

ACT No. IX OF 1938.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th April, 1938.)

An Act further to amend the Workmen's Compensation Act, 1923, for certain purposes.

VIII of 1923. **W**HEREAS it is expedient further to amend the Workmen's Compensation Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1938. Short title.

VIII of 1923. 2. In clause (d) of sub-section (1) of section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the said Act),— Amendment of section 2, Act VIII of 1923.

(a) in sub-clause (i), for the word "wife" the word "widow" shall be substituted;

(b) in sub-clause (ii), for the word "husband" the word "widower" shall be substituted; and

(c) in sub-clause (ii), after the words "a minor child of a deceased son," the words and comma "a minor child of a deceased daughter where no parent of the child is alive," shall be inserted.

3. In sub-section (2) of section 3 of the said Act,— Amendment of section 3, Act VIII of 1923.

(a) for the words beginning "If a workman" and ending "disease of anthrax" the following words shall be substituted; namely:—

"If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment";

(b) after

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(b) after the words "any employment specified in" the words "Part B of" shall be inserted; and

(c) at the end of the *Explanation*, the words "in the same kind of employment" shall be added.

Amendment
of section 5,
Act VIII of
1923.

4. In section 5 of the said Act, the brackets and figure "(1)" shall be omitted, and in the *Explanation* for the word "sub-section" the word "section" shall be substituted.

Amendment
of section 10
Act VIII of
1923.

5. In section 10 of the said Act,—

(a) in sub-section (1)—

(1) for the words beginning "No proceedings for the recovery of compensation" and ending "within six months from the date of death" the following shall be substituted, namely:—

"No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death";

(2) in the second proviso—

(i) for the words "maintenance of proceedings" the words "entertainment of a claim" shall be substituted;

(ii) in clause (a), for the word "made" the word "preferred" shall be substituted; and

(iii) in clause (b), after the word "employer" the words "or any one of several employers or any person responsible to the employer for the management of any branch

branch of the trade or business in which the injured workman was employed " shall be inserted ;

and

(3) in the third proviso, for the word " admit " the word " entertain " shall be substituted and for the words " instituted " and " institute " respectively the words " preferred " and " prefer " shall be substituted ;

and

(b) in sub-section (2) the word " directly " shall be omitted.

6. In sub-section (6) of section 11 of the said Act,—

Amendment
of section 11,
Act VIII of
1923.

(a) for the words " if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable " the following shall be substituted, namely :—

" if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable " ;

and

(b) after the words " qualified medical practitioner ", where they occur for the last time, the words " whose instructions he had followed " shall be inserted.

7. Sub-section (4) of section 15 of the said Act shall be omitted and sub-section (5) of that section shall be re-numbered as sub-section (4).

Amendment
of section 15,
Act VIII of
1923.

8. In section 18 of the said Act, for the words and figures " a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, 1911 " the words and figures " a valid certificate granted

Amendment
of section 18,
Act VIII of
1923.

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granted in respect of such person under section 12 or section 52 of the Factories Act, 1934 " shall be substituted.

Amendment
of section 21,
Act VIII of
1923.

9. In sub-section (2) of section 21 of the said Act,—

(a) for the words " by any party to any proceedings pending before him that such matter " the words " that any matter arising out of any proceedings pending before him " shall be substituted ; and

(b) before the proviso the following proviso shall be inserted, namely :—

" Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard : " ,

and in the existing proviso, after the word " Provided " the word " further " shall be inserted.

Amendment
of section 24,
Act VIII of
1923.

10. In section 24 of the said Act, for the words " other person authorised in writing by such person " the following shall be substituted, namely :—

" by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised " .

Amendment of
Schedule II,
Act VIII of
1923.

11. In Schedule II to the said Act,—

(a) in clause (i), for the words " mechanically propelled vehicles " the words " a lift or a vehicle propelled by steam or other mechanical power or by electricity " shall be substituted ;

(b) in

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(b) in clause (ii), for the words, brackets and figures " clause (4) of section 2 of the Indian Factories Act, 1911 " the words, brackets, letter and figures " clause (g) of section 2 of the Factories Act, 1934 " shall be substituted ;

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

" (xxiii) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires ;
or

(xxiv) employed in operations for the catching or hunting of elephants or other wild animals ; or " ;

and

(d) the existing clause (xxiii) shall be re-numbered as clause (xxv) and after that clause as so re-numbered the following word and clauses shall be inserted, namely :—

or

(xxvi) employed in the handling or transport of goods in, or within the precincts of,—

(a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(b) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed ; or

(xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substances."

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Amendment of
Schedule III,
Act VIII of
1923.

12. In Schedule III to the said Act,—

- (a) before the entry relating to lead poisoning or its sequelæ, the following shall be inserted, namely:—

“PART A.

Anthrax	Any employment— (a) involving the handling of wool, hair, bristles or animal carcases or parts of such carcases, including hides, hoofs and horns; or (b) in connection with animals infected with anthrax; or (c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelæ.	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.

PART B.”;

- (b) in the entry relating to lead poisoning or its sequelæ, to the words in the first column the words “excluding poisoning by lead tetra-ethyl” shall be added; and for the words “or its preparations or compounds” in the second column the words “or any of its preparations or compounds except lead tetra-ethyl” shall be substituted; and
- (c) for the existing entry relating to compressed air illness or its sequelæ the following entries shall be substituted, namely:—

Arsenical poisoning or its sequelæ.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to— (a) radium and other radio-active substances; (b) X-rays.	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.”

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