

# ACT No. XV OF 1933.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 9th  
September, 1933.)

## An Act further to amend the Workmen's Compensation Act, 1923.

**II of 1923.** WHEREAS it is expedient further to amend the Workmen's  
Compensation Act, 1923; It is hereby enacted as  
follows:—

1. (1) This Act may be called the Workmen's Compensation Short title and  
(Amendment) Act, 1933. commencement.

(2) It shall come into force on the 1st day of January, 1934;  
but sections 2, 3, 4, 5, 21, 22 and 23 shall not have effect until  
the 1st day of July, 1934, and shall have effect thereafter only  
in respect of compensation payable on account of an injury  
caused to a workman by an accident occurring on or after the  
1st day of July, 1934.

**VIII of 1923.** 2. In section 2 of the Workmen's Compensation Act, 1923 Amendment of  
(hereinafter referred to as the said Act),— section 2, Act  
VIII of 1923.

(a) in sub-section (1),—

(i) for clause (d) the following shall be substituted,  
namely:—

“(d) ‘dependant’ means any of the following relatives  
of a deceased workman, namely:—

(i) a wife, a minor legitimate son, and unmarried  
legitimate daughter, or a widowed mother;  
and

(ii) if wholly or in part dependent on the earnings  
of the workman at the time of his death, a  
husband, a parent other than a widowed  
mother, a minor illegitimate son, an un-  
married illegitimate daughter, a daughter  
legitimate or illegitimate if married and a  
minor or if widowed, a minor brother, an  
unmarried or widowed sister, a widowed  
daughter-in-law, a minor child of a deceased  
son, or, where no parent of the workman is  
alive, a paternal grandparent,”

(ii) clause

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- (ii) clause (j) shall be omitted,
  - (iii) in clause (k), the word "registered" shall be omitted, and for the words "any such" the word "the" shall be substituted, and
  - (iv) in sub-clause (ii) of clause (n), the words "either by way of manual labour or" shall be omitted;
- (b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Governor General in Council, after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which he is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply to such classes of persons:

Provided that in making such addition the Governor General in Council may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only."

Amendment of  
section 3, Act  
VIII of 1923.

3. In section 3 of the said Act,—

- (a) in sub-section (1),—
  - (i) in proviso (a), for the word "ten" the word "seven" shall be substituted, and
  - (ii) in proviso (b), for the words "injury to a workman resulting from" the words "injury, not resulting in death, caused by" shall be substituted; and
- (b) in sub-section (4), the words "solely and" shall be omitted.

Amendment of  
section 4,  
Act VIII of  
1923.

Amount of  
compensation.

4. For sub-section (1) of section 4 of the said Act, the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

A. Where death results from the injury—

- (i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

- (ii) in the case of a minor—two hundred rupees;

B. Where

B. Where permanent total disablement results from the injury—

- (i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and
- (ii) in the case of a minor—twelve hundred rupees;

C. Where permanent partial disablement results from the injury—

- (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
- (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

*Explanation.*—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and
- (ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that—

- (a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which

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which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be: and

- (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident."

Amendment of  
section 5,  
Act VIII of  
1923.

5. In section 5 of the said Act,—

- (a) in sub-section (1),—

(i) for the word and figure "section 4" the words "this Act" shall be substituted,

- (ii) after clause (a) the following clause shall be inserted, namely:—

"(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;"

- (iii) clause (b) shall be re-lettered as clause (c), and

(iv) the proviso shall be omitted; and

- (b) sub-section (2) shall be omitted.

Amendment of  
section 8,  
Act VIII of  
1923.

6. In section 8 of the said Act,—

- (a) for the proviso to sub-section (1) the following shall be substituted, namely:—

"Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer."; and

- (b) in

(b) in sub-section (4),—

(i) for the words "may deduct" the words "shall deduct" shall be substituted, and

(ii) for the words "fifty rupees or so much of that cost or of fifty rupees, whichever is less, as has not already been advanced by the employer on account of such expenses" the words "twenty-five rupees" shall be substituted.

7. In section 10 of the said Act,—

(a) in sub-section (1), after the first proviso the following proviso shall be inserted, namely:—

Amendment of  
section 10, Act  
VIII of 1923.

" Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

(a) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer had knowledge of the accident from any other source at or about the time when it occurred:"; and

(b) for sub-section (3) the following sub-sections shall be substituted, namely:—

"(3) The Local Government may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book."

8. After

Insertion of  
new sections  
10A and 10B  
in Act VIII  
of 1923.

Power to  
require from  
employers  
statements  
regarding  
fatal accidents.

8. After section 10 of the said Act the following sections shall be inserted, namely:—

“10A. (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

10B. (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the Local Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The Local Government may, by notification in the local official Gazette, extend the provisions of subsection (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.”

9. In

Reports of  
fatal accidents.

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9. In sub-section (2) of section 12 of the said Act, after the words "the contractor" the words " , or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation" shall be inserted.

Amendment of section 12, Act VIII of 1923.

10. In section 15 of the said Act, the word "registered" shall be omitted.

Amendment of section 15, Act VIII of 1923.

11. In Chapter II and after section 18 of the said Act, the following section shall be inserted, namely:—

Insertion of new section 18A in Act VIII of 1923.

"18A. (1) Whoever—

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(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(c) fails to send a report which he is required to send under section 10B, or

(d) fails to make a return which he is required to make under section 16,

shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed."

12. In sub-section (1) of section 19 of the said Act, for the words "the Commissioner" the words "a Commissioner" shall be substituted.

Amendment of section 19, Act VIII of 1923.

13. In section 20 of the said Act,—

(a) after sub-section (1) the following sub-section shall be inserted, namely:—

Amendment of section 20, Act VIII of 1923.

"(2) Where more than one Commissioner has been appointed for any local area, the Local Government

may,

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may, by general or special order, regulate the distribution of business between them." ; and

(b) sub-sections (2) and (3) shall be renumbered as sub-sections (3) and (4).

Amendment of section 21, Act VIII of 1923.

14. In section 21 of the said Act,—

(a) in sub-section (1), for the words "the Commissioner", in both places where they occur, the words "a Commissioner" shall be substituted, and in the proviso the word "registered" shall be omitted, and

(b) after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) The Local Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it."

Amendment of section 22, Act VIII of 1923.

15. In section 22 of the said Act,—

(a) in sub-section (1), after the word "Commissioner", the words ", other than an application by a dependant or dependants for compensation," shall be inserted; and

(b) in sub-section (2),—

(i) for the words "Where any such question has arisen, the application" the words "An application to a Commissioner" shall be substituted, and

(ii) in clause (d), after the brackets and letter "(d)", the words "except in the case of an application by dependants for compensation," shall be inserted.

Insertion of new section 22A in Act VIII of 1923.

16. After section 22 of the said Act, the following section shall be inserted, namely:—

"22A. (1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency."

Power of Commissioner to require further deposit in cases of fatal accident.

17. To



of 1933.] *Workmen's Compensation (Amendment).*

17. To sub-section (1) of section 30 of the said Act, after the existing provisos, the following further proviso shall be added, namely:—

Amendment of section 30, Act VIII of 1923.

“Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.”

18. After section 30 of the said Act, the following section shall be inserted, namely:—

Insertion of new section 30A in Act VIII of 1923.

“30A. Where an employer makes an appeal under clause (a) of sub-section (1) of section 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.”

Withholding of certain payments pending decision of appeal.

19. In section 33 of the said Act,—

Amendment of section 33, Act VIII of 1923.

(i) in clause (c), the word “and”, in the second place where it occurs, shall be omitted;

(ii) after clause (c) the following clauses shall be inserted, namely:—

✓ “(d) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books;

(e) for prescribing the form of statement to be submitted by employers under section 10A;

(f) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner; and”;

(iii) clause (d) shall be re-lettered as clause (g).

1) 20. After section 34 of the said Act, the following section shall be inserted, namely:—

Insertion of new section 35 in Act VIII of 1923.

“35. The Governor General in Council may, by notification in the Gazette of India, make rules for the transfer to any part of His Majesty's Dominions or to any other country of money paid to a Commissioner under this Act for the benefit of any person residing or about to reside in such part or country and for the receipt and administration in British India of any money awarded under the law relating to workmen's compensation in any part of His Majesty's Dominions or in any other country, and applicable for the benefit of any person residing or about to reside in British India.”

Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

21. In

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Amendment of  
Schedule II,  
Act VIII of  
1923.

21. In Schedule II to the said Act, for clauses (i) to (xiii), the following clauses and Explanation shall be substituted, namely:—

- (i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of mechanically propelled vehicles; or
- (ii) employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in clause (4) of section 2 of the Indian Factories Act, 1911, XII of 1911, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or
- (iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or
- (iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or
- (v) employed, in any mine as defined in clause (f) of section 3 of the Indian Mines Act, 1923, IV of 1923, in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground:  
Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used, and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or
- (vi) employed as the master or as a seaman of—
  - (a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled, or
  - (b) any

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(b) any ship not included in sub-clause (a) of fifty tons net tonnage or over; or

(vii) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Indian<sup>o</sup> Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel; or

(viii) employed in the construction, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof, or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point, or

(c) any road, bridge, or tunnel; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(ix) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any over-head electric line or cable or post or standard for the same; or

(x) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer; or

(xi) employed in the service of any fire brigade; or

(xii) employed upon a railway as defined in clause (4) of section 3, and sub-section (I) of section 148 of the Indian Railways Act, 1890, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

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(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or

(xiv) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or

(xv) employed in any occupation involving blasting operations; or

(xvi) employed

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- (xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- (xviii) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or
- (xix) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or
- (xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927; or XVII of 192
- (xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
- (xxii) employed in the training, keeping or working of elephants or wild animals; or
- (xxiii) employed as a diver.

*Explanation.*—In this Schedule, 'the preceding twelve months' relates in any particular case to the twelve months ending with the day on which the accident in such case occurred."

Amendment of  
Schedule III,  
Act VIII of  
1928.

22. In Schedule III to the said Act, after the entry relating to phosphorus poisoning, the following entries shall be added, namely:—

"Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelæ of such poisoning.	Handling benzene or any of its homologues; and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelæ	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
Compressed air illness or its sequelæ.	Any process carried on in compressed air."

23. For

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23. For Schedule IV to the said Act, the following shall be substituted, namely:—

Substitution  
of new Schedule  
for Schedule  
IV, Act VIII  
of 1923.

"SCHEDULE IV.

(See section 4.)

*Compensation payable in certain cases.*

Monthly wages of the workman injured.		Amount of compensation for—		Half-monthly payment as compensation for TEMPORARY DISABLEMENT OF ADULT.
		DEATH OF ADULT.	PERMANENT TOTAL DIS- ABLEMENT OF ADULT.	
1	2	3	4	
More than—	But not more than—			
Rs.	Rs.	Rs.	Rs.	Rs. a.
0	10	500	700	Half his monthly wages.
10	15	550	770	5 0
15	18	600	840	6 0
18	21	630	882	7 0
21	24	720	1,008	8 0
24	27	810	1,134	8 8
27	30	900	1,260	9 0
30	35	1,050	1,470	9 8
35	40	1,200	1,680	10 0
40	45	1,350	1,890	11 4
45	50	1,500	2,100	12 8
50	60	1,800	2,520	15 0
60	70	2,100	2,940	17 8
70	80	2,400	3,360	20 0
80	100	3,000	4,200	25 0
100	200	3,500	4,900	30 0
200	..	4,000	5,600	30 0"