**A BILL ENTITLED**

**PART I - PRELIMINARY**

**SHORT TITLE. WORKERS’ COMPENSATION BILL, 2022**

Being an Act to repeal the Workmen’s Compensation Act Cap 219, 1955.

**PART I – INTERPRETATION 1.** In this Act unless the context otherwise requires-

**“apprentice”** means any person above the age of 14 years under training at a workplace with an employer or craftsman to acquire knowledge and skill, art or trade within the period specified for the training.

**“authorised officer”** means the Commissioner of Labour or any other officer acting on his behalf and appointed by the Public Service Commission for carrying into effect the Provisions of this Act;

**“award”** means a judgment or decision by the Court;

**“business”** means any trade, undertaking, operation and establishment, whether corporate, public or private;

**“commissioner of labour”** an officer appointed by the Public Service Commission for carrying into effect the Provisions of this Act;

**“compensation”** means compensation as provided for by this Act;

**“contract of employment or service”** means any contract or agreement containing the conditions and terms of employment or service, whether written or oral, whether expressed or implied, individually or collectively, for a definite or indefinite period, whereby a worker agrees in return for wages or other remunerations to work for an employer or employing organization or institution or business establishment, including a contract of apprenticeship, in the public or private sector;

**“Court”** means the Industrial Court or a court of competent jurisdiction;

**“danger”** means, danger to health or danger to life or limb from shock, burn, or other injury to persons employed or from fire attendant upon the generation, transformation, distribution, or use of electrical energy;

**“dependant”** means members of the family which includes child, parent or any person who before the death of a worker were wholly or substantially dependent on the earnings of a worker at the time of his death;

**“earnings”** include wages and any allowances in respect of increase in cost of living paid to the worker by the employer and the value of any food, fuel, or accommodation and any overtime payment or other special remuneration or benefit in kind;

**“employer”** means any person or group of persons including a government, any firm, corporation or company, a public or local authority, a partnership or business, or any other entity whatsoever for whom one or more workers work or have worked or normally work under a contract of employment and includes any person, heirs, successors or assignees, or any firm, corporation, company, authority or body who is placed in authority over all other workers employed by such person or group of persons, firm, company, corporation, or authority;

**“employers’ organisation”** means an organisation of employers that has among its principal objects the regulation of collective relations between employers and workers;

**“employment and occupation”** include access to vocational training, access to employment and to particular occupations and terms and conditions of employment;

**“environment”** means any working environment or premises in which work is done by a worker;

**“federation”** means the Sierra Leone Employers’ Federation being the most representative organisation of employers;

**“health”** means the physical and mental elements affecting health which are directly related to safety and hygiene at work;

**“incapacity”** means physical or mental inability of a worker;

**“industrial action”** means any concerted withdrawal of labour or restriction upon the availability or quantity of labour on the part of workers, and any lock-out by which one or more employers deny work and wages to workers. Such conducts shall not cease to constitute industrial action by reason only of the fact that the contract of employment expressly or impliedly permits such industrial action**;**

**“industrial court”** means an independent judicial body established by law to adjudicate disputes between employers and workers over employment rights and industrial disputes;

**“injury”** means personal, bodily or mental injury and includes but not limited to damage to an artificial limb, teeth, or Spectacles or similar artificial aid;

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

**“Labour Officer”** means any officer appointed by the Public Service Commission and with the powers and obligations as provided in section (9) of this Act;

**“major incident”** means an occurrence of catastrophic proportions resulting from the use of plant or machinery or from activities at a workplace;

**“medical aid”** means medical, surgical and hospital treatment, skilled nursing services, dental care, physiotherapy, rehabilitation and the supply of medicines within Sierra Leone;

**“minister”** means the Minister responsible for labour;

**“ministry”** means the Ministry responsible for labour;

**“national minimum wage”** means the existing national minimum wage fixed by the Joint National Negotiating Board;

**“organisation”** means a group of persons who come together to achieve particular aims and objectives, such as business or the advancement of the interest and protection of its members;

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

**“person”** means any person or group of persons, company, firm, corporation or any other kind of body including their agents;

**“probationary contract”** means a contract of employment for not more than six months period;

**“project tied worker”** means a worker admitted to Sierra Leone for a specified period either individually or on the basis of an employment relationship with an employer carrying out a defined project which, by its nature, is limited in time;

**“Public Service Commission”** means a body established under sub-section (1) of section 151 of the Constitution of Sierra Leone (Act No.6 of 1991).

**“qualified Medical Practitioner or Personnel”** means any Government Medical Officer or any registered medical practitioner;

**“remuneration”** includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly, whether in cash or in kind, by the Employer to the worker and arising out of the worker’s employment;

**“severance pay”** means the benefit or entitlement given to a worker by his employer at the end of his contract of employment or service;

**“strike”** means the cessation of work by a group of persons employed acting in combination, or a concerted refusal or refusal under a common understanding by any number of persons employed to continue to work for an employer in consequence of a labour dispute, done as a means of compelling their employer or any person or group of persons employed to accept or not to accept terms or conditions of or affecting employment; and includes any concerted interruption of work or slowing down by workers commonly known as “sit-down-strike” or “a-go-slow” attempted or effected by workers for the reasons aforesaid, but, in agricultural undertakings, does not include delay in the conclusion of customary arrangements between workers as to the size and nature of a task;

**“supervisor”** means a worker who performs managerial functions including the hiring and firing for an employeror who it is agreed between an employer and a trade union to which the Minister has issued a Collective Bargaining Certificate, performs supervisory functions;

A Supervisor is a worker having authority in the interest of the establishment to recommend the hire, transfer, suspension, layoff, recall, promotion, discharge, reward or discipline of other workers, or having the responsibility to adjust their grievances or discipline of other workers, or having the responsibility to adjust their grievances or effectively to recommend such action and wherein the exercise of such authority is not only of routine or clerical nature but requires the use of independent judgment and receiving remuneration above any of his subordinates.

**“termination of employment”** means the discharge of a worker from employment;

**“trade dispute”** means any disagreement or difference between employers and workers connected with the employment or the terms of the employment or with the conditions of labour of any worker, and includes any dispute connected with but not limited to any of the following-

(a) terms and conditions of employment including remuneration for employment;

(b) the engagement of an worker;

(c) the times at which, or the conditions under which any work is, or is not performed;

(d) the demotion, suspension or imposition of any other penalty or discipline of any worker;

(e) the termination of any agreement by which work is to be performed;

(f) the grievance or complaint of any worker in respect of his employment;

(g) the machinery for negotiating any matters specified in (a) to (f) above, or for the settlement of any grievance or dispute relating to any worker; or any other work-related dispute.

**“Trade Union”** means an organisation of workers that has among its principal objects the regulation of collective relations between workers and employers;

**“wage”** means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable by virtue of a written or unwritten contract of employment by an employer to a worker for work done or to be done or for services rendered or to be rendered.

**“week”** means any period of five working days;

**“workplace”** means all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of their employer;

**“worker”** mean any person who has entered into or works under a contract of employment or other contract with an employer, whether the contract be by way of manual labour, clerical work or otherwise, expressed or implied, and (if it is expressed) oral or in writing and whether it be a contract of service or a contract concerning learning or a contract personally to execute any work or labour and includes an outworker, and a worker of Government.

**PART III: ADMINISTRATION AND JURISDICTION**

**Application 2. (1)** Subject to the provision of this section, this Act shall apply to all workers in the Republic of Sierra Leone, except where the contrary is expressly stated.

(2) In the event where there is conflict or inconsistency between the provisions of this Act and that of any other written law relating to the workers’ compensation, this Act shall supersede.

(3)The Military and Police Forces, other than their civilian workers, shall be governed by their own laws and regulations.

(4)The Minister may, after consultation with the Joint Consultative Committee, by statutory regulation, exempt any person or class of persons or any trade, industry or undertaking whose terms and conditions of employment are governed by special arrangements from the operation of all or any of the provisions of this Act, or any regulation or order made or any direction given in pursuance of this Act.

(5)The Minister may, after consultation with the Joint Consultative Committee, by statutory regulation, extend the application of this Act to any category of persons excluded from its provisions.

(6)In this Act and in any Rules and Regulations made hereunder, unless the contrary intention appears-

(a) Words importing the masculine gender include female;

(b) Words in the singular include the plural and words in the plural include the singular;

**Administration 3. (1)** The administration of this Act shall be the responsibility of the Commissioner of Labour acting under the authority of the Minister, except where the contrary is expressly stated.

(2) The Commissioner of Labour may delegate to any properly appointed Director, Labour Officer or any authorized officer the exercise of any of his powers and the performance of any of his duties, generally or in part, and may revoke such delegation by written notice at any time.

**Appointment of officers. 4.** The Public Service Commission shall appoint a Commissioner of Labour and such other officers, known as Directors, Labour Officers, or as may be necessary for the purposes of the administration of this Act.

**PART IV – POWERS OF THE COMMISSIONER OF LABOUR AND LABOUR OFFICERS**

**Powers related to labour**

**inspection. 5.** (1) The provisions of this section shall be in addition to and not in derogation of any other powers or duties conferred or imposed on the Commissioner of Labour by the provisions of this or any other Act.

(2) The Commissioner of Labour shall have power to engage in Labour inspection. Labour inspection shall include but not limited to -

(a) securing the enforcement of legal provisions relating to terms and conditions of employment and work, discrimination and the protection of Workers while engaged in their work;

(b) the supply of technical information and advice to Employers, Workers and their organisations concerning the most effective means of complying with the legal provisions;

(c) bringing to the notice of the Minister defects or abuses not specifically covered by existing legal provisions.

 (3) The Commissioner of Labour shall be empowered-

(a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;

(b) to enter any premises which he may have cause to believe to be liable to inspection; and

(c) to carry out any examination, test or inquiry which he may consider necessary in order to satisfy himself that the legal provisions are being strictly observed, and in particular­-

(i) to question, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of this Act or legal provisions issued hereunder;

(ii) to require the production of any books, registers or other documents the keeping of which is prescribed by law or regulation relating to conditions of work, in order to ensure that they are in conformity with the legal provisions and to copy such documents or make extracts from them;

(iii) to enforce the posting of notices required by law or regulation.

(4) The Commissioner of Labour may by order, require any person to provide a remedy for any victimization of or retaliation against complainants, witnesses, and whistle-blowers.

(5) Prior to or upon arrival at a workplace on the occasion of an inspection visit, the Commissioner of Labour shall notify the employer or the employer’s representative of his presence, unless the Commissioner of Labour considers that such a notification may be prejudicial to the performance of his duty.

**Powers to**

**seal workplace. 6 (1)** The Commissioner of Labour shall have the power, after prior warning to the employer and after due consultation with the Minister responsible for labour and other relevant authorities, to order the temporary seal of a workplace for non-compliance with the relevant Labour Laws of the Republic of Sierra Leone.

(2) The Commissioner of labour shall, after due consultation with the Minister and other relevant authorities on an imminent danger to the safety and health of workers, require the temporary seal of a workplace, or the discontinuation of any work process.

(3) In addition to the exercise of his other powers, the Commissioner of Labour may institute civil or criminal proceedings before any court of law in respect of a contravention or alleged contravention of any of the provisions of this Act and any regulations made hereunder, and may prosecute and appear on his name in respect of such proceedings. This shall be without prejudice to the Commissioner of Labour’s power to recommend criminal prosecution where this or any other Act so provides.

**Complaint and**

**settlement of**

**industrial dispute. 7. (1)** Whenever an employer or worker neglects or refuses to fulfil a contract of employment or service, or whenever any question, difference or dispute arises as to the rights or liabilities of either party, or touching any misconduct, neglect or ill treatment of either party, or any injury to the person or property of either party, under any contract of service, the party feeling aggrieved may make a complaint to the Commissioner of Labour.

(2) Whenever a complaint is made under subsection (1) of this section-

(a) the Commissioner of Labour shall use lawful steps as may seem to him to be expedient to effect a settlement between the parties;

(b) subject to paragraph (a), the Commissioner may assess the value of services rendered by a worker, or in any case, where the rate or amount of wages or allowances to which a worker should be entitled have not been agreed upon between the employer and worker, or it is not certain what terms were agreed, he may decide the relative rights of the employer and worker; and may make such directions as in his opinion meets the justice of the case.

(3) If in the opinion of the Commissioner of Labour, the complaint appears to be difficult to resolve shall forthwith refer the complaint to the Industrial Court.

**Legal representation**

**of parties in conciliation**

**meetings. 8.** Unless the Commissioner of Labour deems it necessary, lawyers shall not attend or represent parties in conciliatory meetings at the Ministry. However, lawyers can represent their clients in the Industrial Court.

**Powers of**

**Labour Officers. 9.** A Labour Officer acting on behalf of the Commissioner of Labour shall have the power –

(a) to enter, investigate, inspect, examine, verify and assess employment and labour matters at all times, whether by day or by night any workplace and every part thereof, land or premises, organisation, institution or business establishment, fishing vessels, ferries, cargo ships or any other place thereof, when he has reasonable cause to believe that any person is employed therein, and to enter, investigate, inspect, examine, verify and assess employment and labour matters at all times whether by day or by night any place which he has reasonable cause to believe to be a workplace;

(b) to question, either alone or in the presence of any other person, any person whom the Labour Official has cause to believe to be, or to have been a person to whom this Act applies, in connection with any matter for securing the due observance of this Act;

(c) to order the production of records of wages or any other relevant document required to be kept by employers, and to inspect and examine the same, and copy any material part thereof;

(d) to take with him a Police Officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(e) to investigate complaints from workers and employers alike concerning violations of terms and conditions of employment;

(f) to invite or summon any employer or worker to a conciliatory meeting;

(g) to advocate, prosecute, conduct or defend before a High court (Industrial Court) any charge, information, complaint or other proceedings arising under this Act, or in the discharge of his duty as Labour Officer.

**Obstruction of the**

**Commissioner of**

**Labour or**

**Labour Officer 10.** Any person, or institution who -

(a) wilfully delays or obstructs the Commissioner of Labour or any Labour Officer in the exercise of any power, duty or function under this Act;

(b) hinders, prevents or molests the Commissioner any Labour Official in the exercise of any of his powers or duties set out in this Act;

(c) fails to comply with or honour any direction, order, requirement or request for information or document, demand for or inquiry of the Commissioner Labour or any Labour Officer, made or given in pursuance of any power, duty or function conferred upon him by this Act or direction for compliance with the provisions of this Act, or any other Act that regulates labour matters;

(d) fails to honour any letter of invitation to conciliation meeting with respect to any labour matter reported;

(e) provide inaccurate or deficient record or information to the Commissioner of Labour or any Labour Officer with an intention to defraud or who acts so as to conceal fraudulent acts;

(f) conceals or attempts to conceal or otherwise prevent any person from appearing before, being examined by the Commissioner of Labour or any Labour Officer;

commits an offence and upon conviction shall be liable to a fine not less than three months national minimum wage in respect of each offence or to a temporary closure of the workplace.

**Conduct of the**

**Commissioner of**

**Labour and**

**labour officers 11.** Subject to such exceptions as may be prescribed, the Commissioner of Labour or any Labour Officer-

(a) shall not have any direct or indirect interest in any undertaking or labour matter under his supervision or presiding over;

(b) shall not disclose any information obtained by him in the exercise of his powers or duties under this Act, except to persons acting in the execution of this Act, and except so far as such information may be necessary for the performance of his duties;

(c) shall treat as absolutely confidential the source of any complaint bringing to his notice a defect or breach of legal provisions and shall give no information to the Employer or worker or his representative that action was taken in consequence of the receipt of such complaint.

**Indemnity of the**

**Commissioner of**

**Labour and**

**Labour Officer 12.** The Commissioner of Labour or any Labour Officer shall not be personally liable for any action done whatsoever if the action is reasonably done in pursuance of this Act or in the exercise of his powers under section 9.

**PART V - EMPLOYMENT INJURY, OCCUPATIONAL DISEASE, CLAIMS AND COMPENSATIONS**

**Employment injury 13. (1)** Compensation shall be paid to a worker suffering an employment injury in accordance with the provisions of this Act.

(2) In this Act, “Employment Injury” means a personal injury to a worker caused by accident or an occupational disease arising out of and in the course of his employment provided that:

1. the accident occurs on a journey made for any reason which is directly connected to his employment;
2. the accident occurs on a journey between his place of work and the place where he takes his meal during any authorised recess;
3. the accident occurs while the worker is in or near any premises at which he is being employed and it occurs while assisting, rescuing or protecting other people from disaster or danger during an emergency;
4. the accident occurs while the worker is travelling directly to and from his place of work from the place where the worker ordinarily or for the time being resides, for the purpose of his employment, shall be deemed to be an accident arising out of and in the course of employment. It shall however be for the worker who suffers injury by accident arising while travelling to and from his place of work to show that such travel was direct;
5. the accident occurs in the course of employment by reason of any natural phenomenon or the action of any living thing;
6. the accident occurs 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 about to be injured or imperilled, or when a worker acts to protect property on the employer’s premises;
7. the accident occurs out of an act done for the purposes of and in connection with the employer’s trade or business, notwithstanding that the worker is at the time acting in contravention of any statutory or other regulations applicable to his employment or any orders given to the worker by or on behalf of his employer or that the worker is acting without instructions from the employer;

(3) If in any claim for the recovery of compensation under this Act it appears to the Court that the contract of service or apprenticeship or traineeship under which the injured person was working at the time the accident causing the injury happened was illegal, the Court may, if having regard to all the circumstances of the case it is thought proper so to do, deal with the matter as if the injured person had at the time of the accident been a person working under a valid contract of service or apprenticeship or traineeship.

(4) Compensation in cases of permanent incapacity or death shall, in principle, be paid in the form of periodic payments; otherwise, compensation may be awarded in lump sum as provided under this Act. Every lump- sum payment shall be accompanied by a clearly written statement from a labour officer that he has instructed the recipient that the sum should be properly utilized for the needs of the worker and his family.

**Fatal injuries 14.** Where death results from the employment injury-

1. if the deceased worker leaves any family member or members, who are dependent on his earnings, the amount of compensation shall be a sum equal to forty eight months of the worker’s total earnings computed in accordance with the provisions of section (19);
2. in addition to any sums payable under paragraphs (a) or (b) of this Section, the reasonable expenses of the burial of the deceased worker not less than six months national minimum wage shall be paid by the employer to the person responsible for paying the cost of the burial;
3. it shall be presumed for the purposes of this Act that a worker has a dependant or dependants, unless the employer proves otherwise.

**Permanent total**

**disability 15. (1)** Where permanent total disability results from the injury,the amount of compensation shall be fifty six months of the worker’s total monthly earnings.

(2) Where an injury under this Section is such as to be likely to require the disabled 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.

**Permanent partial**

**disability** **16. (1)** Where permanent partial disability results from the injury, the amount of compensation shall be-

1. in the case of an injury specified in the First Scheduled to this Act, the percentage specified for that injury in the First Scheduled to this Act, multiplied by fifty six months of the worker’s total monthly earnings; and
2. in the case of an injury not specified in the First Schedule to this Act, such percentage of fifty four months of the worker’s total 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 has caused the worker to suffer permanent total disability.

**Temporary incapacity 17. (1)** If temporary incapacity, total or partial, results from the injury, the compensation shall be equal to seventy-five per cent of the earnings which the worker would have earned for the period during which he is temporarily incapable of working.

(2) Compensation provided under subsection (1) shall, subject to subsection (3), be payable for a maximum of 6 months from the date of the accident.

(3) If at the end of 6 months from the date of the accident the worker remains incapable, as a result of the injury, of any worker which is reasonable suitable in his case and in the opinion of medical practitioner is likely to remain so incapable for a further period not exceeding 12 months, compensation under this section shall continue to be payable for such further period so long as the incapacity continues.

(4) If a worker remains incapable of work at the end of the period of 12 months from the date of the accident, he shall then be deemed to be permanently disabled and compensation shall be payable accordingly under section (16).

(5) No deduction shall be made from compensation payable under section (15) and section (16) on account of compensation payable under this Section.

(6) Compensation payable to an injured worker under this Section shall be paid to him at intervals and times at which the worker would ordinarily receive his earnings or, where payment as aforesaid is not practicable, at such other intervals and times as the worker and the employer may agree. Provided that where a worker ordinarily received his earnings at intervals of less than one week, the employer shall not be required to pay compensation at intervals of less than one week.

**Compensation**

**for the period of**

**immediate**

**disability. 18.** (1) In this section- “period of immediate disability” means the period from the commencement of the incapacity resulting from the injury until-

(a) the worker recovers the full earning capacity which he enjoy immediately before the accident; or

(b) the degree of permanent incapacity is certified by a qualified medical practitioner certified by the Dental and Medical Council of Sierra Leone named or approved by the employer to have result from the injury; or

(c) the worker dies as a result of the injury.

(2) In all cases where incapacity results from the injury, compensation calculated in accordance with the provisions of this Act shall be paid by the employer in respect of the period of immediate disability and in the event of permanent incapacity resulting from the injury no deduction shall be made from the lump sum payable under this Act by reason of any compensation paid in respect of this period of immediate disability whether such compensation consists of periodical payment or a lump sum in lieu thereof under the lump sum in redemption of periodical payments or a lump sum in substitution for periodical payments pursuant to an order of the Industrial Court.

**Calculation of earnings 19. (1)** For the purpose of this Act the monthly earnings of a worker shall be computed in such a manner as is 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 total monthly earnings which may include the monthly basic salary, overtime, allowances, regular bonus.

(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) of this Section, 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 the remuneration payable to the worker varies with the amount of work done of the time at which such work is done, the earnings shall be computed by reference to average monthly earnings in the twelve months immediately preceding the accident; for any period of employment lasting less than twelve months, the provisions of subsection (2) shall apply.

(4) Where the worker had entered into concurrent contracts of service with two or more employers, his monthly earnings shall be computed as if the worker’s earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident.

(5) To permit calculation of a worker’s monthly earnings for the purposes of this Section the employer liable to pay compensation shall upon request furnish the worker with a written list of his own earnings in the twelve months immediately preceding the accident.

(6) An employer who, without reasonable cause, acts in contravention of this Section shall be liable to a fine not less than thirty months national minimum wage.

**Persons entitled**

**to compensation 20. (1)** The worker who suffers injury in circumstances giving risetoclaim for compensation under this Act shall be entitled to receive such compensation, and where death results from the injury, his dependants shall be entitled to receive compensation.

(2) Where the death of a worker has resulted from the injury, compensation shall be apportioned by the Commissioner of Labour among the dependants both total and partial, of deceased worker in such proportions and to such persons as the Commissioner of Labour shall consider appropriate bearing in mind their degree of dependency

(3) Every worker shall be required to declare their next of kin to their employer upon employment in a prescribed form

(4) Where the next of kin dies before payment of compensation by reason of the death of the Worker, the compensation shall be paid to the children and the surviving spouse of the deceased Worker or, in the absence of such children or spouse, to such other dependant, relative or guardian of a minor dependent relative.

(5) Where an employer makes a payment to a worker or the dependants of a deceased worker pending the settlement or determination of a claim arising under this Act, such payment, where evidenced by a properly executed receipt, shall be deducted from the amount of the compensation payable in respect of the accident, except medical expenses as provided for under section (36).

(6) Where it appears to the Commissioner of Labour that on account of the variation of the circumstances of any of the dependants, or for any other sufficient cause, an order made under this section ought to be varied, the Commissioner of Labour may make such variation of the former order as in the circumstances of the case he may think just, but not so as to deprive any dependant of the right to any sum already paid to such dependant.

(7) Any order of the Commissioner of Labour made pursuant to subsection (2) of this section, may, on application to the court, be made an order of the court which thereafter can only be varied by the Industrial Court itself.

(8) An appeal shall lie to the Industrial Court against any decision or order made by the Commissioner of Labour under this section.

**Agreement as to**

**compensation 21. (1)** The employer and worker may, with the written approval of the Commissioner of Labour, agree that compensation be paid in respect of an injury which would otherwise give rise to claim if-

1. the compensation agreed upon shall not be less than the amount payable under the provisions of this Act;
2. the employer shall ensure that the worker was able to understand the terms of the agreement.

(2) Where temporary incapacity whether total or partial results from the injury, the compensation shall be the periodical payments hereinafter mentioned payable at such interval as may be agreed upon or as a court may order or a lump sum calculated accordingly having regard to probable duration, and probable changes in the degree, of the incapacity. Such periodical payment shall be, or shall be at the rate proportionate to, a monthly payment of half the difference between the monthly earning which the worker was earning at the time of the accident and the monthly earning which he is earning or is capable of earning in some suitable employment or business after the accident.

(3) The Industrial Court may, on the application of 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-

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

**Limitation of Power**

**of employer to end**

**or decrease periodical**

**payment 22.** (1) Subject to the provisions of this Act, an employer shall not be entitled otherwise than in pursuance of an agreement or an order of the court:

(a) to end periodical payment except-

i. where a worker resumes and his earnings are not less than the earnings which he was obtaining before the accident; or

ii. where a worker dies;

(b) to diminish periodical payment except-

i. Where a worker in receipt of periodical payment in respect of total incapacity has actually returned to work

ii. Where the earnings of a worker in receipt of periodical payment in respect of partial incapacity has actually been increased.

**Medical examination**

**and treatment 23. (1)** Where a worker has given notice of an accident, the employer shall, 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 own medical practitioner or an official of a Trade Union of which he is a member present at such examination.

(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 at or following any such examination, may be taken into account by the court in assessing the amount of compensation payable under this Act. The Court may use such 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 incapacity, the employer shall be liable to pay the costs of normal medical expenses of the worker’s medical practitioner or of such other recognized medical personnel in areas where no medical practitioner is available.

**Disputed assessments**

**of incapacity 24. (1)** If the final assessment of incapacity made by a medicalpractitioner after a medical examination, made in accordance with the provisions of section (23), is disputed by the employer or the worker, the employer or the worker, as the case may be, may apply to the Commissioner of Labour to request that the dispute be referred to the Medical Arbitration Board. The application for referral shall be made within seven working days from the date of receipt of the notice of final assessment. The Commissioner of Labour shall refer the dispute to the Medical Arbitration Board within seven working days of receiving the request. The decision of the Medical Arbitration Board shall be final.

**Determination of claims 25. (1)** If an employer on whom notice of the accident has been served under the provisions of section (21) of this Act does not within 21 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 for Compensation to the Industrial Court.

(2) All claims for compensation under the provisions of this Act, unless determined by agreement and any matter arising out of proceedings thereunder, shall be determined by the Industrial Court whatever may be the amount involved. The Industrial Court may, for the purpose, call upon any Public Officer or any independent medical practitioner to give evidence, if the Industrial Court is of the opinion that such officer or practitioner is, by virtue of expert knowledge, able to assist the Industrial Court.

(3) If a request is received from a court in another country for an investigation of any matter arising out of proceedings for compensation instituted in that court under a law relating to workers’ compensation, the Industrial Court shall have jurisdiction to deal with the matter as if it had arisen under this Act, provided that where the matter concerns the dependency of any person it shall be investigated in accordance with regulations under this Act.

(4) Subject to any rules under section (82) of the Regulation of Wages and Industrial Relations Bill, any party to any matter brought before the Industrial Court under this Act may be represented before the Industrial Court by a legal practitioner or any other person authorised by such party.

**Effect of receipt**

**of damages 26. (1)** When the injury in respect of which compensation is payable under this Act arise from an accident, the circumstances of which create a legal liability on the employer, either directly or indirectly, or on some other person, such that the worker may recover damages in an action at law, such worker or person authorised bring proceedings on his behalf may, notwithstanding the Act, bring such proceedings and recover damages.

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

(3) Where a claim for damages referred to in subsection (1) of this section is brought by a worker, the court in which such proceedings are taken may decide whether the circumstances of the claim are such that compensation under this act is liable to be paid 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.

**Insurance 27. (1)** Subject to the provisions of subsections (2) and (3) of this section, every employer shall insure and keep himself insured in respect of any liability which he may incur under this Act to any worker employed by him.

(2) The insurers empowered to offer insurance under this section shall be specified on list kept by the Minister responsible for labour and published in the 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 which may result in policy being voided or payment under the policy refused.

(4) An employer shall provide information regarding insurance affected to meet the requirements of this section, when reasonably requested by the Commissioner of Labour or any authorized Officer acting on his behalf.

(5) Insurance cover: Without prejudice to the insurance policy, all employers shall insure their worker(s) in respect of any liability arising from occupational accidents and diseases.

(6) An employer who fails to comply with any of the requirements imposed by this section shall be liable to a fine not less than twenty-four months national minimum wage.

**Powers of the Minister**

**responsible for labour**

**on insurance** **28.** The Minister responsible for Labour shall, in consultation with the Joint Consultative Committee, make provisions for-

(a)declaring void any terms included in a policy ofinsurance which meets or purports to meet the obligation referred to in section (27);

(b) The payment of benefits under the voided policy in circumstances where judgment in respect of any liability as required to be covered by section (27), has been obtained by the worker against the employer.

**Bankruptcy of an employer 29. (1)** Where any employer has entered into a contract with any insurer in respect of any liability under this Act to any worker, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, 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, the right of the employer against the insurer in respect of the liability shall, notwithstanding anything contained in any law relating to bankruptcy and the winding up of companies for the time being in force, be transferred to and vested in the worker. Upon any such transfer the insurer shall have the same rights and remedies and be subject to the same liabilities as if they were the employer: Provided that the insurer shall not be under any greater liability to the worker than they would have been under to the employer.

(2) If the liability of the insurers 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 may recover the balance from the receiver or manager.

(3) There shall be included amongst the debts which-

1. under the provisions of section 41 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
2. under the provisions of section 344 of the Companies Act, are in the winding up of a company to be paid in priority to all debts,
3. the amount due in respect of any compensation or liability for compensation for under this Act accrued before the following dates, that is to say:

(i) in the first case, the date of the

 receiving order; and

(ii) in the second case, the date of commencement of the winding up of the company.

**Contracting out 30. (1)** Any contract or agreement, whether made before or after the commencement of this Act, whereby 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 purports to remove or reduce the liability of any person to pay compensation under the provisions of this Act.

(2) However, a worker who has obtained compensation in respect of permanent partial or permanent total disability may enter into a contract reducing or giving up his right to compensation under the provisions of this Act in respect of any further personal injury accident if such contract is certified to be fair and reasonable by the Commissioner of Labour or authorised officer.

**Compensation not**

**to be Assigned,**

**Charged or**

**Attached 31.** Compensation payable under the provisions of 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 such compensation.

**Remedies against**

**both Employer**

**and Stranger 32.** Where the injury in respect of which compensation is payable under the provisions of this Act was caused under circumstances creating a legal liability in some person other than the employers to pay damages in respect thereof-

(a) the worker may take proceedings both against that person to recover damages and against any person liable to pay compensation under the provisions for such compensation, but shall not be entitled to recover both damages and compensation; and

(b) if the worker has recovered compensation under the provisions of this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the provisions relating to liability in case of worker employed by contractors, shall be entitled to be indemnified as regards the amount of compensation, including costs, by the person so liable to pay damages as aforesaid, and any question as to the right to and amount of any such indemnity shall, in default of agreement, be settled by civil suit or, by consent of the parties, by arbitration under the Arbitration Act.

**Liability in case**

**of a Worker**

**employed by**

**Contractors 33.** (1) Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business , contracts with any other person otherwise than as a tributer (which other person is in this section and the next succeeding 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 worker employed in the execution of the work any compensation under the provisions of this Act which he would have been liable to pay if that worker had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, than, in the application of this Act, references to the principal shall be substituted for references to the employer except that the amount of compensation shall be calculated with reference to the earnings of the worker under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under the provisions of this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the worker independently of this section.

(3) Where a claim or application for compensation is made under the provisions of this section against a principal, the principal shall give notice thereof to the contractor who shall thereupon be entitled to intervene in any application made against the principal.

(4) Nothing in this section shall be construed as preventing a worker recovering compensation under the provisions of this Act from the contractor instead of the principal.

(5) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the contractor has undertaken to execute the work on behalf of the principal or which are otherwise under the control or management of the principal.

**Compensation not**

**to be assigned 34.**  Compensation payable under the provisions of this Act shallnot 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 such compensation.

**Medical and other**

**expenses 35. (1)** In the event of an accident entitling the worker tocompensation under this Act, the employer shall defray the reasonable expenses incurred by the worker-

1. in respect of medical expenses, and
2. in respect of transport and incidental expenses arising out of and in connection with the accident.

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

(3) In the event of the death of a worker, as a result of an accident for which the employer has liability under this Act, the dependants (if any) of the deceased may recover from the employer the reasonable expenses of medical treatment of the deceased, burial of the decease and expenses incidental thereto, not less than twelve months pay of the national minimum wage.

(4) The fees which may be charged by a medical or dental practitioner or a medical or dental establishment in Sierra Leone for medical aid provided to a worker under this Act shall not exceed those set out in a scale prescribed by regulation made under this Act.

**Decisions of the Industrial**

**Court concerning treatment**

**and medical reports 36. (1)** All disputes as to the necessity for, or the character of sufficiency of, any medical aid provided or to be provided under the provisions of this Act shall be determined by the Industrial Court.

(2) Any decision of the Industrial Court given under subsection (1) shall be final.

**Procedures relating**

**to claims 37.** The following procedure shall govern the payment of compensation:

1. any compensation due shall be paid by the employer through the Commissioner of Labour or authorised officer;

1. any notice required under the provisions of this Act to be served by a worker may be served by a Labour Officer;
2. For the purpose of payment of compensation to an injured worker, or accident victim, all insurance companies are required to provide the Commissioner of Labour or any authorised Labour Officer, through the employer, detailed calculations of compensation payable to the injured worker or accident victim for vetting and such vetting shall be final.
3. Any employer or insurance company who fails to comply with subsections (a), and (c) above shall be liable to a fine not less than twenty months national minimum wage.

**Workers and dependant**

**accident outside**

**Sierra Leone** **38. (1)** Compensation awarded under this Act to a worker or dependant who is resident and domiciled outside Sierra Leone shall be paid through the Commissioner of Labour.

(2) The Minister shall, after prior consultation with the Commissioner of Labour, make such arrangements as he considers to be appropriate for the transmission of compensation to the worker or dependant entitled to such 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, the Commissioner of Labour shall return such sums to the Employer until the affected worker makes himself available for payment

(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 dependant) is identified.

**Compensation payable**

**in respect of disease 39. (1)** Where a medical practitioner grants a certificate stating that-

1. a worker is suffering from an occupational disease causing incapacity or that the death of a worker was caused by any occupational disease; and
2. such disease was due to the nature of the worker’s employment and was contracted within the twenty-four months immediately prior to the date of such incapacity or death, except in the case of the occupational diseases which manifest themselves after or during several years of employment.

(2) For the purposes of this section and to avoid all doubt, a disease is contracted either -

1. when the symptoms of the disease are clearly manifested;
2. when it is first diagnosed by medical practitioner.

(3) Whenever a medical practitioner grants the certificate referred to in subsection (1), it shall be the duty of worker or a person acting on his behalf to give a copy of the certificate to the employer and the commissioner of labour.

**Liability to pay**

**compensation 40. (1)** Subject to subsection (5) compensation shall bepayable by the employer who last employed the worker during the period of 24 months referred to in paragraph (b) of subsection (1) of section (39) the employer shall prove that the disease was not contracted while the worker was in such employment.

(2) The worker or his dependants shall, if required by the employer from whom compensation is claimed, provide such information as they have as to the identity and location of all other employers of the worker during the period of 24 months referred to in paragraph (b) of subsection (1) of section (39).

(3) If the employer alleges that the disease was in fact contracted while work was in the employment of some other employer and not while in his employment, the employer may join such other employer as a party to the proceedings in such manner as maybe provided by rules of the Industrial Court made under section (82) of the Regulation of Wages and Industrial Relations Act, and if the allegation is proved that 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, any other employers who employed the worker during the period of twenty-four months referred paragraph (b) of subsection (1) of section (39) shall, if the employment was in an occupation which is likely to have caused the disease from which the worker suffers or has suffered, be liable to make a contribution to the employer in respect of whom compensation is recovered. The amount of such compensation shall, failing agreement between the parties, be settled by civil suit or by consensual arbitration through the Industrial Court.

(5) Where, in respect of any occupational disease which manifests itself during or after 15 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 such sums as, in the opinion of the Commissioner of Labour, are appropriate, given the period of employment of the worker with each of these different employers.

**Application to**

**Persons Employed**

**on Vessels. 41.** (1) This Act shall apply to masters, seamen and apprentices to the sea service, provided that such persons are workers within the meaning of this Act, and are members of the crew of any vessel registered in Sierra Leone of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in Sierra Leone, subject to the following modifications—

(a)the notice of accident and the claim for compensation may, except where the person injured is the master, be given to the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident;

(b) in the case of the death of the master, seaman or apprentice, the application for compensation shall be made within three months after news of the death has been received by the claimant;

(c) whenever in the course of any legal proceeding under this Act the testimony of any witness is required in relation to the subject matter of the proceeding, then, upon due proof that the witness cannot be found in Sierra Leone, any position which the witness may have previously made on oath in relation to the same subject matter before any judge.

(d) in case of death of the master, seaman or apprentice leaving no dependents, no compensation shall be payable, the owner of the vessel is liable to pay expenses of burial;

(e) the periodical payment shall not be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Sierra Leone relating to merchant shipping, liable to defray the expenses of maintenance of the injured master, seaman or apprentice.

(2) this Act shall not apply to such members of the crew of a fishing vessel as are remunerated wholly or mainly by shares in the profit or the gross earnings of the working of such vessel, except in such cases and subject to such modifications as the Minister may by order provide.

(3) this Act shall also apply to any person not being a master, seaman or apprentice to the sea service, employed on board any such ship as is mentioned in this section, if he is so employed for the purposes of the ship or of any passengers or cargo or mails carried by the ship, and if he is otherwise a worker within the meaning of this Act.

(4) In this section unless the context otherwise requires –“ship”, “vessel” , “seaman” and “port” shall have the same meaning as defined by the laws of Sierra Leone“ master” in relation to a ship means the ship’s husband or other person to whom the management of the ship is entrusted by or on behalf of the owner.

**Fixing of dates 42. (1)** In the application of the provisions of this Act to incapacity or death caused by an occupational disease, references to the date of the occurrence of the accident shall be construed as meaning-

1. in case of an occupational disease causing incapacity, the date of the certificate referred to in section (39) of this Act; and
2. in the case of death from an occupational disease, the date of the death of the worker.

(2) Compensation shall be calculated with reference to the earnings of the worker under the employer from whom the compensation is recoverable; the monthly earnings of the worker shall be computed in such manner as is 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 (39). However-

1. if the worker was not at the date the certificate was granted so employed the earnings shall be computed in such manner as is 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;
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 (3) of this section, regard may be given 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.

**Presumption as to**

**cause of disease 43. (1)** If a worker who becomes incapacitated by or dies of anyoccupationaldisease mentioned in the Second Schedule to this Act was, within the period of 24 months immediately preceding the incapacity or death, employed in any occupation mentioned in the second schedule opposite a disease also mentioned in that schedule, it shall be presumed, unless contrary it proved, that the disease was due to the nature of such employment.

(2) Nothing in this part shall affect the right of a worker to recover compensation under this Act in respect of a disease if the disease result from an employment accident and it is not, in relation to him, an occupational disease by virtue of his occupation.

**Notification of Accident44. (1)** Where an accident in a workplace-

(a) causes loss of life to a worker employed in a workplace, or

(b) disables any such worker from working at the workplace at which he was employed; written notice of the accident shall forthwith be sent to the Commissioner of Labour or any authorised officer by the employer or occupier of the workplace within forty-eight hours unless it is an accident of which notice is sent in accordance with the requirement of the explosive Amendment Act, 1974.

(2) Where an accident causing disablement is notified under this section, and after notification thereof results in the death of the disabled worker, notice in writing of the death shall be sent to the Commissioner of Labour or any authorised officer by the employer or occupier of the workplace as soon as the death comes to his knowledge.

(3) Any employer who fails to comply with the provisions of subsection (1) and (2) of this section without reasonable cause shall be guilty of an offence and shall be liable to a fine not less than thirty months national minimum wage.

**PART VI - REGULATIONS, CRIMINAL LIABILITIES PENALTIES AND REPEALS**

**Regulations 45. (1)** The Minister may by statutory instrument, make regulations for giving effect to this Act.

**Criminal liabilities 46. (1)** Nothing in this Act and no imposition of a disciplinary penalty for a breach of the disciplinary code shall exempt any person from being proceeded against, convicted or punished for a criminal offence.

(2) Nothing in any other law prohibiting or restricting the punishment of a person twice for the same offence shall apply in relation to the imposition of a disciplinary penalty by an Employer.

(3) In an offence under this Act, it shall be for the prosecution to establish that any wilful act or omission which allegedly constitutes the conduct giving rise to liability was done knowingly on the part of the accused, and the failure of the prosecution to show such knowledge shall constitute grounds for acquittal of the accused.

**Penalties 47. (1)** The Minister may by regulation and after consultation with the Joint Consultative Committee, vary the financial penalties for the commission of any offence under this Act.

(2) Any person or employer, organisation/institution or business establishment who commits an offence in contravention of this Act for which no penalty is expressly provided shall be liable to a fine not less than thirty months national minimum wage. In the case of a second or subsequent offence against the same provision of this Act, the offender shall be subject to a fine not less than forty months national minimum wage.

(3) Where a person or employer, organisation/institution or business establishment acts in contravention of any provisions of this Act not specifically designated as an offence, the Commissioner of Labour may caution him in writing against repeating or continuing such behaviour. If, having received such written warning, the employer repeats the infringement; he commits an offence and shall be liable to a fine not less than thirty months national minimum wage. In the case of a second or subsequent offence against the same provision of this Act, such employer shall be subject to a fine not less than 40 months national minimum wage.

**Repeals 48. (1)**  The following enactments are hereby repealed-

1. The Workmen’s Compensation Act, Cap. 219, 1955.

(2) Notwithstanding subsection (1), any rules regulations, orders, notices, prescription and other instruments or directives issued under the repealed Acts and in existence immediately before the commencement of this Act, shall continue in operation until their expiration or until their express repeal or revocation or cancellation.

(3) All investigations, prosecutions and other legal proceedings instituted or commenced under the repealed Acts and which have not been concluded before the commencement of this Act, shall be continued and concluded in all respects as if that Act had not been repealed.

**SCHEDULES**

**FIRST SCHEDULE**

**EMPLOYMENT INJURY AND FATALITY**

|  |  |
| --- | --- |
| **TYPE OF INJURY AND FATALITY** | **PERCENTAGE**  |
| Death | 100% |
| Loss of two limbs | 100% |
| Loss of both hands or all fingers and thumbs | 100% |
| Loss of both feet  | 100% |
| Total loss of sight | 100% |
| Total paralysis | 100% |
| Injures resulting in being bedridden permanently | 100% |
| Any other injury causing permanent total incapacity | 100% |
| Loss of arm at shoulder | 80% |
| Loss of arm between elbow and shoulder | 70% |
| Loss of arm at elbow | 70% |
| Loss of arm between wrist and elbow | 70% |
| Loss of hand at wrist | 70% |
| Loss of four fingers and thumb of one hand | 60% |
| Loss of four finger | 50% |
| Loss of thumb - both phalanges | 35% |
| Loss of thumb - one phalanges | 10% |
| Loss of index finger - three phalanges | 15% |
| Loss of index finger - two phalanges | 10% |
| Loss of index finger - one phalanges | 7% |
| Loss of middle finger - three phalanges | 10% |
| Loss of middle finger - two phalanges | 7% |
| Loss of middle finger - one phalanges | 5% |
| Loss of ring finger - three phalanges | 7% |
| Loss of ring finger - two phalanges | 6% |
| Loss of ring finger - one phalanges | 4% |
| Loss of little finger - three phalanges | 6% |
| Loss of little finger - two phalanges | 5% |
| Loss of little finger - one phalanges | 4% |
| Loss of metacarpals - first or second (additional) | 4% |
| Loss of metacarpals - third, fourth or fifth (additional) | 4% |
| Loss of leg at or above knee | 75% |
| Loss of leg below knee | 60% |
| Loss of foot | 40% |
| Loss of toes - all of one foot | 30% |
| Loss of toes - great, both phalanges | 10% |
| Loss of toes - great, one phalange | 8% |
| Loss of toes - other than great, if more than one toe lost, each | 4% |
| Loss of hearing - one ear | 25% |
| Loss of hearing - two ear | 50% |
| Loss of sight of one eye | 30% |
| Loss of tongue  | 60% |
| Dislocation of lower or upper jaw joint  | 70% |
| Loss of one breast  | 15% |
| Loss of two breast  | 30% |
| Any injury/disability not specified above | 10% |

1. Total permanent loss of use of member shall be treated as loss of member.
2. The percentage of incapacity for ankylosis of any joint shall be from 25 to 100 per cent of the incapacity for loss of the part at the joint, depending on whether the joint is ankylosed in a favourable or unfavourable position.
3. Where there are two or more parts of the hand, the percentage of incapacity shall not be more than for the whole hand
4. Where there are two or more injures, the sum of the percentage of such injuries may be increased, subject to a maximum of 100 per cent and, such injuries are to the hand the following basis of computing the increase shall be adopted, namely,
5. Where two digits have been injured, the sum total of the percentage shall be increased by 20 per cent of such sum total
6. Where three digits have been injured, the sum total of the percentage shall be increased by 30 per cent of such sum total
7. Where four digits have been injured, the sum total of the percentage shall be increased by 40 per cent of such total

**SECOND SCHEDULE – SECTION (43)**

**Diseases caused by**

**chemical Agents. 1. (1)** Occupational diseases caused by exposure to worker arising from work activities are-

1. beryllium or its compounds;
2. cadmium or its compounds;
3. phosphorus or its compounds;
4. chromium or its compounds;
5. manganese or its compounds;
6. arsenic or its compounds;
7. mercury or its compounds;
8. lead or its compounds;
9. fluorine or its compounds;
10. carbon disulphide;
11. halogen derivatives of aliphatic or aromatic hydrocarbons;
12. benzene or its homologues;
13. nitro- and amino-derivatives of benzene or its homologues;
14. nitroglycerine or other nitric acid esters;
15. alcohols, glycols or ketones;
16. asphyxiants like carbon monoxide, hydrogen sulfide, hydrogen cyanideor its derivatives;
17. acrylonitrile;
18. oxides of nitrogen;
19. vanadium or its compounds;
20. antimony or its compounds;
21. hexane;
22. mineral acids;
23. pharmaceutical agents;
24. nickel or its compounds;
25. thallium or its compounds;
26. osmium or its compounds;
27. selenium or its compounds;
28. copper or its compounds;
29. platinum or its compounds;
30. tin or its compounds;
31. zinc or its compounds;
32. phosgene;
33. corneal irritants like benzoquinone;
34. ammonia;
35. isocyanates;
36. pesticides;
37. sulphur oxides and its derivatives;
38. organic solvents;
39. latex or latex-containing products; and
40. chlorine

(2) Diseases caused by other chemical agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these chemical agents arising from work activities and the disease(s) contracted by the worker

**Diseases caused by**

**physical agents. 2. (1)** The diseases caused by physical agents are-

1. hearing impairment caused by noise;
2. vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves);
3. compressed or decompressed air;
4. ionizing radiations;
5. optical (ultraviolet, visible light, infrared) radiations including laser; and
6. exposure to extreme temperatures.

(2) Diseases caused by other physical agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these physical agents arising from work activities and the disease(s) contracted by the worker

**Biological agents and**

**infectious or parasitic**

**diseases. 3. (1)** Biological agents and infectious or parasitic diseases means-

 **(a)** brucellosis;

(b) hepatitis viruses;

(c) human immunodeficiency virus (HIV), Ebola Virus Disease, Lassa fever;

(d) tetanus;

(e) tuberculosis;

(f) toxic or inflammatory syndromes associated with

 bacterial or fungal contaminants

(g) anthrax

(h) elptospirosis

(2) Diseases caused by other biological agents at work not mentioned in the preceding items where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these biological agents arising from work activities and the disease(s) contracted by the worker

**OCCUPATIONAL DISEASES BY TARGET ORGAN SYSTEMS**

* 1. **Respiratory diseases**
1. Pneumoconioses caused by fibrogenic mineral dust (silicosis, anthraco-silicosis, asbestosis)
2. Silicotuberculosis
3. Pneumoconioses caused by non-fibrogenic mineral dust
4. Siderosis
5. Bronchopulmonary diseases caused by hard-metal dust
6. Bronchopulmonary diseases caused by dust of cotton (byssinosis), flax, hemp, sisal or sugar cane (bagassosis)
7. Asthma caused by recognized sensitizing agents or irritants inherent to the work process
8. Extrinsic allergic alveolitis caused by the inhalation of organic dusts or microbially contaminated aerosols, arising from work activities
9. Chronic obstructive pulmonary diseases caused by inhalation of coal dust, dust from stone quarries, wood dust, dust from cereals and agricultural work, dust in animal stables, dust from textiles, and paper dust, arising from work activities
10. Diseases of the lung caused by aluminium
11. Upper airways disorders caused by recognized sensitizing agents or irritants inherent to the work process
12. Other respiratory diseases not mentioned in the preceding items where a direct link is established scientifi cally, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the disease(s) contracted by the worker
	1. **Skin diseases**
13. Allergic contact dermatoses and contact urticaria caused by other recognized allergyprovoking agents arising from work activities not included in other items
14. Irritant contact dermatoses caused by other recognized irritant agents arising from work activities not included in other items
15. Vitiligo caused by other recognized agents arising from work activities not included in other items
16. Other skin diseases caused by physical, chemical or biological agents at work not included under other items where a direct link is established scientifi cally, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the skin disease(s) contracted by the worker
	1. **Musculoskeletal disorders**
17. Radial styloid tenosynovitis due to repetitive movements, forceful exertions and extreme postures of the wrist
18. Chronic tenosynovitis of hand and wrist due to repetitive movements, forceful exertions and extreme postures of the wrist
19. Olecranon bursitis due to prolonged pressure of the elbow region
20. Prepatellar bursitis due to prolonged stay in kneeling position
21. Epicondylitis due to repetitive forceful work
22. Meniscus lesions following extended periods of work in a kneeling or squatting position
23. Carpal tunnel syndrome due to extended periods of repetitive forceful work, work involving vibration, extreme postures of the wrist, or a combination of the three
24. Other musculoskeletal disorders not mentioned in the preceding items where a direct link is established scientifi cally, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the musculoskeletal disorder(s) contracted by the worker
	1. **Mental and behavioural disorders**
25. Post-traumatic stress disorder
26. Other mental or behavioural disorders not mentioned in the preceding item where a direct link is established scientifi cally, or determined by methods appropriate to national conditions and practice, between the exposure to risk factors arising from work activities and the mental and behavioural disorder(s) contracted by the worker

**OCCUPATIONAL CANCER**

* 1. **Cancer caused by the following agents**
1. Asbestos
2. Benzidine and its salts
3. Bis-chloromethyl ether (BCME)
4. Chromium VI compounds
5. Coal tars, coal tar pitches or soots
6. Beta-naphthylamine
7. Vinyl chloride
8. Benzene
9. Toxic nitro- and amino-derivatives of benzene or its homologues
10. Ionizing radiations
11. Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances
12. Coke oven emissions
13. Nickel compounds
14. Wood dust
15. Arsenic and its compounds
16. Beryllium and its compounds
17. Cadmium and its compounds
18. Erionite
19. Ethylene oxide
20. Hepatitis B virus (HBV) and hepatitis C virus (HCV)
21. Cancers caused by other agents at work not mentioned in the preceding items where a direct link is established scientifi cally, or determined by methods appropriate to national conditions and practice, between the exposure to these agents arising from work activities and the cancer(s) contracted by the worker
	1. **Other diseases**
22. Miners’nystagmus
23. Other specific diseases caused by occupations or processes not mentioned in this list where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure arising from work activities and the disease(s) contracted by the worker