shall take cognizance of an offence under this section except on the complaint of the Commissioner.

(6) For the purposes of this section "employer" shall include the person, if any, referred to in section 19 as "the principal".

### **Medical examination and treatment**

**14.** (1) When notice of an accident has been given to an employer by a workman or by the Commissioner on the workman's behalf the employer may offer to have the workman examined, free of charge to the workman, by a registered medical practitioner, and the workman shall as soon as possible submit himself for such examination; and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that no workman shall be required to submit himself for such examination otherwise than in accordance with Regulations made under this Act.

(2) If a workman, on being required to do so by the employer under subsection (1), or by the Commissioner, or by an Arbitrator, at any time refuses to submit himself for examination by a registered medical practitioner whose services have been offered to him by the employer free of charge, or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction.

(3) If a workman having been so required, and before the expiry of the period within which he is liable under subsection (1), to submit himself for medical examination, voluntarily leaves, without having been so examined, the place at which he was residing at the time of the accident, his right to compensation shall be suspended until he notifies his employer of his new address and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under subsection (2) or (3), dies without having submitted himself for medical examination as required by those subsections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under subsection (2) or (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in paragraph 4(2)(a), the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be treated by a registered medical practitioner whose services have been offered to him by the employer free of charge or, having accepted such offer, has failed to carry out or deliberately disregarded the instructions for his treatment of such medical practitioner, then—

- (a) where the workman is in receipt of half-monthly payments under the provisions of this Act, the Commissioner may order the suspension of such half-monthly payments until such workman accepts such treatment or has carried out such instructions, and may further, where he is satisfied that the duration of the workman's disability has been prolonged by such refusal, failure or disregard, order the restriction of the period of such half-monthly payments to such period, calculated from the date of injury, as the disability of the workman might reasonably have been expected to have lasted for, had he accepted treatment and followed instructions; or
- (b) where the workman has suffered permanent disablement and the Commissioner is satisfied that such disablement has been aggravated by such refusal, failure or disregard the Commissioner may order that compensation be paid to the workman appropriate to such disablement as he might reasonably have been expected to have suffered if he had been regularly treated by a registered medical practitioner.

### **Approved hospitals and special hospitals**

**15.** (1) The Minister of Health shall from time to time by notification in the *Gazette* declare which hospitals are approved hospitals for

the purpose of this Act; and, where a workman is so injured that a registered medical practitioner certifies that his treatment in an approved hospital is necessary, the employer shall at his own expense cause such workman to be conveyed to and from such approved hospital for treatment in such manner as in the opinion of the registered medical practitioner is appropriate to his condition.

(2) (a) Where the Minister of Health is satisfied that suitable equipment and supervision are available in any hospital for the treatment and convalescence of injured workmen and especially for giving them treatment for the re-education of injured parts and the restoration, so far as practicable, of bodily powers and general health, he may by notification in the *Gazette* declare such hospital to be a special hospital for the purpose of this Act; and any injured workman may be admitted for treatment to such special hospital on the recommendation of the registered medical practitioner in charge of an approved hospital, provided that the registered medical practitioner in charge of such special hospital certifies that in his opinion such treatment will benefit the workman.

(b) Where any injured workman is admitted or attends for treatment under paragraph (a) in a special hospital, his employer shall at his own expense cause such workman to be conveyed to and from such special hospital as the registered medical practitioner in charge of such special hospital shall direct.

(3) Where an injured workman is admitted to or treated at either an approved or a special hospital, the employer shall, in addition to the payment of compensation to the workman or, where the workman's death supervenes, to that workman's dependants, be liable to pay directly to the management of such hospital all ward fees and treatment fees in respect of such workman and the cost of such medicines and of such artificial limbs, wheelchair, and surgical appliances (including the cost of renewal of such artificial limbs, wheelchair and surgical appliances) as are certified by the registered medical practitioner in charge of the approved or special hospital to be reasonably necessary and which are in fact supplied to such workman:

Provided that the Minister shall from time to time by notification in the *Gazette* prescribe the maximum amounts for which an employer shall be liable in respect of the several fees and costs specified in this subsection.

(4) If the injured workman refuses treatment at an approved or special hospital any award of compensation made to him may, at the instance of the employer, be suspended or reviewed by the Commissioner.

### **Review**

**16.** (1) Any half-monthly payment payable under this Act, either under an agreement between the workman and the employer and consented to and recorded by the Commissioner or under the award of an Arbitrator, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by a certificate of a registered medical practitioner that there has been a change in the condition of the workman.

(2) Any half-monthly payment may, on review under this section, and subject to the provisions of this Act, be continued, increased, decreased or ended.

### **Power of review**

**16A.** The Commissioner shall, by virtue of this subsection, have power to review and to vary any order originally made under the Ordinances and Enactments specified in the Third Schedule to this Act.

### **Commutation of half-monthly payments**

**17.** Any half-monthly payments may, by agreement between the workman and the employer consented to and recorded by the Commissioner, or, if the workman and the employer cannot agree or the Commissioner does not consent and the payments have been continued for not less than six months, on application to the Arbitrator, be commuted into a lump sum to be paid instead of such half-monthly payments of such amount as may be agreed to by the parties and consented to by the Commissioner or determined by the Arbitrator, as the case may be.

### **Workman leaving Malaysia to reside elsewhere**

**18.** (1) If a workman receiving a half-monthly payment intends to leave Malaysia in order to reside in another country, he shall give to the Commissioner fourteen days previous notice of his

intended departure; and the Commissioner shall forthwith in form the employer who may agree with the workman to continue the payments in the country in which the workman intends to reside, and in default of agreement either party may apply to the Arbitrator for the commutation of such half-monthly payments into a lump sum to be paid instead of such half-monthly payments and the Arbitrator shall thereupon determine the amount of such lump sum.

(2) If a workman receiving a half-monthly payment leaves Malaysia for the purpose of residing in another country without giving notice as hereinbefore provided, he shall thereupon cease to be entitled to any benefits under this Act during his absence from Malaysia and he shall, for the purposes of paragraph 8(e) be deemed to have received half-monthly payments during such absence.

### **Liability in case of workmen employed by contractors**

**19.** (1) Where any person (in this section referred to as “the principal”) in the course of or for the purpose of his trade or business contracts with any other person otherwise than as a tributer (in this section referred to as “the contractor”) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him and where a claim has been made to the principal for compensation this Act shall apply as if references to the principal were substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the person who would have been liable to pay compensation to the workman if this section had not been enacted.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation under this Act from the contractor instead of the principal, and a claim made against a principal or a contractor, as the case may be, shall not bar subsequent proceedings under this Act against the other to recover so much of the compensation agreed or awarded as may remain unpaid.

(4) This section shall not apply in any case where the accident occurred elsewhere than at or about the place where the principal has undertaken to execute work or which is otherwise under his control or management.

### **Remedies both against employer and stranger**

**20.** Where any injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

- (a) the workman may take proceedings against that person to recover damages and may claim against any person liable to pay compensation under this Act, but he shall not be entitled to recover both damages and compensation; and
- (b) if the workman has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called upon to pay an indemnity under subsection 19(2) shall be entitled to be indemnified by the person so liable to pay damages as aforesaid and all questions as to the right to and amount of any such indemnity may, in default of agreement, be settled by an Arbitrator.

### **Bankruptcy of employer**

**21.** (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer becoming bankrupt or making a composition or scheme of arrangement with his creditors, or, if the employer is a company, in the event of the company having commenced to be wound up or a receiver or manager of the company's business or undertaking having been duly appointed or possession having been taken by or on behalf of the holders of debentures secured by a floating charge of any property comprised in or subject to the charge, the rights of the employer against the insurers as respecting that liability shall, notwithstanding anything in any written law relating to bankruptcy or the winding-up of companies for the time being in force in Malaysia or any part thereof, be



transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer had the transfer not happened.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation or, as the case maybe, may recover the balance from the receiver or manager.

(3) Where in any case such as is referred to in subsection (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that subsection shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the bankruptcy or liquidation for the amount paid to the workman:

Provided that this subsection shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the bankruptcy or liquidation proceedings and that the employer was insured and with whom.

(4) There shall be included among the debts which—

- (a) under section 43 of the Bankruptcy Act 1967 [*Act 360*], are to be paid in priority to all other debts;
- (b) under section 292 of the Companies Act 1965 [*Act 125*], are to be paid in priority to all other debts; and
- (c) under section 191 of the Companies Act 1965, are to be paid in priority to any claims for principal or interest in respect of debentures,

the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say:

- (i) in the aforementioned case (a), the date of the order;

- (ii) in the aforementioned case (*b*), the date of the commencement of the winding-up of the company, or, where the company is ordered to be wound up compulsorily and had not previously commenced to be wound up voluntarily, the date of the winding-up order; and
- (iii) in the aforementioned case (*c*), the date of the appointment of the receiver or of possession being taken as mentioned in the said section 191.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum into which the half-monthly payment could, if commutable, be commuted if application were made for the purpose under section 17 and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) Subsection (4) shall apply in the case of any amount for which an insurer is entitled to prove under subsection (3), but otherwise those provisions shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as is referred to in subsection (1).

(7) This section shall not apply where a company is wound up voluntarily for purposes only of reconstruction or of amalgamation with another company.

### **Special provisions relating to seamen**

**22.** This Act shall apply to seamen in the same way as to workmen, subject to the following modifications, namely:

- (a) the notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident;
- (b) in the case of the death of a master or seaman the claim for compensation shall be made within six months after the news of the death has been received by the claimant

or, where the ship has been or is deemed to have been lost with all hands, within eighteen months after the date on which the ship was, or is deemed to have been, so lost;

- (c) where an injured master or seaman is discharged or left behind in any territory in the Commonwealth or in a foreign country depositions respecting the circumstances and nature of the injury may be taken by any judge or magistrate in that territory or by a consular officer in the foreign country, and if so taken shall be transmitted by the person by whom they are taken to the Minister, and such depositions or certified copies thereof shall, in any proceedings for enforcing the claim, be admissible in evidence;
- (d) in the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law relating to shipping in force for the time being in Malaysia or any part thereof liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under subsection 10(1) without making the deduction referred to in subsection (4) of that section;
- (e) no half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law relating to shipping in force for the time being in Malaysia or any part thereof, liable to defray the expenses of maintenance of the injured master or seaman;
- (f) any sum payable by way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything contained in section 360 of the Merchant Shipping Ordinance 1952 [*Ord. 70 of 1952*] in the application of this Act in Peninsular Malaysia, or in section 503 of the Merchant Shipping Act 1894 [*57 and 58 Vict. C. 60*] of the United Kingdom in the application of this Act to Sabah and Sarawak.

### **Returns as to compensation**

**23.** (1) The Minister may by notification in the *Gazette* direct that every person employing workmen, or that any special class of such persons, shall send at such time and in such form and to such authority as may be specified a correct return specifying the number

of injuries in respect of which compensation under this Act has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the said Minister may direct.

(2) Any person making default in complying with any direction notified under this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand ringgit.

### **Contracting out**

**24.** Any contract or agreement whether made before, on or after the date of coming into force of this Act whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

### **Commissioner may receive and pay to dependants money due to a dead workman from his employer**

**25.** Notwithstanding anything contained in any written law relating to the administration or distribution of estates of deceased persons for the time being in force in Malaysia or any part thereof, where a workman has died and it appears to the Commissioner that his dependants are entitled to compensation under this Act and that any money not exceeding in amount the amount of his earnings for two months as calculated under section 9 was payable to such workman by his employer it shall be lawful for the Commissioner in his discretion to receive that money and to pay the same to the dependants without the production of a grant of representation.

### **Compulsory insurance by employer**

**26.** (1) Every employer shall insure and keep himself insured with an insurer within the meaning of the \*Insurance Act 1963 [Act 89] in respect of every liability which he may incur under this Act to any workman employed by him.

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\*NOTE—Insurance Act 1963 [Act 89] has since been repealed by Insurance Act 1996 [Act 553]—see Act 553, Schedule.

(2) Notwithstanding subsection (1) the Minister may by order approve an insurance scheme, and upon the coming into force of the order, every employer shall insure and keep himself insured under the approved insurance scheme in respect of any liability which he may incur under this Act to every workman employed by him.

(3) For the purposes of subsection (2) "approved insurance scheme" means a scheme underwritten by an insurer registered under the Insurance Act 1963 and established in a manner approved by the Minister.

(4) In the event the Minister revokes an order made under subsection (2) the provisions of subsection (1) shall apply.

(5) Any employer who for the purpose of defraying or partly defraying the cost of insurance in respect of his liability to pay compensation under this Act makes any deduction from the earnings of a workman in his employment shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(6) Any employer who fails to insure himself in accordance with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

### PART III

#### THE COMMISSIONER AND ARBITRATORS

##### **Commissioners to hold inquiries**

**27.** (1) If any question arises under this Act that question shall be settled by agreement between the Commissioner, the workman and the employer and for the purposes of reaching such agreement the Commissioner may hold an inquiry:

Provided that nothing in this subsection shall affect the right of the Commissioner to make any decision required under section 8, 10, 14 or 15.

(2) An application to the Commissioner to settle any question may be made by or on behalf of a workman or the employer and shall contain a concise statement of the circumstances of the accident and of the resulting injury:

Provided always that where the Commissioner has reasonable cause to believe that an accident has occurred resulting in injury to or the death of any workman he may of his own motion and at any time hold an inquiry to ascertain whether such accident has occurred and whether any workman has been injured and whether any compensation payable under this Act is being paid.

(3) (a) The Commissioner may, before holding any inquiry under this section, require a preliminary investigation to be made by such public officer as he shall appoint in writing in that behalf into the circumstances of any accident resulting in injury to or the death of any workman and for this purpose section 35 shall apply to such officer.

(b) Any public officer appointed under paragraph (a) of this subsection to make a preliminary investigation shall, upon completing the same, forward to the Commissioner the record of such investigation and such record shall form part of the record of the Commissioner.

(4) (a) The Commissioner may at any time, of his own motion, or on application made by or on behalf of the workman or the employer, reopen any inquiry held by him and may, by agreement with the workman and the employer, confirm, amend, vary or cancel any agreement previously reached.

(b) Section 30 shall apply if agreement is not reached under paragraph (a) of this section.

### **Recording of agreements**

**28.** (1) Where the amount of the compensation by way of a lump sum has been ascertained by agreement between the workman and his employer a memorandum shall, within fourteen days, be sent by the employer (and may be sent by the workman or any dependant) to the Commissioner, who, on being satisfied as to its genuineness and that the amount of compensation agreed upon is adequate shall, except as hereinafter provided in this section, record the memorandum in a register in the prescribed manner.

(2) No such memorandum shall be recorded until seven days have expired after communication by the Commissioner of notice to the parties concerned.

(3) Where it appears to the Commissioner that an agreement for the payment of a sum, whether by way of commutation of a half-monthly payment or otherwise, or an agreement for the amount of compensation ought not to be recorded by reason of the inadequacy of the sum or amount or by reason of the agreement having been obtained by fraud or undue influence or other improper means he may refuse to record the memorandum of the agreement and if he and the employer and the workman are unable to settle the question by agreement, the Commissioner shall refer the matter to an Arbitrator.

(4) An agreement for the payment of compensation which has been recorded under this section shall be enforceable under this Act notwithstanding anything contained in the Contracts Act 1950 [Act 136] or in any other law for the time being in force.

### **Effect of failure to record an agreement**

**29.** Where a memorandum of any agreement the recording of which is required by section 28 is not sent to the Commissioner as and within the time required by that section the employer shall be liable to pay the full amount of compensation which he would otherwise be liable to pay under the provisions of this Act.

### **Arbitrator to decide when parties fail to agree**

**30.** (1) If any question arises under this Act which a workman, his employer and the Commissioner cannot settle by agreement under section 27, such question shall be decided by an Arbitrator.

(2) A question is not settled by agreement unless the workman, the employer and the Commissioner all signify their consent by signing an acknowledgment of agreement or unless an agreement between the workman and the employer is recorded by the Commissioner under section 28.

(3) An application for the settlement of any question which is addressed to an Arbitrator shall contain a certificate by the Commissioner that he has held an inquiry under section 27 and that agreement has not been reached.

(4) An application requesting the decision of an Arbitrator on any question may be drawn up and submitted to an Arbitrator by a workman, by the employer, by the Commissioner on behalf of a workman or by the Commissioner of his own motion, or by any person aggrieved by any decision of the Commissioner under section 8, 10, 14 or 15.

(5) An application to an Arbitrator for the settlement of any question shall be made in such form and shall be accompanied by such fee, if any, as may be prescribed and shall contain, in addition to any particulars which may be prescribed and to the certificate under subsection (3), a concise statement of the circumstances in which the application is made and of the relief or order which the applicant seeks and of the questions on which agreement both has and has not been reached:

Provided that the payment of fees shall be waived when the Commissioner makes an application either of his own motion or on behalf of a workman.

(6) The Commissioner shall, at the request of any person applying for the same and upon payment of the prescribed fees, supply to him a copy of his records together with a copy of any relevant correspondence and shall authenticate the same.

(7) If in the course of an inquiry held by the Commissioner under section 27 the workman and the employer and the Commissioner all agree on any question and the Commissioner records the agreement in writing, that question shall not be submitted to an Arbitrator.

### **Agreement to be free of stamp duty**

**31.** No stamp duty shall be leviable or payable on any agreement under this Act.

### **Appearance of parties**

**32.** (1) Any appearance, application or act required to be made or done by any person before or to an Arbitrator (other than an appearance as a witness) may be made or done on behalf of such person—

(a) by an advocate and solicitor in Peninsular Malaysia or an advocate in Sabah and Sarawak;



- (b) by an officer of a trade union or of such association or combination of workmen or employers as may be approved by the Minister, who is authorized by the said union, association or combination and by the person in question to appear on that person's behalf;
- (c) where the said person is a workman, by the Commissioner;  
or
- (d) where the said person is an employer, by a person in his permanent and exclusive employment or by his insurer, or, where the insurer is a company, by an agent authorized, generally or specifically under the seal of the company, to represent the company in such proceedings.

(2) Where the Government is a party to any proceedings under this Act such appearance, application or act may be made by the head of the department by, in or under which the workman was employed or by any officer of such department authorized in writing by the head thereof or by any Federal Counsel.

### **Experts to assist Arbitrator**

**33.** An Arbitrator may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

### **Enquiry by Arbitrator**

**34.** (1) Where any matter is under this Act required to be done by or before an Arbitrator, the same shall, subject to the provisions of this Act and to any Regulations made there under, be done by or before the Arbitrator for the area in which the accident which resulted in the injury occurred:

Provided that, where the workman is a seaman, any such matter may be done by or before the Arbitrator for the area in which the owner or agent of the ship resides or carries on business.

(2) If an officer vested with all the powers conferred and the duties imposed upon the Commissioner by this Act is satisfied by any party to any proceedings before him under this Act that such matter can be more conveniently dealt with by any other such

officer, whether in the same State or not, he may, subject to Regulations made under this Act, order such matter to be transferred to such other officer either for report or for disposal, and, if he does so, shall forthwith transmit to such other officer all documents relevant to the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money or securities remaining in his hands or held by him for the benefit of any party to the proceedings.

(3) Such other officer to whom any matter is so transferred shall, subject to Regulations made under this Act, inquire thereto and, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from the officer to whom any matter has been transferred for report under subsection (2) the officer by whom it was referred shall decide the matter referred to in conformity with such report.

### **Powers of the Commissioner and of an Arbitrator**

**35.** (1) For the purposes of this Act the Commissioner and an Arbitrator shall have all the powers of a Sessions Court Judge for the summoning and examination of witnesses and the administration of oaths or affirmations and for compelling the production of documents and material objects and the Commissioner and an Arbitrator shall be deemed to be a civil court for all the purposes of section 129 and of Chapter XXXIV of the Criminal Procedure Code [*Act 593*].

(1A) An Arbitrator may in respect of any dependant or alleged dependant not being within Malaysia, accept as evidence the certificate of a competent authority holding an equivalent position to that of a Commissioner, appointed under any law relating to workmen's compensation in force in the country or territory in which such dependant or alleged dependant resides:

Provided that nothing herein contained shall prevent the Arbitrator from taking into consideration any other evidence as to the existence of dependants and the extent of dependence.

(2) The Commissioner or an Arbitrator shall make a brief memorandum of the substance of the evidence of every witness

as the examination of the witness proceeds, and such memorandums shall be signed by the Commissioner or the Arbitrator with his own hand and shall form part of the record:

Provided that the evidence of any medical witness shall be taken down as nearly as may be word for word.

(3) Any person who in any way wilfully obstructs the service of or obedience to any summons and any person summoned who neglects to attend and to produce documents as required in such summons and any person who commits in respect of such enquiry any offence described in Chapter X of the Penal Code [*Act 574*] shall be guilty of an offence and shall be liable, on conviction, as provided in Chapter X of the Penal Code.

(4) Every person who gives evidence before the Commissioner or an Arbitrator shall be bound to answer truthfully all questions put to him by the Commissioner or the Arbitrator and any person who wilfully makes any false statement or who gives any evidence in any enquiry under this Act which he knows to be untrue, or who does any other act, which if done in a judicial proceeding would be punishable under Chapter XI of the Penal Code, shall be guilty of an offence and shall be liable, on conviction, as provided in that Chapter.

(5) Every Arbitrator shall be deemed to be a public servant within the meaning of the Penal Code.

### **Arbitrator's order to be sent to Commissioner**

**36.** When an Arbitrator has decided the question submitted to him under section 30 he shall send a certified copy of his order thereon to the Commissioner, before whom the original enquiry under section 27 was held.

### **Costs**

**37.** All costs of and incidental to any proceedings before an Arbitrator shall, subject to Regulations made under this Act, be in the discretion of the Arbitrator, provided that no costs shall be awarded against the Commissioner whether he appears of his own motion or on behalf of a workman.

**Power to submit cases**

**38.** (1) An Arbitrator may, if he thinks fit, submit any question of law for the decision of a Judge of the High Court, and if he does so he shall decide such question in conformity with such decision.

(2) An appeal shall lie to the Federal Court from any decision of a Judge under this section.

**Appeal from Arbitrator**

**39.** (1) Save as hereinafter provided, no appeal shall lie to the High Court from any order of an Arbitrator.

(2) If a Judge of the High Court shall sign a certificate that the decision of an Arbitrator involves a question of law which it is desirable in the public interest to have determined by the High Court, upon an application made in that behalf by or on behalf of a workman or his employer, an appeal shall lie to the High Court.

(3) An appeal shall lie to the Federal Court from any decision of a Judge under this section.

(4) An appeal shall not lie in any case in which the parties have agreed to abide by the decision of the Arbitrator or in which the order of the Arbitrator gives effect to an agreement come to by the parties.

(5) Subject to Rules of Court, the procedure in an appeal to the High Court shall be the procedure in a civil appeal from a Sessions Court with such modifications as the circumstances may require.

**Enforcement of orders and agreements**

**40.** (1) Where any order has been made by an Arbitrator or any agreement recorded by the Commissioner, the Commissioner shall, at the request of any person claiming under such order or agreement, send a certified copy thereof to the Registrar of a Sessions Court in the State wherein the order was made or the agreement recorded and the said Registrar shall cause the said copy to be recorded and thereupon the said order or agreement shall for all purposes be enforceable as a judgment of the Session Court, notwithstanding that the same may in respect of amount be in excess of the ordinary jurisdiction of the said Court.

(2) Where the Commissioner has sent a certified copy of an order or of an agreement to the Registrar to be recorded under subsection (1), and subsequently on review under section 10, 14, 15 or 16 an order is made varying the amount of compensation to be paid under such order or agreement, the Commissioner shall send a certified copy of the said order or agreement as varied by him to the said Registrar who shall cause the said copy to be recorded and thereupon the original order or agreement as varied by the subsequent order shall for all purposes thenceforth be enforceable in lieu of the original order or agreement as a judgment of the Sessions Court notwithstanding that the same may in respect of amount be in excess of the ordinary jurisdiction of the said Court.

### **Limitation of workman's right of action**

**41.** (1) Nothing contained in this Act shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted and is prosecuting a suit for damages in respect of that injury in any court against his employer or if he has recovered damages in respect of that injury in any court from his employer; and no suit for damages shall be maintainable in any court by a workman against his employer in respect of any injury—

- (a) if he has applied to the Commissioner to settle any question in respect of the injury under subsection 27(2); or
- (b) if an agreement has been come to between the workman and the employer and such agreement has been recorded under section 28; or
- (c) if he has recovered damages in respect of the injury in any court from any other person.

(2) If a suit is instituted in any court to recover damages independently of this Act for injury caused by any accident, and it is determined in such suit or on appeal that the injury is one for which the employer is not liable in such suit, but that he would have been liable to pay compensation under this Act, the suit shall be dismissed; but the trial court, or if the determination is given on appeal, the appellate court shall, if the workman so choose, proceed to assess such compensation, but may deduct therefrom all or part of the costs which, in its judgment, have been caused by the workman instituting the suit instead of proceeding under this Act: and in any proceedings under this subsection, when the trial court or appellate court assesses the compensation, it shall

give a certificate of the compensation it has awarded and the direction it has given (if any) as to the deduction of costs and such certificate shall have the force and effect of an Arbitrator's order.

### **Reciprocal arrangements for payment of workman's compensation**

**42.** (1) Where an arrangement has been made between the Government of Malaysia and the Government of any part of the Commonwealth, whereby sums awarded under the law relating to workmen's compensation in Malaysia to beneficiaries resident or becoming resident in the territory administered by any such Government, and sums awarded under the law relating to workmen's compensation in any such territory to beneficiaries resident or becoming resident in Malaysia, may at the request of the authority by which the award is made be transferred to and administered by a competent authority in any such territory or by the Commissioner in Malaysia, as the case may be, money in the hands of the Commissioner shall be transferred, and money received by him shall be administered, in the manner prescribed.

(2) In this section "the Commonwealth" shall not include such territories administered by the Government of any part of Her Britannic Majesty's dominions in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations as Her Britannic Majesty has not, by Order in Council, directed to be treated as if they were included in Her dominions for the purposes of the Workmen's Compensation (Transfer of Funds) Act 1927 [*17 and 18 Geo. V c. 15*].

### **Regulations**

**43.** (1) The Minister may make Regulations for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such Regulations may:

- (a) prescribe the limitations subject to which officers appointed to exercise powers and perform duties conferred and imposed on the Commissioner may exercise and perform such powers and duties;

- (b) prescribe the intervals at which and conditions subject to which a workman may be required to submit himself for examination by a registered medical practitioner under sections 5 and 14;
- (bb) provide for the appointment, procedure and powers of any Medical Board required to be established for the purpose of certifying any disease specified in the Second Schedule, and prescribe the intervals at which and the conditions subject to which a workman may be required to submit himself for examination by such Board under sections 5 and 14;
- (c) prescribe the manner in which money in the hands of an officer appointed by the Minister under this Act to exercise and perform all or any of the powers conferred and the duties imposed upon the Commissioner by this Act may be invested for the benefit of dependants of a deceased workman and transferred from one such officer to another under section 10;
- (d) prescribe the procedure for the review of compensation by the Commissioner or an Arbitrator when an injured workman declines treatment under subsection 14(6) or declines treatment in either an approved or a special hospital;
- (e) prescribe the intervals at which and the conditions subject to which an application for review may be made under subsections 14(6), 15(4) and section 16;
- (f) prescribe the procedure to be followed when a registered medical practitioner who has examined a workman certifies that treatment in either an approved or a special hospital is necessary under subsection 15(1) or (2) respectively and the procedure for the payment of hospital fees and the cost of artificial limbs and surgical appliances under subsection 15(3);
- (g) prescribe the procedure for receiving and disposing of money owing to deceased workman by their employers under section 25;
- (gg) (*Deleted by Act A361*);
- (h) prescribe the procedure to be followed in investigations or inquiries under section 27;

- (i) prescribe the form and manner in which memoranda of agreements shall be presented and recorded under section 28;
- (j) prescribe fees under section 30;
- (k) prescribe the procedure for the choosing by an Arbitrator of persons possessed of special knowledge to assist him under section 33;
- (l) regulate the transfer of matters and cases from one State to another and the transfer of money in such cases under section 34;
- (m) prescribe scales of the costs which may be allowed for proceedings under this Act before an Arbitrator under section 37;
- (n) prescribe the procedure for the transfer of money out of Malaysia and for the receipt of money into Malaysia under section 42;
- (o) provide for the transfer of any money in the hands of the Commissioner or for the receipt and administration by the Commissioner of any money applicable for the benefit of a person resident or about to reside in any territory in the Commonwealth or Malaysia respectively;
- (p) authorize the withholding by the Commissioner, in whole or in part, of half-monthly payments pending decision of an application for review of the same;
- (q) provide for the representation in proceedings before an Arbitrator of parties who are subject to legal disability or are unable for other reasons to appear personally;
- (r) provide for legal aid to workmen in difficult cases;
- (s) provide for the maintenance by the Commissioners and by Arbitrators of registers and records of proceedings before them.

(3) All Regulations made under this Act shall be laid before the Dewan Rakyat as soon as may be after they are made, and, if a resolution is passed within the next subsequent three months after any such Regulation is so laid annulling the Regulation or any part thereof as from a specified date, such Regulation or such part



thereof, as the case may be, shall thereupon be void as from such date, but without prejudice to the validity of anything previously done thereunder or to the making of a new Regulation.

**Repeal**

**44.** The Ordinances and Enactments specified in the Third Schedule are hereby repealed.

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FIRST SCHEDULE

[Sections 3 and 8]

PART I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT  
TOTAL DISABLEMENT

<i>Serial No.</i>	<i>Description of Injury</i>	<i>Percentage of loss of earning capacity</i>
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100
7.	Total paralysis	100
8.	Injuries resulting in being permanently bedridden	100
9.	Any other injury causing permanent total incapacity	100

## PART II

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL  
DISABLEMENT*Amputation—upper limbs (either arm) cases*

<i>Serial No.</i>	<i>Description of Injury</i>	<i>Percentage of loss of earning capacity</i>
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than 8" from tip of acromion	80
3.	Amputation below 8" from tip of acromion to less than 4 1/2" below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4 1/2" below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20

*Amputation—lower limbs cases*

11.	Amputation of both feet resulting in end-bearing stumps	90
12.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
13.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
14.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
15.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
16.	Amputation at hip	90

<i>Serial No.</i>	<i>Description of Injury</i>	<i>Percentage of loss of earning capacity</i>
17.	Amputation below hip with stump not exceeding 5" in length measured from tip of great trochanter	80
18.	Amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh	70
19.	Amputation below middle thigh to 3 1/2" below knee	60
20.	Amputation below knee with stump exceeding 3 1/2" but not exceeding 5"	50
21.	Amputation below knee with stump exceeding 5"	40
22.	Amputation of one foot resulting in end-bearing	30
23.	Amputation through one foot proximal to the metatarso-phalangeal joint	30
24.	Loss of all toes of one foot through the metatarso-phalangeal joint	20

*Other injuries*

25.	Loss of one eye, without complications, the other being normal	40
26.	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
27.	Permanent total loss of hearing in one ear	20
	Loss of—	

A—Fingers of right or left hand

*Index finger*

28.	Whole	14
29.	Two phalanges	11
30.	One phalanx	9
31.	Guillotine amputation of tip without loss of bone	5

<i>Serial No.</i>	<i>Description of Injury</i>	<i>Percentage of loss of earning capacity</i>
<i>Middle finger</i>		
32.	Whole	12
33.	Two phalanges	9
34.	One phalanx	7
35.	Guillotine amputation of tip without loss of bone	4
<i>Ring or little finger</i>		
36.	Whole	7
37.	Two phalanges	6
38.	One phalanx	5
39.	Guillotine amputation of tip without loss of bone	2
B—Toes of right or left foot		
<i>Great toe</i>		
40.	Through metatarso-phalangeal joint	14
41.	Part, with some loss of bone	3
<i>Any other toe</i>		
42.	Through metatarso-phalangeal joint	3
43.	Part, with some loss of bone	1
<i>Two toes of one foot, excluding great toe</i>		
44.	Through metatarso-phalangeal joint	5
45.	Part, with some loss of bone	2
<i>Three toes of one foot, excluding great toe</i>		
46.	Through metatarso-phalangeal joint	6
47.	Part, with some loss of bone	3

<i>Serial No.</i>	<i>Description of Injury</i>	<i>Percentage of loss of earning capacity</i>
<i>Four toes of one foot, excluding great toe</i>		
48.	Through metatarso-phalangeal joint	9
49.	Part, with some loss of bone	3

(Note—complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.)

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SECOND SCHEDULE

[Section 5]

OCCUPATIONAL DISEASES

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
1. Poisoning by:	Any occupation involving—
(a) Lead or compound of lead	the use or handling of, or exposure to, the fumes, dust or vapour of lead or a compound of lead or a substance containing lead
(b) Phosphorus	the use or handling of, or exposure to, the fumes, dust or vapour of phosphorus or a compound of phosphorus or a substance containing phosphorus
(c) Arsenic	the use or handling of, or exposure to, the fumes, dust or vapour of arsenic or a compound of arsenic or a substance containing arsenic or exposure to any solution containing arsenic or a compound of arsenic
(d) Mercury	the use or handling of, or exposure to, the fumes, dust or vapour of mercury or a compound of mercury or a substance containing mercury
(e) Carbon bisulphide	the use or handling of, or exposure to, the fumes or vapour of carbon bisulphide or a compound of carbon bisulphide or a substance containing carbon bisulphide
(f) Benzene or a homologue	the use or handling of, or exposure to, the fumes of, or vapour containing, benzene or any of its homologues and their amino and nitroderivatives

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
(g) Manganese	the use or handling of, or exposure to, the fumes, dust or vapour of manganese or a compound of manganese or a substance containing manganese
(h) Beryllium	the use or handling of, or exposure to, the fumes, dust or vapour of beryllium or a compound of beryllium or a substance containing beryllium
(i) Cadmium	the use or handling of, or exposure to, the fumes, dust or vapour of cadmium or a compound of cadmium or a substance containing cadmium
(j) Antimony	the use or handling of, or exposure to, the fumes, dust or vapour of antimony or a substance containing antimony
(k) Fluorine	the use or handling of, or exposure to, the fumes, dust or vapour of fluorine or a compound of fluorine or a substance containing fluorine
(l) Nickel	the use or handling of, or exposure to, the fumes, dust or vapour of nickel or a compound of nickel or a substance containing nickel
(m) Chromium	the use or handling of, or exposure to, the fumes, dust or vapour of chromium or a compound of chromium or a substance containing chromium
(n) Organochlorine, organophosphate, carbamate, nitrophenol, pentachlorophenol, dimethyldithiocarbamate or compounds of chlorophenoxy and dipyridyl	the use or handling of organochlorine, organophosphate, carbamate, nitrophenol, pentachlorophenol, dimethyldithiocarbamate or compounds of chlorophenoxy and dipyridyl for the destruction of pests or vermin

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
(o) Nitrous fumes	the use or handling of nitric acid or exposure to nitrous fumes
(p) Rengas wood	the manipulation of rengas wood of any process in or incidental to the manufacture of articles therefrom
(q) Hydrogen cyanide or hydrogen sulphide gas sulphide	the use or handling of, or exposure to, the fumes or vapour of hydrogen cyanide or hydrogen
(r) The halogen derivatives of aliphatic or aromatic hydrocarbons	the production, liberation or use of hydrocarbons of the aliphatic series or aromatic series and their halogen derivatives
(s) Alcohols, glycols, ketones or aldehydes	the use or handling of, or exposure to, the fumes or vapour of alcohols, glycols, ketones or aldehydes
(t) Carbon monoxide gas	the use or handling of, or exposure to, carbon monoxide gas, and any process involving the use of— (a) dynamite and gunpowder for blasting in subterranean galleries; (b) illuminating gas; (c) power or producer gas; (d) blast furnaces, furnaces and stoves for the burning of charcoal coke and other fuel; (e) gas engines
(u) Carbon dioxide gas	blasting, the manufacture of mineral waters, fermentation in breweries and the formation of lime in lime kilns
(v) Diethylene dioxide (dioxane)	the use or handling of, or exposure to, the fumes of or vapour containing diethylene dioxide
2. Anthrax	Any occupation involving the handling of wool, hair, bristle, hides or skins or other animal products or residues, or contact with animals infected with anthrax

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
3. Glanders	Any occupation involving contact with equine animals or their carcasses
4. Leptospirosis	Any occupation involving work in rat or other rodent infested places and any occupation involving the care or handling of dogs, cattle, swine and horses or any other infected animals
5. (a) Ulceration of the corneal surface of the eye	Any occupation involving the use or handling of, or exposure to, tar, pitch, padi husk, bitumen, mineral oil (including paraffin), soot, organic dust or any compound, product, or residue of any of these substances
(b) Localized new growth of the skin, papillomatous or keratotic	
(c) Epitheliomatous cancer or ulceration of the skin, due in any case to tar, pitch, padi husk, bitumen, mineral oil (including paraffin), soot or any compound, product, or residue of any of these substances	
6. Chrome ulceration	Any occupation involving the use or handling of chromic acid, chromate or bichromate of ammonium, potassium, zinc or sodium or any preparation or solution containing any of these substances
7. Inflammation, ulceration or malignant diseases of the skin or subcutaneous tissues or of the bones, or leukaemia or anaemia of the aplastic type, due to X-ray, ionizing particles, radium or other radioactive substances or other forms of radiant energy	Any occupation involving exposure to X-rays, ionizing particles, radium, or other radio-active substances or other forms of radiant energy



<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
8. Toxic jaundice	Any occupation involving the use or handling of halogenated hydrocarbon or nitric or amidoderivatives of benzene or other poisonous substances
9. Heat radiation cataract	Any occupation involving frequent or prolonged exposure to the glare of, or rays from, molten glass or molten or red-hot metal or frequent or prolonged exposure to radiation
10. Subcutaneous cellulitis or acute bursitis arising at or about the knee (Beat knee)	Any occupation involving manual labour causing severe or prolonged friction or pressure at or about the knee
11. Subcutaneous cellulitis of the hand (Beat hand)	Any occupation involving manual labour causing severe or prolonged friction or pressure on the hand
12. Subcutaneous cellulitis or acute bursitis arising at or about the elbow (Beat elbow)	Any occupation involving manual labour causing severe or prolonged friction or pressure at or about the elbow
13. Inflammation of the synovial lining of the wrist joint and tendon sheaths	Any occupation involving manual labour or frequent or repeated movement of the hand or wrist
14. Heat cramp or heat stroke	Any occupation involving excessive exposure to heat
15. Cramp of the hand or forearm due to repetitive movements	Any occupation involving prolonged periods of hand writing, typing or other repetitive movements of the fingers, hand or arm
16. Compressed air illness or its <i>sequelae</i>	Any occupation or process carried on in compressed-air or under water
17. (a) Tuberculosis or leprosy	Any occupation involving close or frequent contact with a source or sources of tuberculosis or leprosy infection by reason of employment—  (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis or leprosy or in a service ancillary to such treatment or nursing;

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
	<p>(b) in attendance upon a person or persons suffering from tuberculosis or leprosy where the need for such attendance arises by reason of physical or mental infirmity;</p> <p>(c) as a research worker engaged in research in connection with tuberculosis or leprosy; or</p> <p>(d) as a laboratory worker, pathologist or post-mortem worker, where the occupation involves working with material which is a source of tuberculosis or leprosy infection or in any occupation ancillary to such employment</p>
(b) Viral hepatitis	<p>Any occupation involving—</p> <p>(a) close and frequent contact with human blood or human blood products; or</p> <p>(b) close and frequent contact with a source of viral hepatitis infection by reason of employment in the medical treatment or nursing of a person or persons suffering from viral hepatitis, or in a service ancillary to such treatment or nursing</p>
18. Hearing impairment caused by noise	Any occupation involving excessive exposure to industrial noise of high sound pressure level in excess of 85 decibels over 8-hour period
19. Occupational dermatitis	Any occupation involving the handling of mineral oils, acids, alkalis, dusts or any other external agents capable of irritating the skin
20. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or nerves)	Any occupation involving subjection to vibration

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
21. Lung cancer or mesothelioma caused by asbestos	Any occupation involving the mining, processing or handling of materials containing asbestos
22. Broncho pulmonary disease	Any occupation involving the substantial exposure to the inhalation of hard-metal dust, cotton dust, flax or hemp or sisal dust
23. Pulmonary irritation	Any occupation involving the inhalation of sulphur oxides, chlorine, phosgene, ammonia, bromine, ozone, or nitrogen dioxide
24. Occupational asthma caused by sensitizing agents or irritants	Any occupation involving the exposure to the inhalation of mineral dusts such as cement, copper, zinc, animal dusts, such as bone or hair, or dusts of plant origin such as cotton, wood, flax, jute, padi husks, cork, spices, hemp, sisal, tobacco, tea, flour or gases or vapours of toluene diisocyanate or formaldehyde
25. Pneumoconiosis (silicosis, asbestosis, anthracosilicosis, stannosis, siderosis or siderosilicosis)	<p>Any occupation involving—</p> <p>(a) the mining, quarrying or working of silica rock or the working of dried quartzose sand or any dry admixture containing such materials;</p> <p>(b) the handling of any of the materials specified in subparagraph (a) in or incidental to any of the operations mentioned therein or substantial exposure to the dust arising from such operations;</p> <p>(c) the breaking, crushing or grinding of flint or the working or handling of broken, crushed or ground flint or materials containing such flint or substantial exposure to the dust arising from such operations;</p>

*Description of occupational  
diseases or injury**Nature of occupation*

- (d) sand blasting by means of compressed air with the use of quartzose sand or crushed silica rock or flint or substantial exposure to the dust arising from such sand blasting;
- (e) the grinding of mineral graphite, or substantial exposure to the dust arising from such grinding;
- (f) work in a foundry or the performance of, or substantial exposure to the dust arising from, any of the following operations:
  - (i) the freeing of steel castings from adherent siliceous substance;
  - (ii) the freeing of metal castings from adherent siliceous substance;
- (g) the manufacture of china or earthenware (including sanitary earthenware, electrical earthenware tiles), and any occupation involving substantial exposure to the dust arising therefrom;
- (h) the dressing of granite or any igneous rock by masons or the crushing of such materials or substantial exposure to the dust arising from such operations;
- (i) the use, or preparation for use, of a grindstone or substantial exposure to the dust arising therefrom;
- (j) boiler scaling or substantial exposure to the dust arising therefrom;

*Description of occupational diseases or injury*

*Nature of occupation*

	(k) the working or handling of asbestos or any admixture of asbestos, or the manufacture or repair of asbestos textiles or other articles containing asbestos, or substantial exposure to the dust arising from any of the foregoing operations;
	(l) work in any mine (underground or above ground) in which one of the objects of the mining operations is the getting of any mineral, or the working or handling of any minerals extracted therefrom, or any operation incidental thereto;
	(m) the manufacture of carbon electrodes for use in the electrolytic extraction of aluminium oxide, and any occupation involving substantial exposure to the dust arising therefrom;
	(n) exposure to the inhalation of dust containing iron and silica or haematite;
	(o) exposure to the inhalation of tin dust or fumes
26. Cancer caused by—	Any occupation involving—
(a) 4-aminobiphenyl	the use or handling of, or exposure to, the fumes, dust or vapour of 4 aminobiphenyl or a substance containing 4-aminobiphenyl
(b) Arsenic	the use or handling of, or exposure to, the fumes, dust or vapour of arsenic or a substance containing arsenic
(c) Benzene	the use or handling of, or exposure to, the fumes, dust or vapour of benzene or a substance containing benzene

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
(d) Benzidine	the use or handling of, or exposure to, the fumes, dust or vapour of benzidine or a substance containing benzidine
(e) Bis-chloro methyl ether	the use or handling of, or exposure to, the fumes, dust or vapour of bischloro methyl ether or a substance containing bis-chloro methyl ether
(f) Chromium	the use or handling of, or exposure to, the fumes, dust or vapour of chromium or a substance containing chromium
(g) Haematite	the use or handling of, or exposure to, the fumes, dust or vapour of haematite or a substance containing haematite
(h) Mustard gas	the use or handling of, or exposure to, mustard gas or a substance containing mustard gas
(i) B-naphthylamine	the use or handling of, or exposure to, the fumes, dust or vapour of B-naphthylamine or a substance containing B-naphthylamine
(j) Nickel	the use or handling of, or exposure to, the fumes, dust or vapour of nickel or a substance containing nickel
(k) Soots, tars and oils	the use or handling of, or exposure to, soots, tars and oils
(l) Vinyl chloride	the use or handling of, or exposure to, the fumes, dust or vapour of vinyl chloride or a substance containing vinyl chloride
(m) Particulate polycyclic aromatic hydrocarbon	the use or handling of, or exposure to, the fumes, dust or vapour of polycyclic aromatic hydrocarbon or a substance containing polycyclic aromatic hydrocarbon
(n) Acrylonitrile	the use or handling of, or exposure to, the fumes, dust or vapour of acrylonitrile or a substance containing acrylonitrile

<i>Description of occupational diseases or injury</i>	<i>Nature of occupation</i>
(o) 1, 2-dibromoethane (ethylene dibromide)	the use or handling of, or exposure to the fumes, dust or vapour of ethylene dibromide or a substance containing dibromide
(p) Wood dust	the use or handling of, or exposure to, wood dust arising from the manufacture of wood products
(q) Benz-o-pyrene	the use or handling of, or exposure to, the fumes, dust or vapour of benz-o pyrene or a substance containing benz-o-pyrene
(r) Formaldehyde	the use or handling of, or exposure to, the gas of formaldehyde
27. Fibrotic disease of the lung caused by—	Any occupation involving—
(a) talc	the use or handling of, or exposure to, dust of talc or a substance containing talc
(b) aluminium	the use or handling of, or exposure to, the fumes, dust or vapour of aluminium or a substance containing aluminium
(c) coal	the use or handling of, or exposure to, the fumes, dust or vapour of coal or a substance containing coal
(d) padi husk	the use or handling of, or exposure to, padi husk or dust or a substance containing padi husk

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## THIRD SCHEDULE

[Section 44]

## REPEAL

F.M.S. Cap. 155	The Workmen's Compensation Enactment
S.S. Cap. 70	The Workmen's Compensation Ordinance
Johore Enactment No. 134	The Workmen's Compensation Enactment
Kedah Enactment No. 1 of 1353	Enactment No. 134 (Workmen's Compensation)
Kelantan Enactment No. 43 of 1939	The Workmen's Compensation Enactment 1939
Terengganu Enactment No. 12 of 1356	The Workmen's Compensation Enactment 1356
M.U. No. 23 of 1947	The Workmen's Compensation (Amendment) Ordinance 1947
Sabah Ordinance No. 14 of 1955	The Workmen's Compensation Ordinance 1955
Sarawak Cap. 80	The Workmen's Compensation Ordinance

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## LAWS OF MALAYSIA

### Act 273

## WORKMEN'S COMPENSATION ACT 1952

### LIST OF AMENDMENTS

Amending law	Short title	In force from
L.N. 371/1955	Members of the Federal Government (Change of Style and Title) Order 1955	09-08-1955
Ord. 31/1956	The Workmen's Compensation (Amendment) Ordinance 1956	25-10-1956
L.N. 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
Act 25/1960	Workmen's Compensation (Amendment) Act 1960	30-07-1960
Act 1/1963	Insurance Act 1963	21-01-1963
Act 7/1964	Courts of Judicature Act 1964, s. 5	16-09-1963 (s. 5 and as provided in s. 81) (otherwise— 16-03-1964)
Act 33/1964	Workmen's Compensation (Amendment) Act 1964	12-11-1964
L.N. 143/1964	Ministers of the Federal Government Order 1964	17-05-1964
Act 79/1965	Companies Act 1965	15-04-1966
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A361	Workmen's Compensation (Amendment) Act 1976	01-01-1977
P.U. (A) 157/1981	Modification of Laws (Workmen's Compensation) (Extension and Modification) Order 1981	01-06-1981

Amending law	Short title	In force from
P.U. (A) 273/1984	Federal Territory of Labuan (Modification of Workmen's Compensation Act) Order 1984	16-04-1984
Act A947	Workmen's Compensation (Amendment) Act 1996	02-08-1996

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## LAWS OF MALAYSIA

### Act 273

## WORKMEN'S COMPENSATION ACT 1952

### LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	L.N. 371/1955 Ord. 31/1956 Act A361	09-08-1956 25-10-1956 01-01-1977
3	Ord. 31/1956 Act 25/1960 Act A947	25-10-1956 30-07-1960 02-08-1996
3A	Act A947	02-08-1996
4	Ord. 31/1956 Act 25/1960	25-10-1956 30-07-1960
5	Ord. 31/1956	25-10-1956
8	Ord. 31/1956 Act 25/1960 Act A361 Act A947	25-10-1956 30-07-1960 01-01-1977 02-08-1996
9	Ord. 31/1956 Act A361 Act A947	25-10-1956 01-01-1977 02-08-1996
10	Act A947	02-08-1996
12	Ord. 31/1956	25-10-1956
13	Ord. 31/1956 Act A361 Act A947	25-10-1956 01-01-1977 02-08-1996
14	Ord. 31/1956 Act 25/1960	25-10-1956 30-07-1960
15	L.N. 371/1955 Act 25/1960 L.N. 143/64 Act A361	09-08-1955 30-07-1960 17-05-1964 01-01-1977

Section	Amending authority	In force from
16A	Act 25/1960	30-07-1960
23	L.N. 371/1955 Act A361 Act A947	09-08-1955 01-01-1977 02-08-1996
25	Ord. 31/1956	25-10-1956
26	Ord. 31/1956 Act A361 Act A947	25-10-1956 01-01-1977 02-08-1996
27	Act 25/1960	30-07-1960
32	Act 33/1964	12-11-1964
35	Act 33/1964 Act A361	12-11-1964 01-01-1977
38	Act 7/1964	16-09-1964
39	Act 7/1964	16-09-1964
42	Ord. 31/1956	25-10-1956
43	Ord. 31/1956 Act A361	25-10-1956 01-01-1977
First Schedule	Ord. 31/1956 Act A947	25-10-1956 02-08-1996
Second Schedule	Ord. 31/1956 Act A947	25-10-1956 02-08-1996