

## CHAPTER 225

### THE WORKERS COMPENSATION ACT.

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- Government, as from time to time amended;
- (i) “injury” includes an accident and a scheduled disease;
  - (j) “insurer” includes any insurance society, association, company or underwriter as may be designated by the Minister responsible for finance;
  - (k) “labour advisory board” means a board, representative of the interests of the Government, workers and employers, as defined by the Industrial Relations Charter;
  - (l) “labour officer” means the labour commissioner and any other labour officer of the area where the accident occurs, assigned by the labour commissioner in writing;
  - (m) “medical arbitration board” means the arbitration body appointed under section 13(4);
  - (n) “medical authority” means a medical practitioner and any other health personnel authorised by the Minister responsible for health for the purpose of this Act;
  - (o) “medical care” means medical, surgical and hospital treatment, skilled nursing services, dental care, physiotherapy, rehabilitation and the supply, maintenance, repair and renewal of artificial limbs or any other artificial appliances or apparatus;
  - (p) “medical practitioner” means a medical practitioner registered or licensed under the Medical and Dental Practitioners Act;
  - (q) “member of the family” means the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, uncle, aunt, niece, nephew, cousin or adopted child;
  - (r) “Minister” means the Minister responsible for labour;
  - (s) “scheduled disease” means a disease specified in the Third Schedule to this Act;
  - (t) “total incapacity” means incapacity, whether of a temporary or permanent nature, which incapacitates a worker for any employment which he or she was capable of undertaking at the time when the accident occurred;
  - (u) “worker” means—
    - (i) any person who performs services in exchange for remuneration, other than a person who performs services as an independent contractor; or
    - (ii) an apprentice who is engaged primarily for the purpose of receiving training in a trade or profession.
- (2) For the purposes of the definition of “partial incapacity” in this

section, every injury specified in the Second Schedule to this Act except an injury or combination of injuries in respect of which the percentage or aggregate percentage of the loss of earning capacity specified in that Schedule in relation to that injury or those injuries amounts to 100 percent or more shall be taken to result in permanent partial disability.

(3) For the purposes of the definition of total incapacity in this section, “permanent total incapacity” shall be deemed to result from an injury or from any combination of injuries specified in the Second Schedule to this Act where the percentage or aggregate specified in that Schedule in relation to the injury or injuries amounts to 100 percent or more.

(4) Any reference to a worker who has been injured shall, where the worker is dead, include a reference to his or her personal representative or his or her dependents, or to a person officially appointed to act in those circumstances.

## **2. Application.**

(1) This Act shall apply to all employment within Uganda.

(2) This Act shall apply to workers employed by or under the Government of Uganda in the same way and to the same extent as if the employer were a private person, but the Act shall not apply to active members of the armed forces of Uganda.

## **PART II—COMPENSATION FOR INJURY.**

### **3. Employer’s liability.**

(1) If personal injury by accident arises out of and in the course of a worker’s employment, the injured worker’s employer shall be liable to pay compensation in accordance with this Act.

(2) The employer shall not be liable in respect of an injury which does not either—

- (a) result in permanent incapacity; or
- (b) incapacitate the worker for at least three consecutive days from earning full wages at the work at which he or she was employed.

(3) An act shall be deemed to be done out of and in the course of

employment when a worker acts to protect any person on the employer's premises whom the worker believes to be injured or imperilled, or when a worker acts to protect property on the employer's premises.

(4) Any personal injury by accident arising while the employee is travelling directly to or from his or her place of work for the purpose of employment shall be deemed to be an accident arising out of and in the course of his or her employment.

(5) For the purposes of this section, it shall be for the employee who suffers injury by accident arising while travelling to or from his or her place of work to show that such travel was direct.

(6) Compensation shall be payable under this section whether or not the incapacity or death of the worker was due to the recklessness or negligence of the worker or otherwise.

(7) Any accident arising in the course of employment shall, unless the contrary is proved, be presumed to arise out of employment.

(8) Compensation in cases of permanent incapacity or death shall, in principle, be paid in the form of periodic payments; otherwise, they may be awarded in lump sums as provided under this Act.

#### **4. Fatal injuries.**

(1) Where the deceased worker leaves any family members who are dependent on his or her earnings, the amount of compensation shall be a sum equal to sixty times his or her monthly earnings, computed in accordance with section 8 subject to a maximum which may be varied by the Minister on the recommendation of the labour advisory board.

(2) Where the deceased worker does not leave any family members who are dependent on his or her earnings, the employer shall pay the expenses of the medical aid provided and the burial expenses of the deceased.

(3) Where the deceased worker has, in respect of the same accident, received compensation under section 5 or 6, half of that amount shall be deducted from the sum payable under subsection (1).

(4) It shall be presumed for the purposes of this Act that a worker has

dependents unless the local authority of the home area of the deceased prove otherwise.

(5) Where an injury results in the death of a worker, any compensation payable under this Act shall be paid to the labour commissioner who, in consultation with the Administrator General, will pay it to the beneficiaries according to the degree of dependence of the survivors to the deceased.

(6) If the worker is killed as a result of an accident for which the employer has liability under this Act, the dependents (if any) of the deceased may recover from the employer the expenses of medical treatment of the deceased, burial of the deceased and expenses incidental to the medical treatment and burial of the deceased.

## **5. Permanent total incapacity.**

(1) Except where the terms and conditions of service provide for a higher compensation, where permanent total incapacity results from any injury, the amount of compensation shall be a sum equal to sixty months' earnings.

(2) Where an injury under this section is such as to be likely to require the injured worker to have the constant assistance of another person on a permanent basis, then the amount of compensation payable shall be increased by one-quarter.

## **6. Permanent partial incapacity.**

(1) Where permanent partial incapacity results from the injury, the amount of compensation shall be—

- (a) in the case of an injury specified in the Second Schedule to this Act, such percentage of sixty times the workers' monthly earnings as is specified in that Schedule as being the percentage of the loss of earning capacity caused by that injury;
- (b) in the case of an injury not specified in the Second Schedule to this Act, such percentage of sixty times the workers' monthly earnings as is proportionate to the loss of earning capacity permanently caused by the injury.

(2) Where more than one injury results from the same accident, the

amount of compensation shall be aggregated, but the amount of compensation payable under this section shall not be greater than the amount that would have been payable if the accident had caused the worker to suffer permanent total incapacity.

(3) The Minister on the recommendation of the labour advisory board may, by statutory instrument, increase the amount of compensation payable under this section.

## **7. Temporary incapacity.**

(1) Where temporary incapacity, whether total or partial, results from the injury, the compensation shall be either a lump sum or periodic payments as the court may order, having regard to the circumstances in which the accident took place, the probable duration of the incapacity of the worker, the injuries suffered by the worker and the financial consequences for the worker and his or her dependents.

(2) The period covered by hospitalisation or absence from duty certified necessary by a medical practitioner shall be regarded as a period of temporary total incapacity irrespective of the outcome of the injury, and any period subsequent but preceding final assessment of disability shall be regarded as a period of temporary partial incapacity, both periods being continuous with each other, variations in payments notwithstanding; and the maximum duration of periodical payments under this section shall not exceed ninety-six months, except where in the opinion of a medical practitioner, the period of incapacity is longer, it may be extended beyond the ninety-six months.

## **8. Calculation of earnings.**

(1) For the purpose of this Act, the monthly earnings of a worker shall be computed in a manner best calculated to give the rate per month at which the worker has been remunerated during the twelve months immediately preceding the accident, and the computation of annual earnings shall be a multiple of twelve of that sum.

(2) Where, by reason of the shortness of time during which the worker has been employed or for other good cause, it is not possible to compute the earnings of the worker in the way mentioned in subsection (1), regard may be had to the average monthly amount which was being earned

by a person of similar earning capacity in the same grade as the worker and employed at the same or similar employment.

(3) Where a dependent dies before payment of compensation in respect of a worker's death is made to the dependent, his or her legal representative shall have no right to receive the payment, and the claim for compensation shall be dealt with as if that dependent had died before the worker.

(4) Where an employer makes a payment to a worker or the dependents of a deceased worker pending the settlement of determination of a claim arising under this Act, the receipt shall be deducted from the amount of the compensation payable in respect of the accident, except medical expenses as provided for under section 24.

#### **9. Notification of accident.**

(1) Compensation may not be payable under this Act unless notice of the accident has been given to the employer by or on behalf of the worker as soon as is reasonably practicable, and in any case within one month after the date when the accident occurred or within three months after the date the symptoms of the occupational disease became apparent; but no notice is required where it is shown that the employer was aware of the accident or disease at or about the time it occurred or at the time when the symptoms became evident, or for any reasonable cause.

(2) Notice in respect of an accident causing injury to which this Act applies shall be given in a form prescribed by the Minister, by regulations.

#### **10. Notification by employer to labour officer.**

(1) After the happening of an accident causing injury to a worker of such a nature as would entitle him or her to compensation under this Act, the employer shall, at once, report the accident either by telephone, telegram, telefax or telex or any other reasonable means to the labour officer of the area; and the report shall be followed immediately by a written report of the accident before the worker has voluntarily left the employment in which he or she was injured.

(2) Where the death of a worker from any cause is brought to the attention of, or comes to the knowledge of his or her employer, the employer

shall, as soon as reasonably practicable after the death, give notice to the labour officer, stating the circumstances of the death if they are known to the employer.

(3) Any employer who fails to comply with subsection (1) or (2) without reasonable cause, commits an offence and is liable on conviction to a fine not exceeding ten currency points.

(4) Nothing in this section shall prevent any person from making a claim for compensation under this Act.

## **11. Medical examination and treatment.**

(1) Where a worker has given notice of an accident, the employer shall, as soon as reasonably possible after the date on which notice has been given, arrange to have the worker medically examined by a qualified medical practitioner, at no charge to the worker.

(2) The worker shall be entitled to have his or her own medical practitioner or an official of a trade union of which he or she is a member present at the examination, but the attendance shall be at the worker's own expense.

(3) Failure without good cause to appear for a medical examination under this section, or failure to observe the clinical instructions given by a medical practitioner and given at or following the examination, may be taken into account by the court in assessing the amount of compensation payable under this Act; and the court may use the failure to justify the making of a deduction from any sum which would otherwise have been payable in respect of an injury suffered by the worker.

(4) During the period of temporary total incapacity, the employer shall be liable to pay the costs of medical care.

## **12. Agreement as to compensation.**

(1) The employer and the worker may, with the written approval of the labour officer, agree that compensation be paid in respect of an injury which would otherwise give rise to a claim under this Act.

(2) For the purpose of subsection (1), the following requirements

shall be complied with—

- (a) the compensation agreed upon shall not be less than the amount payable under this Act; and
- (b) it shall be for the employer to show that the worker was able to understand the terms of the agreement.

(3) The court may, on the application by any party within three months after the date of the agreement, cancel it and make such order as it thinks just, if the court is satisfied—

- (a) that the sum paid or to be paid was less than required by this section;
- (b) that the agreement was entered into in ignorance of, or under a mistake as to the true nature of the injury; or
- (c) that the agreement was obtained by fraud, trickery or the use of undue influence or other improper means.

### **13. Computed assessment of disability.**

(1) If the final assessment of disability made by a medical practitioner after a medical examination, made in accordance with section 11, is disputed by the employer or the worker, the employer or the worker may apply to the labour officer to request that the dispute be referred to the medical arbitration board.

(2) The application for referral shall be made within a reasonable time from the date of receipt of the notice of final assessment.

(3) The decision of the medical arbitration board on the matter shall be final unless a party aggrieved by the decision goes to court.

(4) The medical arbitration board shall be appointed by the Minister in consultation with the director general of health services upon terms and conditions that the Minister may determine by statutory instrument and shall consist of a chairperson, who shall be a registered medical practitioner, and two other members one of whom shall be a person knowledgeable in disabilities.

(5) The medical arbitration board may, at any time and for a specific period co-opt not more than two persons on the board to provide specialised expertise to the board.

(6) The medical arbitration board shall have a secretary who shall be the assistant labour commissioner in charge of workers compensation.

#### **14. Determination of claims.**

(1) If any employer on whom notice of the accident has been served under section 9 does not, within twenty-one days after the receipt of the notice, agree in writing with the worker as to the amount of compensation to be paid, the worker may, in the prescribed form and manner, make an application for enforcing a claim to compensation to the court having jurisdiction in the district in which the accident giving rise to the claim occurred.

(2) All claims for compensation under this Act, unless determined by agreement, and any matter, except disputes as to the assessment of disability under section 13, arising out of proceedings under this Act shall be determined by the court, whatever may be the amount involved.

(3) The court may, for the purpose of any proceedings under this section call upon any government officer or any independent medical practitioner to give evidence, if the court is of the opinion that the officer or practitioner is, by virtue of expert knowledge, capable of assisting the court.

#### **15. Power of court to submit question of law.**

(1) The court may, if it thinks fit, submit any question of law for the decision of the High Court.

(2) The submission shall be in the form of a special case in accordance with rules made under section 35.

#### **16. Appeals.**

(1) Subject to this section and sections 12 and 25, an appeal shall lie to the High Court from any order of the court.

(2) Except with the leave of the court or of the High Court, no appeal shall lie if the amount in dispute is less than one currency point.

(3) Leave shall not be granted under subsection (1) unless in the opinion of the court or of the High Court a substantial question of law is

involved in the appeal.

(4) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the court, or in which the order of the court gives effect to an agreement of the parties.

(5) No appeal shall lie after the expiration of thirty days from the date of the order of the court, except that the High Court may extend the time for appealing under this section even if the time for appealing has elapsed.

#### **17. Effect of receipt of damages.**

(1) When the injury in respect of which compensation is payable under this Act arises from an accident the circumstances of which create a legal liability on the employer, either directly or vicariously, or on some other person, for which the worker may recover damages in an action at law, the worker or person authorised to bring proceedings on his or her behalf, may, notwithstanding this Act, bring proceedings and recover damages.

(2) Where a claim for damages as referred to in subsection (1) is brought by a worker, the amount of compensation which he or she has been awarded under this Act shall be taken into account in the assessment of his or her loss.

(3) Where a claim for compensation under this Act is brought by a worker who has suffered injury, the amount of compensation payable shall be reduced by the amount of any damages following a finding of legal liability received in respect of the injury from any person.

(4) Where a claim for damages as referred to in subsection (1) is brought by a worker, the court in which the proceedings are taken may decide whether the circumstances of the claim are such that compensation under this Act is payable to the plaintiff and may assess the amount of compensation so payable, but may deduct from that compensation any extra costs which have been incurred by bringing proceedings independently of this Act.

(5) Where a worker has brought proceedings under this Act or otherwise against an employer and the proceedings have either been disposed of by the judgment of a competent court or have been the subject of agreement under section 12, no further proceedings under this Act or

otherwise in respect of the same injury shall be brought.

## **18. Insurance.**

(1) Subject to subsections (2) and (3), every employer shall insure and keep himself or herself insured in respect of any liability which he or she may incur under this Act to any worker employed by him or her.

(2) The insurers empowered to offer insurance under this section shall be specified in a list kept by the Minister responsible for finance and published in the official Gazette.

(3) An employer shall not, for the purpose of obtaining a policy of insurance as required by this section, make any false statement or wilfully do any act in consequence of which the policy is liable to be voided or payment under the policy refused.

(4) An employer shall provide information regarding insurance effected to meet the requirements of this section, when reasonably requested by the labour commissioner or any person acting on his or her behalf.

(5) An employer who contravenes this section commits an offence and is liable—

- (a) on a first conviction to a fine not exceeding ten currency points;
- (b) on a second conviction to a fine not exceeding twenty currency points; and
- (c) on a third and subsequent convictions, to a fine not exceeding one hundred and fifty currency points or imprisonment not exceeding twelve months or both.

## **19. Powers of Minister regarding insurance.**

The Minister may, by regulations, make provision for—

- (a) declaring void any terms included in a policy of insurance which is issued for the purposes of section 18;
- (b) paying benefits under that policy in circumstances where judgment of any liability required to be covered by section 18 has been obtained by the worker against the employer.

## **20. Bankruptcy of employer.**

(1) Where any employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then if the employer becomes bankrupt or makes a composition or arrangement with his or her creditors, or if the employer is a company, if the company has commenced to be wound up or a receiver or manager of the company's business or undertaking has been duly appointed, the rights of the employer against the insurer as regards liability shall, notwithstanding anything in any law relating to bankruptcy and the winding up of companies, be transferred to and vest in the worker.

(2) Where any transfer takes place under subsection (1), the insurer shall have the same rights and remedies and be subject to the same liabilities as if it were the employer; except that the insurers shall not be under any greater liability to the worker than they would have been under the employer.

(3) If the liability of the insurer to the worker is less than the liability of the employer to the worker, the worker may prove for the balance in the bankruptcy or liquidation, or, as the case may be, he or she may recover the balance from the receiver or manager.

(4) The amount due in respect of any compensation or liability for compensation shall be included among the debts which—

- (a) under section 36 of the Bankruptcy Act are, in the distribution of the property or assets of a bankrupt, to be paid in priority to all other debts; and
- (b) under section 315 of the Companies Act are, in the winding up of a company to be paid in priority to all debts.

(5) For the purposes of subsection (4), the amount due in respect of compensation or liability for compensation shall have accrued before the following dates—

- (a) in the situation referred to in paragraph (a), the date of bankruptcy proceedings;
- (b) in the situation referred to in paragraph (b), the date of commencement of the winding up of the company.

(6) Where the compensation is a periodical payment, the amount due in respect of the compensation shall, for the purpose of this section, be taken to be the amount of the lump sum for which the periodical payment could, if

redeemable, be redeemed if the employer made an application for that purpose under this Act.

(7) Where the bankrupt or company in liquidation has entered into such a contract with insurers as is referred to in subsection (1), subsection (4) shall not apply in respect of the liability of the employer to the worker or that part of the liability which is met by the insurers.

## **21. Contracting out.**

Any contract or agreement, whether made before or after the commencement of this Act, by which a worker relinquishes any right to compensation from an employer for injury arising out of and in the course of the worker's employment, shall be null and void insofar as it seeks to remove or reduce the liability of any person to pay compensation under this Act.

## **22. Liability in case of contract of work.**

(1) Where a person awards a contract or subcontract to an employer for the execution of any piece of work, that person shall be liable to pay to any worker employed in the execution of the contract or subcontract by the employer any compensation under this Act as if that worker had been directly employed by that person.

(2) Where compensation is claimed or proceedings are taken against a person under subsection (1), any reference to the employer under this Act shall apply to that person except that the amount of compensation shall be calculated with reference to the earnings of the worker as paid by the employer.

(3) Where a person pays compensation under subsection (1), he or she shall be entitled to be indemnified by the employer.

(4) Where a claim is made under subsection (1), the person contracting or subcontracting out work shall notify the employer about the claim and the employer shall make preparation—

- (a) to pay compensation to the worker; or
- (b) to indemnify the person who paid the compensation to the worker.

(5) Nothing in this section shall be construed as preventing a worker

from making a claim for compensation directly against the employer.

(6) This section shall not apply where the accident occurred in a place other than the place of execution of the contract or subcontract.

### **23. Compensation not to be assigned, etc.**

Compensation payable under this Act shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law nor shall any claim be set off against that compensation.

## PART III—MEDICAL AID.

### **24. Medical aid.**

(1) Where an accident occurs entitling the worker to compensation under this Act, the employer shall defray the reasonable costs incurred by the worker—

(a) in respect of medical expenses; and

(b) in respect of transport and incidental expenses,

in each case arising out of and in connection with the accident.

(2) The court may, when determining any dispute in respect of the compensation or upon the application of any interested person, order the payment of any of the expenses referred to in this section to the persons entitled to receive it.

(3) If the worker is killed as a result of an accident for which the employer has liability under this Act, the dependents (if any) of the deceased may recover from the employer the expenses of medical treatment of the deceased if no medical care was paid under section 11(4), burial of the deceased and expenses incidental to the medical treatment and burial of the deceased.

### **25. Decisions of the court concerning treatment and medical reports.**

All disputes as to the necessity for, or the character or sufficiency of, any medical aid provided or to be provided under this Part of the Act shall be determined by the court.

## **26. Procedures relating to claims.**

Except where, after consultation with the labour advisory board, a contrary procedure is prescribed by the Minister by regulations, for particular categories of workers suffering injuries giving rise to compensation under this Act, the following procedure shall govern the payment of compensation—

- (a) any compensation due shall be paid by the employer to the district labour officer, and the district labour officer shall, as soon as is practicable, and in any case not later than two weeks after receipt of a claim, pay any such sum to the worker or other person or persons entitled to receive it;
- (b) any notice required under this Act to be served by a worker may be served by a district labour officer;
- (c) where compensation has been paid by the employer to the district labour officer, and the district labour officer is unable after taking reasonable steps to pay it to the person or persons entitled to receive it, the district labour officer shall pay the sum into the Consolidated Fund; except that payment into the Consolidated Fund shall not preclude the subsequent making of a claim to the district labour officer for payment to persons entitled by law to receive the payment of compensation;
- (d) where any subsequent claim for payment of compensation as mentioned in subparagraph (c) is made, it shall be certified by the district labour officer; and the district labour officer shall be reimbursed as necessary by the repayment of a sum paid by him or her into the Consolidated Fund.

### PART IV—OCCUPATIONAL DISEASES.

## **27. Compensation payable in respect of diseases.**

- (1) Where a medical practitioner grants a certificate stating that—
  - (a) a worker is suffering from a scheduled disease causing disablement or that the death of a worker was caused by any scheduled disease; and
  - (b) the disease was due to the nature of the worker's employment and was contracted within the twenty-four months immediately previous to the date of the disablement or death, except in the case of a scheduled disease which manifests itself after or during several years of employment, the worker, or if he or she is

deceased, his or her dependents shall be entitled to claim and to receive compensation under this Act as if the disablement or death had been caused by an accident arising out of and in the course of his or her employment.

(2) For the avoidance of doubt, it is stated that a disease is contracted for the purposes of this section either—

- (a) when the symptoms of the disease are clearly manifested in physiological or psychological signs; or
- (b) when it is first diagnosed by a medical practitioner.

(3) Whenever a medical practitioner grants a certificate under this section, it shall be the duty of the worker or a person acting on his or her behalf, to give a copy of the certificate to the employer and the district labour officer.

## **28. Employers duty to report scheduled diseases.**

Whenever a medical practitioner grants a certificate as is mentioned in section 27, it shall be the duty of the employer of the worker to make and submit, at once, a written report of the case giving all the particulars contained in the certificate to the labour officer of the area.

## **29. Liability to pay compensation.**

(1) Subject to subsection (5), compensation shall be payable by the employer who last employed the worker during the period of twenty-four months referred to in section 27(1)(b) unless that employer proves that the disease was not contracted while the worker was in his employment.

(2) The worker or his or her dependents shall, if required by the employer from whom compensation is claimed, provide the information they have as to the identity and location of all other employers of the worker during the period of twenty-four months referred to in section 27(1)(b).

(3) If the employer alleges that the disease was in fact contracted while the worker was in the employment of another employer and not while in his or her employment, the employer may join the other employer as a party to the proceedings in the manner provided by rules of court made under section 35; and, if the allegation is proved, the other employer shall be the employer from whom the compensation is to be recoverable.

(4) If the claim is in respect of a disease which is contracted by a gradual process, every other employer who employed the worker during the period of twenty-four months referred to in section 27(1)(b), if the employment was in an occupation which is likely to have caused the disease from which the worker suffers or has suffered, is liable to make a contribution to the employer in respect of whom compensation is recovered; the amount of the contribution shall, if the parties fail to agree, be settled by civil suit or by consensual arbitration under the Arbitration and Conciliation Act.

(5) The Minister may by statutory instrument, order medical examination of certain categories of workers.

(6) Where, in respect of any scheduled disease which manifests itself during or after several years of employment, compensation is payable under this section to a worker who was successively employed by more than one employer, if it is not possible to determine which of those employers is solely liable to pay the compensation, then each employer shall contribute the sum which in the opinion of the labour commissioner is appropriate, given the period of employment of the worker with each of the different employers.

### **30. Fixing of dates.**

(1) In the application of the provisions of this Act to disablement or death caused by a scheduled disease, any reference to the date of the occurrence of the accident shall be construed to mean—

- (a) in the case of a disease causing disablement, the date of the certificate referred to in section 27; and
- (b) in the case of death from a disease, the date of the death of the worker.

(2) The provisions of section 9 concerning notification to the employer shall apply in respect of the recovery of compensation as they apply in respect of the recovery of compensation for an injury resulting from an accident.

(3) Compensation shall be calculated with reference to the earnings of the worker under the employer from whom the compensation is recoverable; and the monthly earnings of the worker shall be computed in the manner best calculated to give the rate per month at which the worker was

being remunerated at the date of the grant of the certificate referred to in section 27.

(4) Where at the date of the grant of the certificate the worker was not so employed, the earnings shall be computed in a manner best calculated to give the rate per month at which the worker was being remunerated when last employed by the employer from whom compensation is recoverable.

(5) Where by reason of the shortness of the time during which the worker has been in the employment of the employer or the casual nature of the employment, or the terms of employment, it is impracticable to compute the rate of remuneration in the manner mentioned in subsection (3) or (4), regard may be had to the average monthly amount which, during the last twelve months of employment with that employer, was being earned by a person of similar earning capacity in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment and in the same district.

(6) For the purpose of assessing the compensation payable in cases of permanent incapacity, where a worker was, at the date of the grant of the certificate, under the apparent age of eighteen years, his or her earnings shall be deemed to be an amount which had he or she not contracted the disease, he or she would probably have received upon attaining the age of eighteen years or at the end of a period of five years after the date of the grant of the certificate whichever calculation is more favourable to the worker.

### **31. Presumption as to cause of disease.**

If a worker who becomes disabled by or dies of any disease mentioned in the Third Schedule to this Act was, within the period of twenty-four months immediately preceding the disablement or death, employed in any occupation mentioned in Column II of that Schedule in relation to that disease, it shall be presumed, until the contrary is proved, that the disease was due to the nature of that employment.

### **32. Power of Minister to amend the Third Schedule.**

(1) Subject to the other provisions of this section, the Minister may, after consultation with the labour advisory board, by regulations, amend the Third Schedule to this Act by inserting in or deleting from that Schedule any

disease.

(2) Before the Minister makes any regulation under this section, the Minister shall cause to be published in the Gazette a notice of his or her intention to make the regulation inviting persons wishing to object to the making of the regulation to submit their objections in writing to the labour commissioner within a period specified in the notice.

(3) The Minister shall consider the objections submitted under subsection (2) and shall in any case not issue the regulation before the expiry of at least one month after the date of the notice referred to in subsection (2).

#### PART V—GENERAL.

### **33. Regulations.**

(1) Subject to the provisions of the Act, the Minister may, by statutory instrument make regulations for giving full effect to the purposes and provisions of this Act.

(2) Without prejudice to the general effect of subsection (1), the Minister may make regulations under that subsection for the following purposes—

- (a) for any purpose for which regulations are required or authorised to be made under this Act;
- (b) prescribing anything required or authorised to be prescribed under this Act;
- (c) prescribing procedure, forms and fees.

(3) Regulations made under this section may prescribe a penalty of a fine not exceeding thirty currency points or imprisonment not exceeding one year or both in respect of a contravention of any provision of the regulation—

- (a) in respect of a second or subsequent offence, a penalty of a fine not exceeding sixty currency points or imprisonment not exceeding two years or both; and
- (b) an additional penalty not exceeding three currency points in respect of each day on which the offence continues.

(4) Without prejudice to the powers of the Minister under this section, the labour advisory board shall, at intervals of not less than once in

each calendar year, to review the general level of financial limits fixed for the payment of compensation and fines under this Act, and to submit its views regarding the adequacy of those limits to the Minister.

#### **34. Offences by bodies of persons.**

(1) Where an offence under this Act or under any regulations made under it is committed by a body of persons then—

- (a) if that body is a company, every director or officer of the company commits the offence; and
- (b) if the body is a firm or partnership, every partner of the firm or partnership commits an offence.

(2) A person commits no offence under subsection (1) if he or she proves that the act or omission constituting the offence took place without his or her knowledge or consent.

#### **35. Rules of court.**

The Chief Justice may make rules of court for regulating proceedings before the court under this Act and for the fees payable in respect of those proceedings.

#### **36. Workers and dependents outside Uganda.**

(1) Compensation awarded under this Act to a worker or dependent who is resident and domiciled outside Kenya, Uganda or Tanzania shall be paid by the employer to the labour officer.

(2) The labour commissioner shall make such arrangements as he or she considers to be appropriate for the transmission of compensation to the worker or dependent entitled to the compensation.

(3) Where, in a claim arising under this section, it is not possible to identify the proper recipient of compensation or any person dependent upon him or her, the labour officer shall pay the compensation to the Administrator General for payment into the Consolidated Fund.

(4) Nothing in this section shall prevent payment of any compensation due under this Act to any person, as and when that person or his or her dependent is identified.

**37. Power of Minister to amend the First Schedule.**

The Minister may, by statutory instrument, with the approval of the Cabinet, amend the First Schedule to this Act.

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**SCHEDULES**

*First Schedule.*

s. 1.

**Currency point.**

A currency point is equivalent to twenty thousand shillings.

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*Second Schedule.*

s. 1.

**Percentages for permanent incapacities.**

Injuries	Percent
Loss of two limbs Loss of both hands or of all fingers and both thumbs Total loss of sight Total paralysis Injuries resulting in being bedridden permanently Any other injury causing permanent total disablement Loss of remaining eye by one-eyed worker Loss of remaining arm by one-armed worker Loss of remaining leg by one-legged worker	100
Loss of arm at shoulder	70
Loss of arm between elbow and shoulder	68
Loss of arm at elbow	67
Loss of arm between wrist and elbow	60/65
Loss of hand at wrist	60
Loss of four fingers and thumb of one hand	60
Loss of four fingers	35
Loss of thumb both phalanges	35
one phalanx	10
Loss of index finger three phalanges	10
two phalanges	8
one phalanx	4
Loss of middle finger three phalanges	6
two phalanges	4
one phalanx	2

Injuries	Percent
Loss of ring finger three phalanges	5
two phalanges	4
one phalanx	2
Loss of little finger three phalanges	4
two phalanges	3
one phalanx	2
Loss of metacarpals first or second (additional)	3
third, fourth or fifth (additional)	2
Loss of leg at or above knee	70
Loss of leg below knee	40
Loss of foot	40
Loss of toes all	15
great, both phalanges	5
great, one phalanx	2
other than great, if more than one toe lost, for each	1
Loss of eye eye out	30
sight of	30
lens of	30
sight of, except perception of light	30
Loss of hearing both ears	50
one ear	7

Total permanent loss of use of member shall be treated as loss of member. The percentage of incapacity for ankylosis of any joint shall be reckoned as from 25 to 100 percent of the incapacity for loss of the part at that joint, according to whether the joint is ankylosed in a favourable or unfavourable position.

In the case of a right-handed worker, an injury to the left arm or hand and, in the case of a left-handed worker, to the right arm or hand shall be rated at 90 percent of the above percentages.

Where there is a loss of two or more parts of the hand, the percentage of incapacity shall not be more than for the whole hand.

Where there are two or more injuries, the sum of the percentages for such injuries may be increased, and, where such injuries are to the hand, the following basis of computing the increase shall be adopted—

- (a) where two digits have been injured, the sum total of the percentages shall be increased by 20 percent of such sum total;
- (b) where three digits have been injured, the sum total of the percentages shall be increased by 30 percent of such sum total;
- (c) where four digits have been injured, the sum total of the percentages shall be increased by 40 percent of such sum total.

A one-eyed worker who, on entering employment, has failed to disclose the fact that he or she is one-eyed to his or her employer shall, if he or she loses the remaining eye, be entitled to compensation in respect of a degree of disablement of 30 percent only.

For the purpose of this Schedule, a one-eyed worker means a worker who has lost the sight of one eye.

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*Third Schedule.*

s. 1.

**Scheduled diseases.**

Description of disease or injury	Nature of occupation
I. Acute, subacute or chronic poisoning due to metals or their compound	
1. Poisoning due to arsenic or its compounds	Work involving exposure to arsenic or its compounds
2. Poisoning due to beryllium or its compounds	Work involving exposure to beryllium or its compounds
3. Poisoning due to cadmium or its compounds	Work involving exposure to cadmium or its compounds
4. Poisoning due to chromium or its compounds	Work involving exposure to chromium or its compounds
5. Poisoning due to lead or its compounds	Work involving exposure to lead or its compounds
6. Poisoning due to manganese or its compounds	Work involving exposure to manganese or its compounds
7. Poisoning due to mercury or its compounds	Work involving exposure to mercury or its compounds
8. Poisoning due to any other metal or metal compounds	Work involving exposure to any other metal or metal compounds scientifically proved to cause poisoning
II. Acute, subacute or chronic poisoning due to other chemicals	
9. Poisoning due to acrylamide monomer	Work involving exposure to acrylamide monomer
10. Poisoning due to benzene or its homologues	Work involving exposure to benzene or its homologues
11. Poisoning due to amino-, chloro-, nitro-, or nitrochloro-derivatives of benzene or its homologues	Work involving exposure to amino-, chloro-, nitro- or nitrochloro-derivatives of benzene or its homologues

Description of disease or injury	Nature of occupation
12. Poisoning due to carbon disulphide	Work involving exposure to carbon disulphide
13. Poisoning due to halogenated aliphatic and aromatic (hydrocarbons) compounds	Work involving exposure to halogenated aliphatic and aromatic (hydrocarbons) compounds
14. Poisoning due to diethylene dioxide (dioxan)	Work involving exposure to fumes or vapour containing diethylene dioxide (dioxan)
15. Poisoning due to dinitrophenol dioxide or its homologues or substituted dinitrophenols or by salts of such substances	Work involving exposure to dinitrophenol dioxide or its homologues or substituted dinitrophenols or salts of such substances
16. Poisoning due to methyl bromide	Work involving exposure to fumes or vapour containing methyl bromide
17. Poisoning due to nickel carbonyl	Work involving exposure to nickel carbonyl gas
18. Poisoning due to nitrous fumes	Work involving exposure to nitrous fumes (or nitric acid)
19. Poisoning due to pesticides	Work involving exposure to any pesticide
20. Poisoning due to phosphorus or its compounds	Work involving exposure to phosphorous or its compounds
21. Poisoning due to organic solvents	Work involving exposure to any organic solvent
22. Poisoning due to tri-cresyl phosphate	Work involving exposure to fumes or vapour containing tri-cresyl phosphate
23. Poisoning due to tri-phenyl phosphate	Work involving exposure to fumes or vapour containing tri-phenyl phosphate

Description of disease or injury	Nature of occupation
24. Poisoning due to any other chemical occupationally handled and affecting any part or system of the body	Work involving exposure to any other chemical scientifically proved to have any adverse health effect
III. Allergy	
25. Occupational asthma	Work involving exposure to a specific biological or chemical agent scientifically proven to be a respiratory allergen
26. Occupational allergic dermatitis	Work involving exposure to a specific biological and chemical agent scientifically proven to be a skin allergen
27. Any other allergic disease	Work involving exposure to any specific biological or chemical agent scientifically proven to be allergenic
IV. Dust induced lung diseases	
28. Pneumoconioses including asbestosis	Work involving exposure to any fibrogenic mineral dust including asbestos
29. Organic dust-induced lung disease	Work involving exposure to any organic dust scientifically proven to cause lung disease
V. Infections and infestations	
30. HIV/AIDS	
31. Ankylostomiasis and other geohelminthiasis	Work involving exposure to skin penetrative forms of hookworm and other geohelminths
32. Anthrax	Work involving exposure to wool, hair, bristles, hides, skins or other infected animal residues or animals infected with anthrax

Description of disease or injury	Nature of occupation
33. Brucellosis	Work involving contact with animals infected with the brucella organisms of carcasses, parts or products thereof or laboratory specimens or other materials containing the brucella organisms
34. Glanders	Work involving contact with infected equine animals or their carcasses
35. Leptospirosis	Work involving exposure to urine or other wastes or products of rats, mice, dogs, pigs or bovine animals infected with leptospiro organisms
36. Schistosomiasis	Work involving exposure to water infested with bilharzia carrying snails
37. Tuberculosis	Work involving exposure to tuberculosis organism in course of medical, nursing, laboratory or social work
38. Viral hepatitis	Work involving close or frequent contact with human blood or its products or any other source of viral hepatitis infection especially in medical and nursing work
39. Any other infection or infestation	Work involving exposure to any other specific organisms of occupational origin in an infective form
VI. Physical and mechanical agent effects	
40. Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (beat elbow)	Manual work causing severe or prolonged external friction or pressure at or about the elbow

Description of disease or injury	Nature of occupation
41. Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (beat knee)	Manual work causing severe or prolonged external friction or pressure at or about the knee
42. Cramp of hand or arm due to repetitive movements	Prolonged periods of handwriting, typing, or other work involving repetitive movements of the fingers, hand or arm
43. Traumatic inflammation of the tendons of the hand or forearm or of the associated tendon sheaths (tenosynovitis)	Manual labour or frequent or repeated movements of the hand or wrist
44. Subcutaneous cellulitis of the hand (beat hand)	Manual labour causing severe or prolonged friction or pressure on the hand
45. Decompression sickness or its sequelae (staggers, bends, chokes, hyperbaric osteonecrosis and other baro-trauma)	Work involving subjection to compressed or rarefied air
46. Occupational cataract	Frequent or prolonged exposure to red hot material or specific chemicals scientifically proved to cause cataract
47. Any disease due to exposure to ionising radiation	Work involving exposure to any ionising radiation
48. Miners nystagmus	Work in or about a mine
49. Occupational deafness	Work involving exposure to excessive noise, ultra-noise or to any physical or chemical agent proved scientifically to cause deafness

Description of disease or injury	Nature of occupation
50. Any disease caused by local or whole body vibration	Work involving exposure to local or whole body vibration
51. Any other disease due to exposure to a physical agent	Work involving exposure to any other physical agent which has been scientifically proved to cause disease
VII. Cancers and neoplasms	
52. Any growth, dysplasia, neoplasia or cancer caused by occupational exposure to a biological, chemical dysplasia, neoplasia or cancer	Work involving occupational exposure to biological, chemical or physical agent scientifically proved to cause a growth, dysplasia, neoplasia or cancer
VIII. Other diseases	
53. Occupational vitiligo	Work involving exposure to para-tertiary-butylphenol, para-tertiary-butylcatechol, para-amylphenol, hydroquinone or the monobenzyl or monobutyl ether of hydroquinone
54. Any other disease scientifically proved to be of occupational origin	Work involving exposure to any other agent scientifically proved to cause disease but not cited above

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**History:** Act 8/2000; S. I. 72/2000.

### **Cross References**

Arbitration and Conciliation Act, Cap. 4.  
Bankruptcy Act, Cap. 67.  
Companies Act, Cap. 110.  
Magistrates Courts Act, Cap. 16.  
Medical and Dental Practitioners Act, Cap. 272.

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